

**Committee on the Rights of Persons with  
Disabilities**  
**Combined second and third periodic report  
submitted by Belgium**



**NHRI Parallel  
Report and  
CRPD 33.2**





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**Parallel report on  
the second and third periodic reports  
submitted by Belgium**

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# 1 Introduction

1. **Unia** is an independent public institution that combats discrimination and promotes equal opportunities. Our independence and our commitment to human rights are recognised by the Global Alliance of National Human Rights Institutions (B status). Our competence is interfederal, which means that in Belgium we are active both at the federal level and at the level of the Communities and Regions. Unia is responsible for providing assistance to victims of discrimination based on criteria protected by anti-discrimination laws which implement European directives 2000/43 and 2000/78. Since 2011, Unia has been the independent mechanism for promoting, protecting and monitoring the application of the United Nations Convention on the Rights of Persons with Disabilities in Belgium.
2. In accordance with the collaboration protocol concluded between Unia and **Myria**<sup>1</sup>, the Federal Migration Centre, Myria contributed to the drafting of this report with regard to those parts related to its areas of action. The contributions by Myria are indicated in the endnotes.

# 2 Methodology

3. Our contribution is based on various sources: reports submitted to Unia by individuals or associations; the results of Unia's monitoring and recommendation activities; our participation in various working groups, commissions, advisory boards; reports from the authorities and bodies concerned; civil society reports and recommendations; the results of the **Consultation of people with disabilities**<sup>2</sup> (1144 respondents) that Unia carried out on their rights in 2019-2020; the results of an additional consultation carried out during the health crisis<sup>3</sup> in 2020.
4. Our contribution is structured around the List of Points established by the Committee for the submission of the second and third periodic report submitted by Belgium. The responses provided by the Belgian state in its report have been taken into account in order to avoid repetition. This contribution therefore aims to supplement and, where appropriate, qualify this report. We also make a series of recommendations. We hope that this contribution will be a useful source of information for the Committee and that the recommendations provided below can be addressed during the Session.
5. Due to the limited number of pages, we have been unable to highlight certain fairly recent advances in legislative texts or current or future policies which meet certain expectations of people with disabilities, their organisations and Unia. We will leave it to the respective authorities to present them to the Committee.
6. In this report, the masculine is used as a neutral gender and refers to both women and men.

## 3 Implementation of the Convention

### A. Purpose and general obligations (art. 1 to 4)

#### Response to Point 1: Compliance with the legal framework

7. In 2021, article 22ter was inserted in the Constitution establishing that ‘Every person with a disability has the right to full inclusion in society, including the right to reasonable accommodations. The law, the decree or the rule referred to in Article 134 ensures the protection of this right’.
8. However, the various Belgian authorities have still not yet brought their legal framework into line with the Convention. Many pieces of legislation are inconsistent and have not been amended or repealed, such as the Mental Illness Protection Act and the Legal Capacity Act.
9. In addition, several relatively recent pieces of legislation, although they rely on the principles of the Convention, are not in conformity with it. For example, we can cite: the decree aiming to provide a framework for the implementation of reasonable accommodations for the pupils of the French Community does not apply to pupils in special education and pupils who cannot meet the official learning objectives.<sup>4</sup> Also, the legislation on the reinstatement of workers on long-term sick leave does not include the essential concept of reasonable accommodation.

**Recommendation 1:** Integrate respect for the principles of the Convention and art. 22ter of the Constitution into the day-to-day work of the legislator and the Constitutional Court.

**Recommendation 2:** Take disability into account in all public policies in order to avoid a difference in treatment between people with and without disabilities. Prior to the adoption of any measure, carry out a ‘handstreaming’ test to assess the impact on people with disabilities.

#### Response to Point 2: Plans and strategies

10. During the previous legislature (2014-2019), **no inter-ministerial conference** concerning persons with disabilities was held, and therefore, no concerted and coordinated plan to implement the Convention could be adopted and implemented. This is all the more necessary as Belgium is a federal state. The federal Handstreaming action plan, presented to the Committee in 2014, consisted only of a call for projects from each minister and no concrete action resulted from it or was communicated.
11. In the summer of 2021, the current federal government adopted a **federal disability action** plan in which Unia and the Superior Council of People with Disabilities were associated. A monitoring plan has been established. Secondly, an inter-federal plan and the establishment of an interministerial conference are planned.

**Recommendation 3:** Set up an interministerial Disability conference so that policies are coordinated by all the authorities concerned.

**Recommendation 4:** In order for the 2021-2024 Federal Disability Plan to lead to concrete results, ensure the involvement of the various authorities that have committed to it, provide sufficient means for coordination and monitoring and involve the Superior Council of People with Disabilities and Unia.

### Response to Points 3 and 4: Participation and Consultation

12. Despite the existence of various councils, persons with disabilities are not **sufficiently and systematically consulted by the authorities**, and this has negative consequences for all of their rights. This was particularly evident during the health crisis (see response to point 11).
13. **The Flemish authority** recently began the process of setting up a Flemish advisory council to issue opinions and recommendations. The project needs to be further developed in the years to come.
14. In **Wallonia**, the advisory function currently only concerns the competences of AVIQ (the regional agency in charge of disability) and its current form is neither clear nor accessible for people with disabilities or for anyone concerned by these matters. Information on this advisory function could not be found. The Walloon government's coalition agreement 2019-2024 provides for the creation of an advisory body with powers that extend to all regional matters, but this has still not been implemented.
15. In **Brussels**, the institutional landscape is such that there are several administrations in charge of disability-related matters. A Brussels regional disability council has been created to ensure 'handstreaming'. Unia laments the fact that it is seldom used by the authorities and that it lacks the resources, especially human resources, to function effectively.
16. In the **German-speaking Community**, a process has been launched to create an advisory body. To date it does not yet exist.
17. The **French Community** does not have an advisory body. In the autumn of 2021, it made a commitment to get one in place quickly. The 'education' committees mentioned in the state report are not advisory bodies: they are not consulted in the legislative process and organisations representing people with disabilities are not represented within them. The parent associations that are included in it are not organisations representing people with disabilities.

**Recommendation 5:** Ensure that all measures that have an impact on people with disabilities are taken in consultation with them through their representative organisations and the federal, regional, community and municipal advisory councils.

**Recommendation 6:** Ensure the participation and consultation of people with disabilities by creating and supporting advisory councils that represent people with disabilities that are accessible and transparent in their organisation and decision-making.

**Recommendation 7:** Set up advisory councils in the German-speaking and French communities as quickly as possible.

## B. Specific rights (articles 5 to 30)

### Response to Point 5: Equality and non-discrimination

18. As of autumn 2021, only the **Flemish and Walloon regions** have anti-discrimination legislation which protects against multiple discrimination, discrimination by association and discrimination based on a pre-existing condition. The Walloon Region has indeed greatly strengthened its anti-discrimination legislation in 2019.<sup>5</sup>
19. **Brussels** regional anti-discrimination legislation has been amended to cover a pre-existing condition in most areas but not in employment. Discrimination by association and multiple discrimination are not always recognised.
20. The legislative framework against discrimination of other entities still does not include multiple discrimination, discrimination by association or discrimination based on a pre-existing condition. However, the federal and German-speaking authorities have started a procedure to assess their anti-discrimination legislation. For the **German-speaking Community**, Unia submitted recommendations in 2017<sup>6</sup> but the procedure seems to have stalled. For the **federal level**, the procedure is ongoing. Unia submitted two reports with recommendations: a general one in 2017<sup>7</sup>, and another targeting the penal aspect and the labour field in 2021. There has been no mention of change for the **French community**.
21. In terms of redress, the **Flemish and Walloon authorities** now provide victim assistance and witness protection when a victim lodges a complaint. The **Brussels Region** has introduced housing and employment situation testing to facilitate the establishment of proof of discrimination.
22. Otherwise, appeal procedures have not been improved. The lump sum compensation awarded to victims of discrimination remains too low.<sup>8</sup>

**Recommendation 8:** Adapt the legal framework, at all levels, to (1) expressly target discrimination by association, (2) delete the terms “current or future” on the grounds of health status, (3) allow situations of multiple discrimination to be taken into account with appropriate sanctions.

**Recommendation 9:** Amend the law to increase – and index – the compensation for moral damages of people with disabilities who are victim of discrimination, except for employment relations.

### Response to Point 6: Women with disabilities

23. Women and girls with disabilities are still **given little consideration** in studies, public policies and plans for gender equality. Disability policies do not take sufficient account of the gender dimension. There is a lack of gender statistics related to disability and associations representing the voice of women with disabilities.
24. Women with disabilities occupy a **particularly vulnerable position** in the labour market. When employed, 55% of them work part time (in contrast to 22% for men with disabilities and 42% for women in total).<sup>9</sup> While there are more women (56%) than men (44%) among federal civil servants, there are only 43% women among civil servants with a disability.<sup>10</sup> Women with disabilities are also under-represented in sheltered employment where they occupy only 30% of positions<sup>11</sup>, as well as in Adapted Training and Socio-professional Integration centres where they represent only 38% of the public.<sup>12</sup>

**Recommendation 10:** Apply gender mainstreaming in the development of disability measures and policies. Conversely, apply ‘handstreaming’ in measures and policies related to gender equality.

**Recommendation 11:** Support the creation or the development of representative associations of women and girls with disabilities in order to encourage their participation and self-determination.

## Response to Point 7: Children with disabilities

25. Children still receive too little support to make informed choices about their personal lives. The **lack of possibilities for support** at home and in general services pushes many parents to opt for an institution. In addition, for fear of losing the place, parents often choose to send their child to the institution for more days than desired.
26. The state report does not provide **figures** on the number of children living in institutions. For Flanders, figures are available for the number of children who use ‘directly accessible aid’ (Rechtstreeks Toegankelijke Hulp)<sup>13</sup> and who are supported by a Multifunctional Centre (diagnostic and care centre). But no figures exist on the number of children who stay in these structures.<sup>14</sup> On the French-speaking side, the PHARE site (French-speaking Brussels) reports 469 places approved on 1 June 2021 in accommodation centres for children (*centre d’hébergements pour enfants* or C.H.E) and that of AViQ (Walloon region) reports 3,137 places approved on 17 May 2020 in residential services for young people (*services résidentiels pour jeunes* or S.R.J.).<sup>15</sup> In the Walloon region, 1,413 French children (figures as of 12/31/2019) are accommodated in Services Approved and Funded by a Foreign Authority (*Services Agréés et Financés par une Autorité Etrangère* or SAFAE).<sup>16</sup>
27. In Flanders, the presence (or not) of a **supportive social network** for the person is a decisive criterion in setting priorities for the allocation of ‘funding that follows the person’ (*persoonsvolgende financiering*). People who can rely on a strong support network have **lower priority** and therefore have to wait for this funding longer (often more than 10 years). So, for example, when a parent decides to work part-time in order to take care of their child, the child is positioned at the bottom of the priority scale. The same is true of children who receive inclusive education.

**Recommendation 12:** Better support children to make informed choices about their personal lives.

**Recommendation 13:** Develop support options at home and in the provision of general services.

**Recommendation 14:** Make statistical data available to allow monitoring of the deinstitutionalization process.

**Recommendation 15:** Prevent families who choose inclusive education for their child or give up working to take care of their disabled loved one from being penalised in assessing the priority of their request for support.

### Response to Point 8: Awareness

28. Apart from a few one-off actions, the authorities have not deployed **action plans and strategies** to promote the Convention. Society in general, and professionals in the disability sector in particular, do not have sufficient knowledge of the Convention and the rights it protects.<sup>17</sup>
29. Yet, the Unia Consultation<sup>18</sup> found that ‘having a positive image of disability’ is seen as the second most important issue in the lives of people with disabilities. On the street, at school, at work, in the media, even in their emotional and sexual life, disability automatically triggers a series of clichés, misunderstandings and lack of rights. **People observe a status quo, if not a deterioration**, of this image. Disability is still too often narrowed down to wheelchair users. However, 80% of people with disabilities have an invisible disability. A reality still little-known in Belgium. Their problems are underestimated, downplayed, and the world around them does not see what obstacles they face.
30. According to the Diversity and Equality Barometer (2017)<sup>19</sup> of the Walloon Superior Audiovisual Council, people with disabilities represent 1.48% of **television** speakers. In fact, people with disabilities systematically play a **passive role** as extras or witnesses and are being regularly associated with the social marker of disability: in nearly 4 out of 10 cases (39.96%), people with disabilities are called upon in the context of a topic relating to disability. We see the same figures for the Flemish public broadcaster: only 1.5% of the people who are shown primetime have a disability<sup>20</sup>. And that is already an improvement compared to other years (1.1%). The Flemish public broadcaster aims for a visibility of 2% in 2025 and wants to introduce a television personality with a disability in 2023.

**Recommendation 16:** Adopt an action plan and a strategy to make the general public, from early childhood, aware of the diversity of disabilities (visible and invisible) and respect for the rights of the people concerned.

**Recommendation 17:** Include training modules in the curriculum of professionals and future professionals (teachers, media, medical and paramedical sector, disability sector, psychiatry, police) in order to raise awareness and promote the rights of people with disabilities.

**Recommendation 18:** Encourage the media to make people with disabilities visible in the media landscape. Raise awareness and train them to show a positive image of people with disabilities as citizens who participate fully in society.

### Response to Point 9: Accessibility

31. The Unia consultation<sup>21</sup> pointed out that **a large majority of respondents has difficulty accessing** buildings, sanitary facilities, roads and public transport. 71% of them also believe that there has been little or no progress since 2014.
32. The accessibility **plans** adopted by federal, regional and municipal authorities - if they exist - are **not sufficiently ambitious** or binding and do not have long-term deadlines. There is often no legal framework that sanctions the lack of accessibility. There is no coordinated approach and no funds are specifically earmarked to remove barriers to accessibility.

33. Between 2015 and 2018, Unia carried out three studies on the **accessibility of municipalities** in Brussels<sup>22</sup>, Wallonia<sup>23</sup> and Flanders.<sup>24</sup> It emerged that consideration of accessibility requirements varied greatly from one municipality to another. While the majority of municipalities generally take advantage of the various works planned to improve accessibility, they rarely adopt a proactive/preventive attitude.
34. On **public roads**, tactile markings for blind or visually impaired users are often lacking, wheelchair users often find it difficult to climb or descend from sidewalks or come up against other insurmountable obstacles. In the event of works, they must frequently bypass the sidewalk and take the road. No action plan has been developed to improve accessibility on public roads and the input from organisations representing people with disabilities is often ignored.
35. In the area of **public transport**, no operator has yet established an effective, coherent and sustainable strategy aimed at full network accessibility **within a reasonable period of time**.
36. The **Belgian rail network** (NMBS/SNCB) is still far from being accessible autonomously. Travellers with a disability remain dependent on assistance (only available at 115 out of 555 stations) and have many negative experiences on the network.<sup>25</sup>
37. In **Brussels**, in September 2018, the MIVB/STIB<sup>26</sup> inaugurated a new tram line which was not accessible.<sup>27</sup> The stops, however newly constructed, did not allow autonomous access to the trams.
38. In **Flanders**, not all De Lijn buses and trams<sup>28</sup> have an automatic ramp. To use the manual access ramp, drivers must get out of the vehicle. It is common for them to refuse to do so or to simply drive past the stop. Electric mobility scooters remain prohibited since 2013.<sup>29</sup>
39. In **Wallonia**, since 2017, the TEC has refused to allow mobility scooters to access buses because of their size and their too large turning radius.
40. No authority has adopted action plans to ensure the accessibility of schools, health and social services. There are **no zero measurements or indicators and targets** to systematically improve accessibility.
41. Regional accessibility regulations **do not apply to all buildings**. Depending on their size and function, many buildings - public or otherwise - are not required to meet accessibility standards (for example: office buildings, shops, hotels, restaurants and cafes). In addition, the standards **only take into account elements that can be read on a plan**. Accessibility depends a lot on the layout and finishing, which are currently not checked. Obstacles remain for many users, for example, those with a sensory or mental handicap. The larger environment and location are also ignored.
42. In general, compliance with **existing standards** in terms of accessibility is not properly verified by the authorities (in particular due to a lack of training) when granting town planning permits and is never checked once the infrastructure is built. There are no penalties for non-compliance with accessibility standards, and people with disabilities do not have effective remedies to report accessibility violations. A survey by the non-profit Inter - the Flemish centre of expertise in accessibility - reveals that, in a sample of 147 permit applications examined, only 9 fully met the accessibility requirements of the Flemish town planning regulations<sup>30</sup> on the plans. In addition, after the actual completion of the work, none of these cases still fully met these requirements.
43. Architects, graphic designers, engineers and programmers have too little, if any, training in accessibility and universal design. It is not part of their compulsory **curricula**.

**Recommendation 19:** Adopt a broad legal framework aimed at making fully accessible in the medium term all public buildings or buildings open to the public, roads and transport. Combine this with a concrete timetable, sanctions in the event of non-compliance and specific budgets.

**Recommendation 20:** Revise and supplement accessibility standards so that they take into account all disability situations. Provide for systematic monitoring of these standards and sanctions in the event of non-compliance. Provide effective remedies for citizens to report violations of the regulations.

**Recommendation 21:** Integrate accessibility and universal design into compulsory training and continuing education programmes for construction and digital professionals.

### Response to Point 10: Situations of risk and humanitarian emergencies

44. The law provides that families with children who are staying in the country illegally can be accommodated in a community reception structure if necessary.<sup>31</sup> The law does not provide for any other option, even if material assistance in a community reception structure is absolutely impossible for medical reasons relating to the minor child or to another member of the family being housed. Thus, families with a member who has a disability, will not be able to benefit from individual reception accommodation. The Constitutional Court to which the matter was submitted<sup>32</sup> found this situation to be unconstitutional.<sup>33</sup>
45. Belgium has experienced two disasters in recent years: the covid health crisis and the floods of the summer of 2021. These two events have highlighted the need for Belgium to adopt a major crisis management plan, which has been non-existent to date, that would take people with disabilities into account.
46. The **main shortcomings observed during the floods** are:
  - Help services and emergency numbers were not accessible, especially for deaf people.
  - Lack of a preventive plan to evacuate people with disabilities, particularly people with reduced mobility.
  - Lack of accessible communication on current events, on the aids put in place to help victims and on emergency medical care.
47. The **main shortcomings observed during the health crisis**, relayed by Unia in its report on the impact of the crisis on people with disabilities and their families<sup>34</sup>:
  - The initial restrictive measures did not take into account people with disabilities;
  - Organisations representing people with disabilities have been given insufficient input;
  - Reasonable accommodation has often been refused or little respected (physical distancing is not always possible, exemption from wearing a mask for some people, accompanying person with errands or in the event of hospitalisation, etc.);
  - At the start of the pandemic, services for people with disabilities were sometimes shut down, such as primary care, assistance in public transport, deliveries of medical equipment by mutual funds or assistance with cooking, cleaning and shopping;
  - Caregivers and people with disabilities who did not reside in an institution were not given priority in vaccination;
  - The vagueness of communication about the prioritization rules in hospitals has been a source of confusion for the elderly and people with disabilities. Unia received testimonies of refusal of hospitalisation or refusal of accompaniment which made hospitalisation impossible.
  - The health crisis has exacerbated all the difficulties related to access to information and the digital divide. Information on COVID-19 measures was not clear or accessible. Many services, including public ones, were only accessible digitally;

- During the first lockdowns, institutions for people with disabilities were completely isolated from the outside. Residents were isolated in their rooms in the event of contamination. There were no more activities. Family weekends and visits were prohibited. Once the lockdown measures were relaxed, some institutions continued to ban outings and visits without offering activities, not always for justified reasons. In some institutions there was a lack of dialogue with families. Some institutions do not want to offer WiFi to residents. These various measures had a very heavy impact on residents both in terms of their physical and psychological health. Monitoring was non-existent or insufficient. The situation in these living spaces has also shown the limitations of institutional models for the elderly and people with a disability.<sup>35</sup>

**Recommendation 22:** Make provisions in the law for adapted facilities, if necessary, in individual accommodation for people staying in the country illegally or applying for asylum, where one of the family members has a disability.

**Recommendation 23:** Establish crisis plans that take into account people with disabilities and their rights to reasonable accommodation; provide protective and testing equipment to allow continuity of physical and psychological care and the support necessary for independent living. Make provisions for the authorities to work preventively and proactively with civil society.

**Recommendation 24:** Compile and make known all the provisions and information related to crisis situations in an accessible format: clear language, easy to read, sign language, subtitles.

**Recommendation 25:** Maintain essential home care and support during crises.

**Recommendation 26:** Guarantee respect for the rights of persons with disabilities and decent living conditions in institutions in the event of a crisis. Rethink the institutional model which has shown its limitations during this crisis.

**Recommendation 27:** Provide for the awareness-raising and training of practitioners in a demedicalized approach to disability. In the prioritization rules for emergency departments and intensive care, ensure that medical and ethical criteria are respected, and do not confuse the situation of disability with the state of health.

## Response to Point 11: Recognition of legal personality under equal conditions

48. The Protective Regimes Act<sup>36</sup> **maintains the substitute decision-making regimes**. In practice, these regimes are privileged to the detriment of assisted decision-making. Furthermore, support measures for the persons with disabilities are lacking so that there is no effective right to assisted decision making.
49. In 2019, the Superior Council of Justice carried out an audit<sup>37</sup> which highlighted the following difficulties: preference is given to **professional administrators**, who are not subject to any official training obligation, nor to any legal scale regulating their charges and fees, nor to any limitation on the number of cases for which they are responsible. The selection of professional administrators is not based on specific criteria, leaving the matter up to the judge's intuition.

50. Justices of the peace face too heavy a workload. The lack of resources and adaptable tools made available to them seriously compromises, on the one hand, implementing a personalised protection regime, and on the other hand, monitoring **the quality of guardianship** when people with disabilities are being deprived of their legal capacity. Family administrators also do not have the necessary support, given the complexity of their mission. Practices, both with regard to the judge's approach and his concern for the quality of service, differ from one district to another.<sup>38</sup>
51. In response to this audit, the former Minister of Justice tabled a draft bill which aimed to set up a federal administration commission. To date, no action has been taken on this bill.
52. In June 2021, the FPS Justice set up the 'central register', an Internet platform which now serves as an administrative link between the justices of the peace, the administrators, and personal advisers. Non-professional administrators, who are sometimes unfamiliar with this IT tool, have received neither support, nor information or training. The digitisation of the files does not help them.

**Recommendation 28:** Provide the necessary resources (in particular human) to the justices of the peace in order to guarantee that the law is implemented in the spirit in which it was intended.

**Recommendation 29:** Develop support measures for people subject to assisted decision-making to ensure effective access to the right to assistance.

**Recommendation 30:** Guarantee the assistance and support necessary for the exercise of the role of a non-professional administrator.

**Recommendation 31:** Adopt the preliminary draft law amending the Civil Code and the Judicial Code with a view to establishing a Federal Administration Commission and defining the conditions to be fulfilled in order to exercise the functions of an administrator for a protected person in a professional capacity.

**Recommendation 32:** Divert the legal protection measure out of court, by enhancing the role of other stakeholders, for example by setting up a federal administrative commission to which certain powers of the judge would be transferred (control of administrations, etc.).

## Response to Point 12: Access to justice

53. Justice personnel are often **unfamiliar with the realities** of people with disabilities. Magistrates are very poorly trained in or made aware of the needs of people with disabilities and the issue of disability in the broad sense. Thus, people are not sufficiently heard by the judge, within the framework of the procedures which concern them, in particular for decisions to place people with mental issues under observation<sup>39</sup> or under judicial protection.<sup>40</sup>
54. The Unia consultation also mentions that people with disabilities often do not have **the financial means** to go to court, especially since people with disabilities are no longer automatically entitled to free legal aid. Deaf litigants do not benefit from a sign language interpreter in civil matters and the courts are not always accessible.<sup>41</sup>
55. Finally, visually impaired people who go to the notary often face procedural problems with regard to the validity of their **signature**.<sup>42</sup>

**Recommendation 33:** Train and raise awareness among magistrates about the fundamental rights of people with disabilities: emphasise the principle of the capacity of people with disabilities and train them on the specific needs of people with disabilities within the framework of the procedures.

### Response to Points 13 and 14: Personal liberty and security

56. Since 2016, following a multitude of condemnations by the European Court of Human Rights on the question of sectioning<sup>43</sup>, Belgium has initiated or continued a series of organisational and legislative reforms. In certain cases, the **law still authorises a stay in a psychiatric annex of the prisons**. This stay must remain transitory and provisional but, in fact, people stay there longer than the period provided for by the legislator.
57. The **lack of space in the regular circuit** considerably hinders the free flow of the treatment process for individuals who have been sectioned. These individuals do not qualify for trial release when they may be entitled to it. Thus, in practice, individuals who have been sectioned only manage to leave the annexes and the various places of detention with great difficulty.<sup>44</sup>
58. The 2014 law reduces the **scope** of the sectioning measure to the most serious cases. However, Belgium's revised action plan reports<sup>45</sup> 3,760 sectioned individuals on June 1, 2021, compared to 4,000 people in 2016. It is therefore not certain that, in the future, the number of people affected by the measure of sectioning will actually decrease, contrary to what the legislator had hoped in 2014.
59. The lack of **financial and human resources** places nursing staff, prison staff, psychiatric experts, etc. in a difficult situation, creating a shortage and having a negative impact on the quality of care.
60. The projects of the Masterplan III Detention and Sectioning of 2016 aim to create **forensic psychiatric centres** (*centres de psychiatrie légale* or CPL) in Paifve, Wavre and Aalst. These CPLs are scheduled to open in 2026. They will focus on a secure approach and will be granted considerable budgets.

**Recommendation 34:** Transfer sectioned individuals currently being detained to appropriate care structures, giving priority to the regular sector.

**Recommendation 35:** Organise residential facilities that are conducive to the care and autonomy of sectioned persons, with a view to promoting their reintegration.

**Recommendation 36:** Prevent forensic psychiatric centres from becoming the dominant models and their being used to the detriment of the extension (or the maintenance) of the healthcare offer of the regular circuit (in more open residential structures).

### Response to Point 15: Right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment

61. In recent years, Belgium has seen **dramatic cases** of cruel and degrading treatment of people with mental health problems. Each time, it was a police intervention gone wrong. There have been three known cases where people died as a result of these interventions. These are the cases of Jonathan Jacob (2010), Cémil Kaya (2015) and Jozef Chovanec (2018). The lack of respect for people with mental health problems, inappropriate restraint techniques and the lack of training for police officers were highlighted. Belgium still has not set up an independent preventive mechanism to prevent and combat abuse, ill-treatment and torture in all places of detention. An action plan is being drawn up at the Ministry of the Interior.
62. Restraint and isolation are still too often used as a **punitive technique** or to deal with a **lack of personnel** in closed or semi-closed living spaces, in particular in psychiatric hospitals, in specialised education, in institutions for people with disabilities, nursing homes and in places of detention. During the health crisis, there was an increase in their use.

**Recommendation 37:** As soon as possible, establish an independent mechanism (Optional Protocol to the United Nations Convention against Torture or OPCAT) responsible for preventing degrading treatment and torture in closed places, including in psychiatric hospitals, institutions, nursing homes and places of administrative detention of foreigners.

**Recommendation 38:** Raise awareness and train the various police forces as quickly as possible in the treatment of people with mental health problems.

### Response to Point 16: Right not to be subjected to exploitation, violence and abuse

63. Half of the people with disabilities who participated in the Unia consultation stated that they had been victims of physical or psychological violence. This violence is not only committed by strangers, but also by individuals from the victim's immediate environment (partner, family member, educator, etc.). Respondents mentioned various obstacles they face in reporting these acts of violence: not being believed by the competent authorities, having their **complaint dismissed**, not having reasonable accommodation in communication with the police and the justice system.
64. Regarding violence against women with disabilities, **there is no inventory in Belgium**.<sup>46</sup> However, the Unia consultation reveals that women with disabilities report having experienced violence more than men with disabilities.<sup>47</sup> According to research carried out in Flanders in 2018, out of the 120 women who testified, all of them had been confronted with sexual abuse at least once. Women with disabilities underutilize support services for abused women. This is mainly due to the lack of accessibility of these services, resources and expertise in relation to their specific needs.<sup>48</sup>

**Recommendation 39:** Improve universal accessibility to support and assistance services for women who are victims of violence and to screening services for domestic and conjugal violence.

**Recommendation 40:** Put in place preventive and surveillance measures to guarantee the protection of women with disabilities, wherever they live.

### Response to Point 17: Protection of personal integrity

65. In its study on the internal regulations of French-speaking institutions for the disabled, Unia too often observed an obligation for women to take **contraception**.

**Recommendation 41:** Contraception can sometimes be recommended, but never imposed. Obtain consent from residents, both men and women, and inform them.

### Response to Point 18: Living autonomy and inclusion in society

66. No community has developed a clear **deinstitutionalization plan**, including an overview of the number of people with disabilities residing in institutions and an action plan backed up by figures to reduce this number.
67. On the contrary, considerable **investment** continues to be made **in new institutions** exclusively for people with disabilities. Thus, the Flemish Infrastructure Fund (VIPA) invested 310,992.46 euros in institutions between January 1 and May 5, 2021. In 2020, this was a total budget of 1,872,154.62 euros.<sup>49</sup>
68. People seeking **more inclusive living arrangements** face complex regulations and administrative and organisational pitfalls (limited budgets, complex administrative procedures, strict urban planning standards).
69. In Flanders, **'funding that follows the person'** represents an important lever for leading an independent life in society, but much progress still needs to be made in terms of its implementation. The Flemish Agency for People with Disabilities calculated that, although the total budget for personal assistance made available by the government had doubled to € 660 million, the waiting times for the lowest priority group will be around 19 years old by the end of 2024.<sup>50</sup> It would need to be increased to 1.6 billion euros in order to meet all current and future demands and to provide around 113,500 people with disabilities the support they are entitled to by the end of 2024. But the Flemish government does not intend to increase the budget.
70. Unlike Flanders, the Brussels and Walloon regions continue to adopt an approach that **privileges collective services**. Resources are primarily allocated to day care and residential accommodation services, to the detriment of inclusion support services. In the Brussels Region, the many requests to strengthen support services are systematically refused. In 2019, 431 places were approved in long-stay residential facilities for adults; with a subsidy of 21,469,682.12 euros.<sup>51</sup> Only 7,555,000 euros are allocated to support services. In Wallonia, in 2019, the supervisory authorities approved 102 residential services for adults. Personal Assistance Budgets (*Budgets d'assistance personnelle* or BAP) constitute an individual service system that derogates from this collective approach but is completely marginal. Both in Wallonia and in Brussels, BAPs only help a limited number of people.<sup>52</sup>
71. As of December 31, 2019, 8,233 **French people with a disability** (6,820 adults and 1,413 children) were accommodated in 227 Walloon establishments. These are privately run establishments. In 2020, France committed itself to ensuring that there would be no more forced departures of people with disabilities to other countries by the end of 2021. However, in Belgium, projects for the construction of institutions for French people are being continued.<sup>53</sup>

72. The residential service **accreditation standards** applicable in the Walloon Region do not meet the requirements of Article 19, nor international human rights standards. There is no limit to the number of people per establishment (only for institutions supported financially from abroad - mainly France - set at 80 people).
73. The consultation of Unia<sup>54</sup> highlights several **obstacles** to independent living: the lack of financial means for people with disabilities, the cost of care which creates a situation of dependence on those around them, the lack of (publicly subsidised) housing that is accessible and appropriate, the insufficient availability of personal assistance budgets, the inaccessibility of the environment and public transport, as well as the risk of losing benefits due to working for more than a couple of hours per week or cohabitation with a partner (the price of love).

**Recommendation 42:** Develop a diversified, personalised and flexible range of services, in particular by increasing the supply of accessible and adapted housing and by relaxing the standards (particularly urban planning) that surround the implementation of inclusive housing. Map out good practice examples and develop tools on inclusive housing.

**Recommendation 43:** Establish a precise register of the needs of people with disabilities as to where they live and the necessary support. Develop a clear action plan for deinstitutionalization, including an overview of the number of people with disabilities residing in institutions and quantified targets to reduce the number of institutionalized people.

**Recommendation 44:** Establish in each region a deinstitutionalization plan with a precise timetable and reoriented resources taking into account the needs of people with disabilities.

**Recommendation 45:** Anticipate the training of existing and future staff and the reorientation of current services and centres.

**Recommendation 46:** Respond to requests for personal assistance and allocate the necessary budgets.

### Response to Point 19: Personal mobility

74. The particular situation of people with disabilities is not sufficiently taken into account when implementing **mobility or environmental policies** aimed at discouraging the use of cars in the city (for example: Low Emission Zones, mileage tax project in Brussels, introduction of pedestrian zones). However, due to the lack of accessible public transport, people with disabilities are still heavily dependent on their car or that of their relatives. The increasing use of scanner vehicles to monitor parking has resulted in people with disabilities being fined despite being granted free parking. For example, in 2020 alone, the Brussels Regional Parking Agency had to cancel more than 7,700 parking fines issued unjustly to people with disabilities.

**Recommendation 47:** Always take into account the particular situation of people with disabilities when establishing environmental or mobility policies in the broad sense, including those for parking and vehicle traffic.

## Response to Point 20: Freedom of expression and opinion and access to information

75. When it comes to access to **information**, people with sensory or intellectual disabilities still face many obstacles. In the Unia consultation, they highlight the lack of audio description, subtitles, sign language translation and materials formulated in easy-to-read language.<sup>55</sup>
76. While the Belgian authorities have successfully transposed the European directive on digital accessibility<sup>56</sup>, in reality, according to Eqla<sup>57</sup>, only 8% of Belgian public sector sites were accessible in September 2020<sup>58</sup> (the deadline for their accessibility) and only 5% of mobile applications in June 2021.<sup>59</sup> Among the **inaccessible websites** are Tax-on-web<sup>60</sup> and the Belgian Official Gazette.<sup>61</sup> Regarding the private sector, there is no obligation in Belgium to make websites or applications accessible. These are therefore mostly inaccessible.
77. **Deaf people** encounter many difficulties in contacting public or private services, and more specifically telecom operators and energy suppliers. All too rarely, they provide for possibilities to contact them by means of a remote sign language interpretation system.
78. The job of a **sign language interpreter** remains unattractive due to the lack of remuneration, much travel and the high work pressure. Interpretation services, especially for French speakers, are unable to meet many interpretation requests.
79. In general, the Unia consultation<sup>62</sup> revealed that people with disabilities have difficulty finding information about **their rights** and the steps they can take to assert them.

**Recommendation 48:** Require public agencies or agencies providing services to the public to provide accessible information for all (including in sign language and 'easy to read') and adapted access; Guarantee that these services are not accessible only by digital means (writing, telephone, remote interpreting, etc.).

**Recommendation 49:** Better monitor the application of regulations on the accessibility of public sector websites. Extend this obligation to the private sector. Provide for penalties in the event of non-compliance.

**Recommendation 50:** Make the profession of sign language interpreter more attractive through, in particular, a salary increase and more financial support for sign language interpretation services.

**Recommendation 51:** Put in place an action plan to fight the digital divide, especially for people with disabilities.

**Recommendation 52:** Create a single portal that brings together all existing information on disability.

## Response to Point 21: Respect for home and family

80. Since September 1, 2020, the advance introduced by the law on the recognition of **informal caregivers**<sup>63</sup> (specifically, the eligibility, under certain conditions, for a professional leave of 3 months for certain purposes) only partially meets the needs of informal caregivers.<sup>64</sup> In particular, the 3-month period is not sufficient, only caregivers of a highly dependent family member can benefit<sup>65</sup>, and informal caregivers suffer from physical (hypertension, addiction, insomnia, premature death, etc.) and mental health problems.<sup>66</sup>

81. People with disabilities are confronted with a lack of support services and adapted educational tools that allow them to fulfil their **parenthood** on an equal footing with others and to respect the child's well-being as much as possible.
82. The federal government coalition agreement 2019-2024 provides for a reform of the law of June 26, 1990 on the protection of the mentally ill as persons. In this context, the government wants to develop an approach *to reduce the impact on children of the serious substance dependency of their parents(-to-be)*. A shocking bill to amend The Civil Code with a view to establishing **prenatal legal protection** provides for removing the child from its mother at birth or forcibly hospitalising the mother. The proposed article opens the door to other types of failure besides addiction.
83. In the context of family reunification, the Immigration Office assesses the **means of subsistence** of the person who lives in Belgium and who will be joined by the applicant. However, the law does not explicitly provide that allowance for people with disabilities can be taken into account in the assessment, so these allowance have long been excluded from the calculation.<sup>67</sup> Following a court decision<sup>68</sup>, the practice now includes the disability allowance in the assessment of means of subsistence. However, the law remains silent on this point.<sup>69</sup>

**Recommendation 53:** Ensure access to the services of a personal assistant so that the exercise of the right to independent living of the person with a disability does not weigh on the informal caregiver.

**Recommendation 54:** Develop and increase medical care services at home (respite projects) approved and funded by regional agencies and make these services financially and geographically accessible.

**Recommendation 55:** Widen the scope of the law on recognition of informal caregivers by removing the concept of high dependency.

**Recommendation 56:** Provide in law that allowance for people with disabilities are explicitly listed as means of subsistence and are therefore taken into account in the assessment of the means necessary for family reunification.

## Response to Point 22: Education

84. There is no plan in any Community to ensure the **transition to a single inclusive education system**, with intermediate goals and a clear timeframe within which these intermediate goals are to be achieved. Steps taken to improve the right to education of students with disabilities often relate to integration, not inclusion. On the contrary, one continues to invest in special (i.e. segregated) education with the creation of new types and additional establishments. These investments made in special education, coupled with very extensive supervision, have led many parents to opt for this form of education. The school population in special education continues to increase in Flanders (4.20% of pupils attended special education during the 2020-2021 school year compared to 3.96% in 2017-2018), in the French Community (4.10% of pupils attended special education during the 2018-2019 school year compared to 3.67% in 2008-2009)<sup>70</sup> and in the German-speaking Community (2.57% of pupils attended specialized education during the 2020-2021 school year compared to 2.04% in 2017-2018).<sup>71</sup> Specialised French-language education continues to issue few certificates of achievement: in 2019, for example, 148 students obtained their CEB (*certificat d'étude de base* or basic study certificate) in primary and 638 in secondary education. An evaluation of special education is included in the government agreement, but to date nothing has been done.

85. Accessibility of education still receives very little attention. Public authorities must make it clear to education stakeholders what is meant by 'inclusive education' and what can be expected of a school regarding the **accessibility of the curriculum and classroom activities**.
86. Pupils who follow an adapted individual program do not enjoy an **effective right of enrollment in mainstream education**. In Flanders, schools are allowed to justify why the necessary accommodation is not reasonable and, on that basis, refuse the pupil. This is often done without prior reflection on how the school can reorganise itself to still allow the student to have an inclusive school career. In the French Community, the right to reasonable accommodation has been limited to pupils whose 'situation does not make special education support essential' and provided that they 'do not call into question the learning objectives'.<sup>72</sup> In the German-speaking Community, children are regularly referred to special education despite the reluctance of parents and the fact that their right to reasonable accommodation is insufficiently respected in practice. Mainstream schools express a lack of support preventing the move towards inclusive education.
87. Due to the lack of measures taken for the **inclusion of pupils with intellectual disabilities**, Belgium has been condemned twice by the European Committee of Social Rights: the first time in 2017 concerning the Flemish Community<sup>73</sup>, the second time in 2020 concerning the French Community.<sup>74</sup> In its conclusions to the European Committee, Belgium justifies maintaining segregated education for pupils with intellectual disabilities as being in their own interests, or even that of children without disabilities, thereby demonstrating the total absence of a paradigm shift.<sup>75</sup>
88. As the state report indicates, none of the Communities is taking measures to make the teaching profession more attractive to people with disabilities. Students with hearing or visual impairments, in particular, still sometimes face **prejudices** in their **choice of studies**, such as not being able to stand in front of a class. No plan or budget is planned to accelerate the accessibility of schools.
89. Far too many school buildings remain **inaccessible** in Belgium. Even though we can observe clear progress in the accessibility of Flemish schools compared to the 2013 assessment (+ 10%), the 2018-2019 'School building monitor' (Schoolgebouwenmonitor) reveals that the measures intended to promote their accessibility are still often lacking. Essential measures and interventions (access without steps, adapted toilets, etc.) are lacking in nearly half of the schools.<sup>76</sup> In the French Community, barely one in 10 schools is accessible (out of around 2,450 establishments). Between 2008 and 2021, only 23 schools were made accessible and 5 are under construction thanks to the 'School for all' project funded by operation CAP 48) (co-financing).
90. While in the French Community there is one bilingual French/French sign language of Belgium school, **deaf children** in Flanders must now choose between ordinary education and special education. Neither of these options is ideal for a child's development. 'Doof Vlaanderen' (federation of Flemish organisations of deaf people) and 'Adviescommissie Vlaamse Gebarentaal' (the commission which advises the Flemish authorities on sign language) are lobbying the Flemish authorities for the organisation of bilingual classes: a **genuinely bilingual education in Flemish sign language** and Dutch in mainstream education and without interpreters. The education minister has given his agreement in principle, but no preparatory measures have yet been taken.<sup>77</sup>
91. In the French community, **higher education** has been welcoming an exponential number of students with a disability following the application of the 2014 decree on inclusive higher education and a significant commitment from the teams. From 2014-2015 to 2017-2018, the rate of increase in requests for reasonable accommodation was 274%.<sup>78</sup> This increase is coupled with greater diversity in student profiles (mental disorders, disabling illnesses). However, no specific budget for inclusion has been allocated to establishments which must use their social subsidies. This positive development is therefore reflected in the exhaustion of the staff.

**Recommendation 57:** Develop a clear vision of the transition to a single inclusive education system and develop a multi-year plan with measurable intermediate targets for the conversion of special education in its current form.

**Recommendation 58:** Specify the expectations regarding the accessibility and adaptability of the school programme.

**Recommendation 59:** Apply without restriction the right of enrolment in mainstream education to all pupils, and not only to those who can follow the common curriculum.

**Recommendation 60:** Ensure that schools respect their educational obligations and allocate sufficient resources to enable schools to comply with their reasonable accommodation obligations so as to make the right to education for children effective for all students.

**Recommendation 61:** Further study the possibilities of organising bilingual classes (Flemish sign language - French/French sign language of Belgium).

**Recommendation 62:** Allocate a specific budget to higher education establishments for the reception of students with disabilities.

**Recommendation 63:** Establish an action plan to improve the accessibility of school infrastructure

### Response to Point 23: Health

92. Access to quality health care is compromised for people with disabilities due to the **inaccessibility of infrastructure** (hospital, medical and paramedical) **and medical equipment and the lack of reasonable accommodation**.
93. Due to the lack of information in an accessible format and suitable tools, some people with disabilities are unable to give their **free and informed consent**. For example, deaf people regularly contact Unia about the lack of sign language interpretation (and refusal to reimburse interpretation) during consultations and hospitalisations.<sup>79</sup>
94. Several studies, including the Unia consultation, have shown that the **cost of care** is a strain on the budgets of people with disabilities. 4 out of 10 people have already given up at least one treatment for financial reasons, in Wallonia and Brussels. Women are more likely to forgo care than men. It is people who are incapacitated for work who are most affected by the postponement of care. For financial reasons but also accessibility in the broad sense.<sup>80</sup>
95. Health personnel have very little **training** in taking into account the needs of persons with disabilities and their rights to reasonable accommodation. Unia's consultation reveals numerous cases of abuse and violence in the healthcare sector. This situation is all the more serious as there is often a relationship of dependence between the medical expert and the disabled person. In addition, many people with disabilities say that their **freedom of choice** is too little respected when it comes to their treatment and care.

**Recommendation 64:** Extend accessibility standards to all medical and paramedical infrastructures. Establish minimum standards for access to medical equipment.

**Recommendation 65:** Anticipate the implementation of reasonable accommodations in hospitals; organise and allow support for relatives or professionals, even in times of crisis.

**Recommendation 66:** Make prevention and health information campaigns accessible to people with disabilities.

**Recommendation 67:** Include a disability module in the initial and continuing training of health professionals in order to combat stigmatisation, raise awareness about accommodating people, promote the UN Convention and the rights it protects.

### Response to Point 24: Adaptation and rehabilitation

96. In the various regions (except the German-speaking Community), the system of individual integration aid<sup>81</sup> excludes from the benefit of such aid persons with disabilities who have not submitted an application for recognition to the regional or Community agency prior to the age of 65. This **age limit** in access to these aids creates direct discrimination against a public that combines the criteria of vulnerability (disability, old age and precariousness) and seriously compromises inclusion and independent living.

**Recommendation 68:** Remove the age criterion in the granting of individual integration assistance to guarantee the right to inclusion and to independent living of all people with disabilities, regardless of age.

### Response to Point 25: Work and employment

97. According to the latest figures from Statbel<sup>82</sup>, **the employment rate** in Belgium of people with disabilities is 26% (compared to 65% of the total population aged 15 to 64). Their **unemployment rate** is 8% (compared to 5% of the total population). The vast majority (72%) of them are inactive: they therefore do not have a job, are not looking for one or are not available for work (compared to 31% of the total population). People with disabilities also work more part-time (39% compared to 25% of the total population).
98. **Vocational training** is still too little accessible to people with disabilities, who are still too regularly referred to specific training (when it exists). This is particularly significant for French-speaking deaf people who very rarely benefit from sign language interpretation during their training.
99. People with disabilities are still heavily **discriminated against in the labour market**. For example, discrimination tests carried out in Ghent revealed that deaf applicants are 42% less likely to get a positive response when applying.<sup>83</sup>

100. Too few resources are directed towards **job search and employment support in the mainstream**. Public funding is still mainly directed towards employment in adapted work companies. In Flanders and Brussels<sup>84</sup>, there is three times as much budget going towards adapted work companies rather than towards inclusive employment. In Wallonia, 67% of the budget devoted to the employment and training of people with disabilities is intended for sheltered workshops.<sup>85</sup>
101. Unia regularly receives reports from people with disabilities working in **sheltered workshops** who complain in particular of refusal of reasonable accommodation, differences in treatment between disabled and able-bodied staff, as well as numerous problems with wellbeing at work. Between 2018 and 2019, the courts convicted three Brussels ETAs for discrimination on the basis of disability, refusal of reasonable accommodation or harassment. Women workers with disabilities regularly face situations of sexual harassment. A working group bringing together AVIQ, Phare, the employers' federations of the ETAs and the trade unions was set up in 2020, following Unia's request, to reflect on the implementation of preventive tools.
102. Public administrations still fail to meet their own **quotas** or quantified targets, although these are low (2% to 5%). They regularly fail in their duty to make reasonable accommodations, in particular for the reinstatement of workers with long-term illness.
103. The policy of **reintegration of workers with long-term illness** entered into force in 2017. An evaluation of this regulation shows that 73% of workers were declared permanently unfit for work<sup>86</sup> and were therefore dismissed. The number of people with disabilities (36.8% for lasting mental health problems) continues to increase each year (2015: 370,408 people - 2020: 459,561) while no policy regarding well-being at work and reasonable accommodation has been put in place in recent years.
104. The cases of **burnout** among employees with a disability are three times higher (36.4%) than among employees without a disability (11.3%).<sup>87</sup> To avoid burnout, many people with a disability choose to work part-time and without a compensation mechanism, this means a net loss of income which increases the risk of poverty.<sup>88</sup>

**Recommendation 69:** Establish an ambitious, clear and budgeted action plan to support the employment of people with disabilities in the mainstream sector. Support and strengthen assisted employment initiatives in both the public and private sectors.

**Recommendation 70:** Organise an interministerial conference on well-being at work so that workplaces are more inclusive and do not give rise to new situations of disability, in particular mental health problems.

**Recommendation 71:** Ensure respect for the rights of workers with disabilities in adapted work companies, with particular attention to the right to reasonable accommodation and the vulnerable situation of workers with disabilities (protection against harassment). Put in place a policy of reorientation towards mainstream work circuits and the creation of inclusive workplaces.

## Response to Point 26: Adequate standard of living and social protection

105. 40% of people receiving a disability allowance in Belgium live **below the poverty line**; these allowances are 75% below the poverty line. 24.7% of people who say they are limited by a disability are at risk of poverty (compared to 12.8 for the population without disabilities). The federal disability plan aims to raise the income replacement benefit to the poverty line. The income replacement benefit will increase by 10.75% by 2024 (of which one quarter in 2021).
106. The Unia consultation showed how **expensive** it is to try to live independently. Very often having a social and cultural life is a luxury, moving around is an obstacle course (inaccessible transport and roads), going to mainstream school entails additional costs for families to make up for the lack of support...
107. For years, the Federal Public Service responsible for assessing disability and granting benefits for people with disabilities has been dysfunctional. Despite recent improvements and a recovery plan, 15,000 cases were still **pending** processing for more than 6 months (including 5,000 for over a year) in September 2021.
108. The law provided for a **stricter length of residence condition** (10 years, including at least 5 uninterrupted) for the granting of the income replacement allowance (*allocation de remplacement de revenus*)<sup>89</sup> to persons with disabilities.<sup>90</sup> This residence condition was annulled by the Constitutional Court in 2020<sup>91</sup>, and is therefore deemed never to have existed since the publication in the Belgian Official Gazette of the judgment. However, apart from certain specific categories of foreigners, only foreigners registered in the population register (i.e., those authorised to settle in Belgium after a stay of at least 5 years and with an unlimited residence permit) are entitled to an income replacement allowance. The Constitutional Court has already admitted this difference in treatment on several occasions in the past<sup>92</sup>: It considered that foreigners registered in the foreigners' register have a weaker link with Belgium and can rely on another regulation, namely that of the social integration. However, some people registered in the foreigners' register have had a residence permit for at least five years and for an unlimited period. Having a residence permit of unlimited duration should be the prevailing criterion, regardless of the register in which the foreigner is registered. The five-year term could also be subject to a proportionality review.<sup>93 94</sup>

**Recommendation 72:** Reduce the costs of inclusion through actions in all areas (income, housing, employment, health, leisure) and at all skill levels; to this end, concretely implement the federal disability plan and organise an interministerial disability conference.

**Recommendation 73:** Give access to the income replacement allowance to all foreigners authorised for an unlimited stay, regardless of the register in which they are registered, with the same condition of prior stay for all foreigners.

## Response to Point 27: Participation in political and public life

109. Both the Unia consultation and the study carried out by Unia on the **right to vote** of people with mental or psychological disabilities<sup>95</sup> highlight the obstacles that people with disabilities encounter in civic participation. Election campaigns and information are not always accessible. The tools to prepare for the vote are sorely lacking. Some polling stations are not accessible (lack of parking space, instructions that are difficult to understand, etc.), voting machines and voting booths are not suitable (too little light or space for a wheelchair).<sup>96</sup> Some voters are forced to resort to assistance when they could vote alone with appropriate tools. Their right to the secrecy of the vote is thus violated.

110. The judge who places people under protective supervision has the power to declare them **incapable of voting**.

**Recommendation 74:** Develop alternative voting methods (postal voting, voting in mobile buses, etc.)

**Recommendation 75:** Eliminate the possibility offered to justices of the peace to declare a person incapable of voting and therefore to deprive him of the exercise of his right to vote.

**Recommendation 76:** Develop voting preparation tools (simulation, educational kits, etc.)

### Response to Point 28: Participation in cultural and recreational life, leisure and sports

111. In addition to accessibility problems, there is a **glaring lack of support and assistance services** in recreational and cultural activities. This lack is at the origin of many discriminations reported to Unia.

**Recommendation 77:** Release the necessary budgets to strengthen inclusion support services and personal assistance, in particular for access to inclusive culture and leisure activities.

## C. Special obligations (Articles 31 to 33)

### Response to Point 29: Statistics and data collection

112. The data available is **limited** (this includes: no disaggregated data on the type of disability) and difficult to compare (different definitions of disability). It is distributed among the different policy areas. It is therefore difficult to identify developments and establish links.

**Recommendation 78:** Provide for a centralised recording of both federal and regional data in order to be able to conduct a policy based on objective elements. There needs to be a common 'language' for the data of the three levels of power.

**Recommendation 79:** Use the Washington questionnaire to find out how the different types of disabilities are distributed in the population, apart from the data related to allowances.

## Response to Point 31: Application and monitoring at national level

113. Unia is the independent Belgian mechanism under article 33.2 since 2011. It is interfederal, which means that it is competent for all regions and communities as well as for the federal state. It is also the Equality Body of Belgium. Unia staff are put under strain by the **systematic increase** in the number of reports, especially from people with disabilities (+ 176% of reports, + 62% of cases opened from 2011 to 2020). Additional budgets have been requested and obtained.
114. Unia is frequently the victim of attacks by opinion makers and also politicians of certain Flemish political parties. So much so that the Flemish government coalition agreement of 2019 provides for **Flanders to withdraw from Unia in March 2023**. This was confirmed by the Flemish government on 14 July 2021. Unia will lose the funding of the Flemish government and it will no longer be able to act in Flemish matters (education, housing, employment in regional administrations, regional transport, personal assistance, institutions, care, etc.). **The Flemish government will create its own body which will also be responsible for the monitoring under Art. 33.2** (for Flemish matters). According to the draft currently on the table, this Flemish body will mainly be a promotional body and **will not be able to initiate legal proceedings**. The draft talks of "quasi-jurisdictional power" but the judgments that the body will be able to make will be non-binding... It will be a **setback for the rights of people with disabilities**: they will be even more reluctant to go to court<sup>97</sup>, because they will have less or no legal guidance and those implicated will feel more at liberty to override the rights of persons with disabilities. The principle of 'standstill' will not be respected.<sup>98</sup>
115. The federal government has also created an **additional body**, the Federal Institute for the protection and promotion of Human Rights. It can only deal with matters that are residual to other human rights institutions such as Unia and is only competent for federal matters.

**Recommendation 80:** Ensure that there is consistency, a clear and coordinated vision on the part of the authorities concerning these different human rights institutions, the same high degree of protection for the citizens who apply to them as well as the elimination of all barriers for access to them.

## 4 Endnotes

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<sup>1</sup> Myria, the Federal Migration Center, is an independent public institution whose legal mission is to inform the public authorities about the nature and extent of migratory flows, to ensure respect for the fundamental rights of foreigners and to stimulate the fight against human trafficking and smuggling. It was also appointed independent national rapporteur on human trafficking. Myria and Unia are both legal successors to the former Centre for Equal Opportunities and the Fight against Racism. They agreed, through a protocol, to report together to the United Nations fundamental rights protection bodies. This protocol was submitted as part of the accreditation process which led to the recognition of Unia as a B status NHRI.

<sup>2</sup> UNIA, *Consultation des personnes handicapées sur le respect de leurs droits*, December 2020. Available online at: <https://www.unia.be/fr/publications-et-statistiques/publications/consultation-des-personnes-handicapees-sur-le-respect-de-leurs-droits-2020>

<sup>3</sup> UNIA, *COVID et droits humains: impact sur les personnes handicapées et leurs proches*, July 2020. Available online at: <https://www.unia.be/fr/publications-et-statistiques/publications/limpact-de-la-crise-du-coronavirus-sur-les-personnes-en-situation-de-handic>

<sup>4</sup> Decree of 7 December 2017 on the reception, support and maintenance in ordinary basic and secondary education of students with specific needs, Ministerial Decree of 1 February 2018, n ° 2018010181, p.7491.

<sup>5</sup> Walloon decree of May 2, 2019 amending the decree of November 6, 2008 on the fight against certain forms of discrimination and the Judicial Code, M.B. 14.08.2019.

<sup>6</sup> UNIA, *Analyse du décret du 19 mars 2012 de la Communauté germanophone visant à lutter contre certaines formes de discrimination*, November 2017, available online at: <https://www.unia.be/fr/legislation-et-recommandations/recommandations-dunia/analyse-du-decret-du-19-mars-2012-de-la-communaute-germanophone>

<sup>7</sup> UNIA, *Evaluation. Loi du 10 mai 2007 modifiant la loi du 30 juillet 1981 tendant à réprimer certains actes inspirés par le racisme ou la xénophobie (MB 30 mai 2007) (loi antiracisme). Loi du 10 mai 2007 tendant à lutter contre certaines formes de discrimination (MB 30 mai 2007) (loi antidiscrimination)*, (Evaluation. Law of May 10, 2007 amending the law of July 30, 1981 to combat certain acts inspired by racism or xenophobia (Ministerial Decree of May 30, 2007) (anti-racism law). Law of 10 May 2007 to combat certain forms of discrimination (Ministerial Decree of 30 May 2007) (anti-discrimination law) February 2017, available at: [https://www.unia.be/files/Documenten/Publicaties\\_docs/Evaluation\\_2e\\_version\\_LAR\\_LAD\\_Unia\\_PDF\\_\(Francophone\).pdf](https://www.unia.be/files/Documenten/Publicaties_docs/Evaluation_2e_version_LAR_LAD_Unia_PDF_(Francophone).pdf)

<sup>8</sup> Outside the field of labour relations, the lump sum compensation for moral damage suffered as a result of discrimination is set at an amount of 1,300 euros, and is not indexed. It can be reduced by half if the offender can demonstrate that the unfavourable or disadvantageous treatment would also have been adopted in the absence of discrimination (article 18, § 2, 1 ° anti-discrimination law). The law does not provide for compensation for material damage.

<sup>9</sup> STATBEL, *Les personnes handicapées ou souffrant de problèmes de santé de longue durée ont moins d'autonomie dans leur emploi*, December 2020, available online at: <https://statbel.fgov.be/fr/nouvelles/les-personnes-handicapees-ou-souffrant-de-problemes-de-sante-de-longue-duree-ont-moins>

<sup>10</sup> SUPPORT COMMISSION FOR THE RECRUITMENT OF PEOPLE WITH A DISABILITY IN THE FEDERAL PUBLIC SERVICE (CARPH), *Evaluation report 2019*, December 2020. Available online at: <https://fedweb.belgium.be/sites/default/files/annual%20report%20BCAPH%20CARPH%202019%20final%20FR.pdf>

<sup>11</sup> Source: <https://eweta.be/quelques-chiffres/>

<sup>12</sup> Source: [https://www.aviq.be/fichiers/rapport\\_annuel\\_AVIQ\\_2019.pdf](https://www.aviq.be/fichiers/rapport_annuel_AVIQ_2019.pdf)

<sup>13</sup> Directly Accessible Assistance (RTH) is limited, disability-specific support in the form of assistance, day care or accommodation for people who need help from time to time. For directly accessible help, the disabled person does not need to apply to the Flemish VAPH Agency. They can contact a health care provider directly.

<sup>14</sup> <https://www.jaarverslagjeugdhulp.be/index.php/thematische-cijfers/kinderen-en-jongeren-met-een-handicap>

- <sup>15</sup> Phare: 469 places approved on 01/06/2021 in children's accommodation centres (C.H.E). Information available online at: <https://phare.irisnet.be/lieux-de-vie/centres-d-h%C3%A9bergement/>. Walloon region: 3,137 approved places in residential services for young people (SRJ) according to the list of approved institutions on 05/17/2020 available at: <https://www.aviq.be/handicap/pdf/integration/listing/Catalogue%20SRJ.pdf>
- <sup>16</sup> List of institutions authorised to take care of people with disabilities without intervention by AViQ as of March 21, 2019, available on <liste-safae.pdf> (<afresheb.com>).
- <sup>17</sup> UNIA, *Consultation des personnes handicapées sur le respect de leurs droits*, 2020, p.73.
- <sup>18</sup> UNIA, *Consultation des personnes handicapées sur le respect de leurs droits*, 2020, p.35.
- <sup>19</sup> CONSEIL SUPERIEUR DE L'AUDIOVISUEL, *Diversity and Equality Barometer 2017*, p.19, available online at: <https://www.csa.be/wp-content/uploads/documents-csa/Barom%C3%A8tre%20Diversit%C3%A9%20et%20C3%89galit%C3%A9%202017-synth%C3%A8se%20de%20l%27C3%A9tude.pdf> .
- <sup>20</sup> DE SWERT Knut (UvA), KUYPERS Ine (UA), WALGRAVE Stefaan (UA), *Monitor Diversiteit 2019 : Een kwantitatieve studie naar de zichtbaarheid van diversiteit op het scherm in Vlaanderen*, available online at :<https://www.vrt.be/content/dam/vrtbe/over-de-vrt/opdrachten/omroepthema%27s/Monitor%20Diversiteit%202019.pdf>
- <sup>21</sup> UNIA, *Consultation des personnes handicapées sur le respect de leurs droits*, 2020, p.23.
- <sup>22</sup> UNIA, *L'accessibilité des personnes handicapées aux infrastructures publiques des 19 communes bruxelloises*, July 2015, available online at: <https://www.unia.be/fr/legislation-et-recommandations/recommandations-dunia/laccessibilite-des-personnes-handicapees-aux-infrastructures-publiques-des-19-communes-bruxelloises>
- <sup>23</sup> UNIA, *L'accessibilité des communes wallonnes aux personnes en situation de handicap*, September 2018, available online at: <https://www.unia.be/fr/legislation-et-recommandations/recommandations-dunia/laccessibilite-des-communes-wallonnes-aux-personnes-handicapees>
- <sup>24</sup> Unia, *De toegankelijkheid van de Vlaamse gemeenten voor personen met een handicap*, October 2019, available online at: <https://www.unia.be/nl/wetgeving-aanbevelingen/aanbevelingen-van-unia/toegankelijkheid-van-de-vlaamse-gemeenten-voor-personen-met-een-handicap-st>
- <sup>25</sup> For more information: UNIA, *L'accessibilité des infrastructures et des équipements de la SNCB pour les personnes en situation de handicap*, February 2021, available online at: [https://www.unia.be/files/Documenten/Aanbevelingen-advies/unia-recommandation\\_SNCB\\_\(2021\).pdf](https://www.unia.be/files/Documenten/Aanbevelingen-advies/unia-recommandation_SNCB_(2021).pdf)
- <sup>26</sup> For more information: UNIA, *L'accessibilité des infrastructures et des équipements de la STIB aux personnes en situation de handicap*, June 2018, available online at: <https://www.unia.be/fr/legislation-et-recommandations/recommandations-dunia/laccessibilite-des-infrastructures-et-equipements-de-la-stib-aux-personnes>
- <sup>27</sup> COLLECTIF ACCESSIBILITÉ WALLONIE-BRUXELLES (CAWaB), *"Nouvelle" ligne de tram 8. A-t-on oublié l'accessibilité ?* Available online at: <https://cawab.be/Nouvelle-ligne-de-tram-8-A-t-on-oublie-l-accessibilite.html>
- <sup>28</sup> For more information: UNIA, *Aanbeveling voor het verbeteren van de toegankelijkheid van het vervoersaanbod van De Lijn*, April 2017, available online at: <https://www.unia.be/nl/wetgeving-aanbevelingen/aanbevelingen-van-unia/aanbeveling-voor-het-verbeteren-van-de-toegankelijkheid-van-het-vervoersaan>
- <sup>29</sup> Flanders has asked the Committee a question on this subject but has not yet received an answer.
- <sup>30</sup> INTER, *Evaluatieonderzoek Vlaamse Toegankelijkheidsverordening*, 2020, available online at: [https://inter.vlaanderen/sites/default/files/Evaluatieonderzoek\\_Vlaamse\\_Toegankelijkheidsverordening\\_Eindrapp\\_ort.pdf](https://inter.vlaanderen/sites/default/files/Evaluatieonderzoek_Vlaamse_Toegankelijkheidsverordening_Eindrapp_ort.pdf)
- <sup>31</sup> Art. 60 of the law of 12 January 2007 on the reception of asylum seekers and certain other categories of foreigners provides that Fedasil, the agency in charge of reception, is 'responsible for granting material aid to minors staying with their parents illegally in the territory and whose state of need has been noted by a public social action centre, when the parents are unable to fulfil their duty of support. This material assistance is granted in community reception structures managed by the Agency or a partner with which the Agency has concluded a specific agreement for the reception of minors referred to in paragraph 1. The King determines the modalities of granting this material aid.'
- <sup>32</sup> Constitutional Court, n° 58/2021, 22 April 2021. The case concerned a family with two minor children as well as an

adult child with severe disabilities.

<sup>33</sup> Contribution of Myria.

<sup>34</sup> On the impact of the Covid crisis on people with disabilities in Belgium, see Unia's report based on the consultation of people with disabilities and their families: *'COVID et droits humains : impact sur les personnes handicapées et leurs proche's* (COVID and human rights: impact on people with disabilities and their families), July 2020, available on [www.unia.be](http://www.unia.be), section Publications & Statistics or via [this link](#).

<sup>35</sup> UNIA, *COVID-19: a test for human rights - second report*, 2021, available online at [https://www.unia.be/files/Documenten/Publicaties\\_docs/Covid-Rapport-DEF\\_FR\\_mar0.pdf](https://www.unia.be/files/Documenten/Publicaties_docs/Covid-Rapport-DEF_FR_mar0.pdf)

<sup>36</sup> Law of March 17, 2013 reforming disability regimes and establishing a new protection status in accordance with human dignity, M.B. of June 14, 2013, p. 38132

<sup>37</sup> CONSEIL SUPÉRIEUR DE LA JUSTICE, *Audit: Le contrôle sur les administrations par les justices de paix*, 2019 available at [www.csj.be](http://www.csj.be)

<sup>38</sup> CONSEIL SUPÉRIEUR DE LA JUSTICE, *Audit: Le contrôle sur les administrations par les justices de paix*, 2019, p.70.

<sup>39</sup> UNIA, *Consultation des personnes handicapées sur le respect de leurs droits*, 2020, p.75.

<sup>40</sup> Report on the participation in elections of people with disabilities, available online at [https://www.unia.be/files/Documenten/Publicaties\\_docs/Rapport\\_droit\\_de\\_vote\\_2020.pdf](https://www.unia.be/files/Documenten/Publicaties_docs/Rapport_droit_de_vote_2020.pdf), p.75.

<sup>41</sup> UNIA, *Consultation des personnes handicapées sur le respect de leurs droits*, 2020, p.74.

<sup>42</sup> UNIA, *Consultation des personnes handicapées sur le respect de leurs droits*, 2020, p.74.

<sup>43</sup> See in particular: *Oukili v. Belgium* (43663/09), judgment of 9 January 2014; *Plaisier v. Belgium* (28785/11) judgment of 9 January 2014; *Van Meroye v. Belgium* (330/09), judgment of 9 January 2014; *Saadouni v. Belgium* (50658/09) judgment of 9 January 2014; *Moreels v. Belgium* (43717/09), judgment of 9 January 2014; *Gelaude v. Belgium* (43733/09), judgment of 9 January 2014; *Lankester v. Belgium* (22283/10), judgment of 9 January 2014; *Caryn v. Belgium* (43687/09), judgment of 9 January 2014; *Smits and others v. Belgium* (49484/11, 4710/12, 15969/12, 49863/12 and 70761/12), judgment of 3 February 2015 and *Vander Velde and Soussi v. Belgium and the Netherlands* (49861/12 and 49870/12), judgment of February 3, 2015. The pilot judgment of September 6, 2016 (ECHR, September 6, 2016, *WD v. Belgium*) particularly captures our attention. The Court pinpoints the structural dysfunction specific to the Belgian system, the cause of the violation of Article 3 of the European Convention on Human Rights: it is the lack of suitable places in the external circuit and the lack of qualified personnel in the psychiatric annexes of prisons which do not allow the social defence regime to fulfil its functions. Applying Article 46 of the Convention, the Court gives the Belgian authorities a period of two years in which to organise a system for the sectioning of delinquent persons that is in keeping with human dignity.

<sup>44</sup> Question from Ms. Karin Jiroflée to the Minister of Social Affairs and Public Health on 'the problems of transferring sectioned individuals from CPL to other institutions' (n° P3023), available at <http://www.lachambre.be/doc/PCRI/pdf/54/ip239.pdf#search=%22P3023%22>, p.21; CPT, 'Report to the Government of Belgium on the visit to Belgium by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from March 27 to April 6, 2017', 2017, <https://rm.coe.int/16807913b1>, p. 49.

<sup>45</sup> Available at [https://hudoc.exec.coe.int/eng#%7B%22EXEIdentifieur%22:%5B%22DH-DD\(2021\)679F%22%5D%7D](https://hudoc.exec.coe.int/eng#%7B%22EXEIdentifieur%22:%5B%22DH-DD(2021)679F%22%5D%7D)

<sup>46</sup> CONSEIL DES FEMMES FRANCOPHONES DE BELGIQUE, *Handicap, violences et sexualité au prisme du genre – étude exploratoire*, 2018, p.5. Available online at: <https://www.cffb.be/wp-content/uploads/2018/10/Handicap-violences-et-sexualit%C3%A9-au-prisme-du-genre-2018-avec-license.pdf>

<sup>47</sup> UNIA, *Consultation of people with disabilities on the respect of their rights*, 2020, p.53.

<sup>48</sup> [Accessibility for women with disabilities who are victims of violence - free webinar - Garance ASBL and A.S.P.H., Femme en situation de handicap une double discrimination violente](#), 3 December 2020, [ETUDE: Femmes en situation de handicap - asph](#)

<sup>49</sup> <https://www.departementwvg.be/goedgekeurde-projecten>

<sup>50</sup> <https://www.vaph.be/sites/default/files/documents/13326/meerjarenanalyse-vaph-planning-2020-2024.pdf>

<sup>51</sup> Phare service activity report, year 2019,

<sup>52</sup> In the Walloon Region, in June 2020, only 397 people benefited from a BAP (compared to 389 in 2019) Figures

available on the answer to the parliamentary question asked by Laurent Heyvaert on July 2, 2020 to the responsible minister, available [parlement-wallonie.be](http://parlement-wallonie.be)) and on the 2019 AVIQ activity report, [https://www.aviq.be/fichiers/rapport\\_annuel\\_AVIQ\\_2019.pdf](https://www.aviq.be/fichiers/rapport_annuel_AVIQ_2019.pdf), p.50. Many people are waiting for a BAP. Given the budgetary limits, the BAP is currently open only to people who meet priority criterion 1 (namely having a disease included in a list of priority diseases due to the rapidity of the evolution.) The second priority is given to people with disabilities who do not benefit from any institutional care whatsoever and who count at least 45 points on the scales for measuring autonomy (referred to in article 802 of the regulatory part of the Walloon Code of Social Action and Health and whose family support is not or is no longer able to provide long-term care. In June 2020. Among those who do not meet the criterion of priority 1, 115 people are waiting for a BAP. Finally, 277 people who have applied for a BAP have received a decision in principle, but do not qualify for it. Waiting lists are not indicative of real demand since many people, discouraged by the priority criteria and lack of budget, have not even applied for a BAP. In the Brussels Region, 42 people currently benefit from a BAP personal assistance budget. To date, 90 people are still waiting for a budget.

<sup>53</sup> <sup>53</sup> NORD ECLAIR, *Leuze-en-Hainaut: A home for 80 disabled adults is debated*, available at <https://www.nordeclair.be/521699/article/2020-02-19/leuze-en-hainaut-un-home-pour-80-handicapes-adultes-faitdebat> and ENTRE SAMBRE ET MEUSE, *L'AVENIR: A reception centre for the disabled in Froidchapelle: 80 beds and 60 jobs*, 10 June 2020

<sup>54</sup> UNIA, *Consultation des personnes handicapées sur le respect de leurs droits*, 2020, p.40.

<sup>55</sup> UNIA, *Consultation des personnes handicapées sur le respect de leurs droits*, 2020, p.28.

<sup>56</sup> To comply with Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of websites and mobile applications of public sector bodies, the websites of public services (administrations, provinces, municipalities) have been required to be accessible to people with disabilities since 23 September 2020. This accessibility obligation has been extended to the mobile applications of public services from June 22, 2021.

<sup>57</sup> [Press-release-CAWaB-Eqla Accessibilite-numerique septembre-20211.pdf](https://www.wallonie.be/ressources/actualites/press-release-CAWaB-Eqla-Accessibilite-numerique-septembre-20211.pdf)

<sup>58</sup> <https://bx1.be/categories/news/sites-web-du-secteur-public-pas-suffisamment-accessibles-aux-personnes-handicapees/>

<sup>59</sup> <https://www.sudinfo.be/id401443/article/2021-06-23/peine-5-des-applications-accessibles-aux-malvoyants-malgre-une-directive?fbclid=IwAR1QKvFLVWhOuK5cXjHoY80njhwjGtNsMDcSQmsEL9RimVYbsZf1x8xEeU>

<sup>60</sup> Site allowing you to enter your tax return online.

<sup>61</sup> Site of the Belgian Official Gazette publishing the laws and other regulatory texts of the Belgian State.

<sup>62</sup> UNIA, *Consultation des personnes handicapées sur le respect de leurs droits*, 2020, p.28.

<sup>63</sup> Law of 12 May 2014 on the recognition of informal caregivers, which entered into force on 1 September 2020

<sup>64</sup> See Memorandum of the non-profit care organisations Wallonia and Brussels, available at <https://wallonie.aidants-proches.be/wp-content/uploads/2019/04/04-01-19-memorandum-final-1.pdf>

<sup>65</sup> On this subject, see the 2019 memorandum filed by the non-profit aidants proches Wallonie et Bruxelles, available at <https://wallonie.aidants-proches.be/wp-content/uploads/2019/04/04-01-19-memorandum-final-1.pdf>

<sup>66</sup> SCIENSANO, *Aide informelle - Enquête de santé 2018*, September 2019, available at: [https://his.wiv-isp.be/fr/Documents%20partages/IC\\_FR\\_2018.pdf](https://his.wiv-isp.be/fr/Documents%20partages/IC_FR_2018.pdf)

<sup>67</sup> Myria, *La migration en chiffres et en droits 2017*, Chapter 5: the right to a family life. 3. Analysis: The Right to Family Life for People with Disabilities. 129- 133, [https://www.myria.be/files/MIGRA2017\\_FR\\_AS.pdf](https://www.myria.be/files/MIGRA2017_FR_AS.pdf).

<sup>68</sup> See in particular: Council of State, February 2019, n° 243.676

<sup>69</sup> Contribution of Myria.

<sup>70</sup> FÉDÉRATION WALLONIE-BRUXELLES, *Teaching indicators 2020, 15th edition, November 2020*, available online at: <http://www.enseignement.be/index.php?page=28344&navi=4706>

<sup>71</sup> OSTBELGIEN, SCHÜLERZAHLEN 2020-2021, [SCHÜLERZAHLEN 2016 - 2017 \(ostbelgienbildung.be\)](https://www.schuelerzahlen.be/), see slide 9, line "Förderschule" (specialist school).

<sup>72</sup> Decree on the reception, support and maintenance in ordinary basic and secondary education of students with specific needs, December 7, 2017, article 4. The provisions referred to have been inserted into the new [Education](#)

[Code of May 2019](#), article 1.7.8.1 11, §1 par. 1 and § 4, par. 4.

<sup>73</sup> C.E.D.S., Center for the Defense of the Rights of Mentally Handicapped Persons (MDAC) c. Belgium, October 16, 2017, complaint n°109/2014.

<sup>74</sup> C.E.D.S., International Federation for Human Rights (FIDH) and Inclusion Europe v. Belgium, September 9, 2020, complaint n°141/2017.

<sup>75</sup> BELGIAN GOVERNMENT, Brief on the merits of complaint n° 141/2017 to the European Committee of Social Rights, International Federation of Human Rights (FIDH) and Inclusion Europe c. Belgium, §§ 4.3.2 et 4.2.7.

<sup>76</sup> <https://publicaties.vlaanderen.be/view-file/39319>

<sup>77</sup> <https://docs.vlaamsparlement.be/pfile?id=1378754>

<sup>78</sup> C.E.S.I. (Commission de l'enseignement supérieur inclusif or Commission for Inclusive Higher Education), *Mémorandum de la Commission de l'enseignement supérieur inclusif*, June 2019.

<sup>79</sup> UNIA, *Pour une meilleure accessibilité des hôpitaux aux personnes malentendantes et sourdes - Rapport d'étude avec recommandations*, June 2019.

<sup>80</sup> ASPH, *Les barrières face à l'accès aux soins de santé: plus nombreuses qu'on ne le pense*

*pour les personnes en situation de handicap*, 2019, available online at: <https://www.asph.be/wp-content/uploads/2021/02/Analyse-ASPH-27-2019-les-barrieres-face-%C3%A0-lacc%C3%A8s-aux-soins-de-sant%C3%A9.pdf>

<sup>81</sup> These are material, human or animal aids necessary for the inclusion of the disabled person. These aids relate specifically to home improvements, assistance products (also called technical aids), as well as some individual services (human aids).

<sup>82</sup> STATBEL, *Les personnes handicapées ou souffrant de problèmes de santé de longue durée ont moins d'autonomie dans leur emploi*, December 20, available online at: <https://statbel.fgov.be/fr/nouvelles/les-personnes-handicapees-ou-souffrant-de-problemes-de-sante-de-longue-duree-ont-moins>

<sup>83</sup> UNIA, *Gand réalise ses premiers tests de discrimination à l'emploi et ne compte pas s'arrêter là*, July 2021, article available online at: <https://www.unia.be/fr/articles/gand-realise-ses-premiers-tests-de-discrimination-a-lemploi-et-ne-compte-pas-sarreter-la>

<sup>84</sup> PHARE, Annual report 2019, available online at:

<https://phare.irisnet.be/app/download/8050018362/RA+PHARE+2019+-+D%C3%A9finitif.pdf?t=1625647371>

<sup>85</sup> AVIQ, Annual report 2019, available online at: [https://www.aviq.be/fichiers/rapport\\_annuel\\_AVIQ\\_2019.pdf](https://www.aviq.be/fichiers/rapport_annuel_AVIQ_2019.pdf)

<sup>86</sup> <https://www.unia.be/fr/articles/recherche-durgence-amenagements-raisonnables-parcours-de-reintegration>

<sup>87</sup> STICHTING INNOVATIE & ARBEID, *Arbeidshandicap en werkbaar werk bij werknemers -*

*Analyse op de Vlaamse werkbaarheidsmonitor werknemers 2007-2019*, March 2021, available online at: [https://serv.be/sites/default/files/documenten/STIA\\_20210224\\_Arbeidshandicap\\_WKN\\_RAP.pdf](https://serv.be/sites/default/files/documenten/STIA_20210224_Arbeidshandicap_WKN_RAP.pdf) p.24.

<sup>88</sup> SPF SÉCURITÉ SOCIALE, *Pauvreté et handicap en Belgique*, 2019, available online at: <https://socialsecurity.belgium.be/sites/default/files/content/docs/fr/publications/livre-pauvrete-et-handicap-en-belgique-2019-fr.pdf>

<sup>89</sup> Income Replacement Allowance (*L'allocation de remplacement de revenus* or ARR) is granted to disabled people who, due to their physical or mental situation, can earn at most 1/3 of what an able-bodied person can earn in the labour market.

<sup>90</sup> Art. 23 of the law of March 26, 2018 on the strengthening of economic growth and social cohesion.

<sup>91</sup> COUR CONSTITUTIONNELLE, n° 41/2020, 12 March 2020.

<sup>92</sup> COUR CONSTITUTIONNELLE, n° 3/2012, 11 January 2012; COUR CONSTITUTIONNELLE, n° 108/2012, 9 August 2012; COUR CONSTITUTIONNELLE, n° 114/2012, 4 October 2012.

<sup>93</sup> Contribution of Myria.

<sup>94</sup> Contribution of Myria.

<sup>95</sup> UNIA, *Rapport sur la participation aux élections des personnes en situation de handicap*, 2020, available online at: [https://www.unia.be/files/Documenten/Publicaties\\_docs/Rapport\\_droit\\_de\\_vote\\_2020.pdf](https://www.unia.be/files/Documenten/Publicaties_docs/Rapport_droit_de_vote_2020.pdf)

<sup>96</sup> For the 2018 communal elections in the Walloon Region:

<http://electionslocales.wallonie.be/actualites/syntheseenquête-accessibilite-bureau-vote> ; For the 2018

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communal elections in the Brussels Region: <http://pouvoirs-locaux.brussels/fichiers/rapport-accessibilite-des-elections-communales.pdf>

<sup>97</sup> PLATEFORME JUSTICE POUR TOUS, Report for the Universal Periodic Review of Belgium, 2020, p. 2; available online [https://www.upr-info.org/sites/default/files/document/belgium/session\\_38\\_-\\_may\\_2021/pjpt\\_upr38\\_bel\\_f\\_main.pdf](https://www.upr-info.org/sites/default/files/document/belgium/session_38_-_may_2021/pjpt_upr38_bel_f_main.pdf)

<sup>98</sup> The 'standstill principle' prohibits the authorities from adopting legislation which goes against the guaranteed rights and therefore from lowering the acquired level of protection (in a decision of the Council of State versus the Walloon Region, administrative litigation section, VIth Chamber, judgment no.243.760 of February 20, 2019).