

Questionnaire on the participation of people with disabilities in public decision-making processes in the EU

Purpose of the request :

BMAS requested information on the role of the participation of people with disabilities in the development of national policies and on the measures that had been taken. BMAS is also interested in this information in the context of its own reflections on a more in-depth exchange between EU Member States on this topic.

Thematic background :

The UN Convention on the Rights of Persons with Disabilities requires that persons with disabilities and their representative organisations be actively involved in the design and implementation of the Convention and in other decision-making processes that affect them (see Article 4(3) of the UN Convention on the Rights of Persons with Disabilities). It expressly obliges States to enable and promote the participation of persons with disabilities in a non-discriminatory manner, for example through empowerment programmes.

Participation therefore means that the **State must systematize consultation on any measure affecting the lives of persons with disabilities**. In this context, participation is a tool to ensure targeted policies and programmes and an equal exchange of views. This creates acceptance and promotes the sustainability of measures that are meaningful and appropriate also from the perspective of persons with disabilities.

The participation of people with disabilities is also part - and a central element - of the EU Disability Strategy 2010-2020.

The issue of the participation of a vulnerable/disadvantaged group such as persons with disabilities is particularly urgent in light of the current COVID-19 pandemic.

III. Questions:

1. a) How are the provisions of the UN Convention on the Participation of Persons with Disabilities implemented in your country?

Belgium has ratified the UNCRPD. This means that each constituent entity of federal Belgium has formally mandated the federal government to ratify.

It is important, at this level, to recall that Belgian federalism is unique in that there is no hierarchy of norms between the different constituent entities of federal Belgium. The competences which have been transferred in full from the "Federal" to either the "Regions" or the "Communities" are therefore exercised in full by these entities, without any intervention by the federal government.

On the other hand, the Regions and Constituent Communities of federal Belgium do not have an existence of their own at the international level: it is Belgium that is known by the United Nations and that submits to the process of monitoring the implementation of the Convention.

For a whole series of matters for which it has (no longer) competence, it must report on the way in which the Communities or Regions act.

Each constituent entity of federal Belgium must therefore organise the participation of people with disabilities for the competences that are theirs. For this reason, the BDF systematically requests the creation or reinforcement of an advisory structure for people with disabilities

("advisory council for people with disabilities" or "advisory council" according to the terminology of the entity) in each constituent entity of federal Belgium.

To date, the situation is as follows:

- Federal: Conseil Supérieur National des Personnes Handicapées (CSNPH) / Nationale Hoge Raad voor Personen met een Handicap (NHRPH) is the official advisory body to the federal authorities. It is composed of 20 members appointed by Royal Decree on the basis of their expertise in the field of disability. It issues, in complete independence, opinions on its own initiative or on request in all areas related to disability: <http://ph.belgium.be/fr/csnph.html>.
- Wallon Region: The Strategy and Foresight Council (CSP) is made up of 2 bodies: the strategy and foresight college and a set of expert groups. Only the College is currently constituted: it is made up of 50 members of which only 2 are representatives of the disability sector. From the BDF's point of view, this body is not sufficiently representative to be considered as an advisory structure and therefore to participate effectively in the decision-making process. Moreover, this is a step backwards, as the former Walloon Commission for the people with disabilities (CWPH) was composed in a more representative manner. Unfortunately, it is no longer active since 2018.
- Brussels-Capital Region - French-speaking Community Commission of the Brussels Region (COCOF): The Brussels French-speaking Advisory Council for Personal Assistance and Health - Disability Section is composed of 24 members. It gives its opinions in complete independence on all matters falling within the competence of the French Community Commission of the Brussels Region (COCOF). <http://phare.irisnet.be/service-phare/a-propos-de-nous/conseil-consultatif/>
- Brussels-Capital Region - Joint Community Commission: Advisory Council on Health and Personal Assistance, Commission for Personal Assistance, section institutions and services for the disabled / De Adviesraad voor Gezondheids- en Welzijnszorg van de Gemeenschappelijke Gemeenschapscommissie (GGC), afdeling instellingen en diensten voor personen met een handicap ,is composed of members of both linguistic roles, French-speaking and Dutch-speaking. Its mission is to issue opinions, either on its own initiative or at the request of the members of the College, on common issues relating to the disability sector, in complete independence. <https://www.ccc-ggc.brussels/fr/organisation/conseil-consultatif-de-la-sante-et-aide-aux-personnes>. No information on the level of activities
- Brussels-Capital Region: Conseil des personnes handicapées de la Région Bruxelles- Capitale / Raad voor Personen met een handicap van het Brussels Hoofdstedelijk Gewest is composed of 15 members. It is empowered to give opinions or make proposals in the field of handistreaming in order to contribute to the elimination of any direct or indirect discrimination against people with disabilities in the Brussels-Capital Region. No information on the level of activities
- Flemish Region: NOOZO - Vlaamse adviesraad voor handicap. NOOZO is a project that is financed by the Flemish government until the end of 2020. It delivers opinions on its own initiative or on request. At this stage, it works without any guarantee for the future. In the eyes of the BDF this does not give sufficient guarantees in terms of independence. It hopes that by the end of 2020 the Flemish government will take a firm decision on the continuation of NOOZO. <https://noozo.be/>
- German-speaking Community: there is no structure for the opinion of disabled people. Discussions have been going on for years between the representative organisations of people with disabilities and the "Minister für Gesundheit und Soziales".

- Fédération Wallonie-Bruxelles (French Community): there is no structure for the opinions of disabled people. In the eyes of the BDF this would be a necessity, if only for the issue of education, which has a key role in the integration of disabled people.

Are there legal provisions to ensure the participation of persons with disabilities?

There is no comprehensive legal provision guaranteeing the participation of people with disabilities or their representative organisations. This explains the fact that some entities have not created a structure for the opinions of persons with disabilities or have even abolished the one they had (Walloon Region).

The statutory instruments creating the existing advisory councils shall specify the extent to which their consultation is mandatory or optional.

However, the organisation of the participation of people with disabilities is one of the UNCRPD's prescriptions, to which Belgium has subscribed without reservation. It would therefore be logical for each entity to adopt a text (law or decree) guaranteeing the establishment of advisory structures for persons with disabilities in each constituent entity of federal Belgium.

The BDF considers that in order to guarantee a minimum participation, these legal provisions or decrees should have :

- that these advisory councils should be made up of at least 51% of disabled people or representatives of disabled people
- that these advisory councils have the necessary public funding and staff to enable them to deliver quality advice
- that these advisory councils be involved from the outset in the design of a bill or order-in-council. Currently, at best, existing advisory councils are being asked about a near-final draft.
- that if the content of an opinion delivered by an advisory board is not taken into account, the corresponding authority should be required to give reasons for not doing so. It is on this clarification that the quality of subsequent opinions will depend.

1. b) What measures have been taken to mainstream the participation of persons with disabilities in political processes such as legislative procedures and to ensure that their interests are taken into account?

So far, the most "advanced" measures regarding the participation of people with disabilities have been the creation of "advisory structures" (see answer to question 1a).

It should be added that in parliamentary work, the Chamber and the Senate have the possibility of hearing the associations of disabled persons or the National Higher Council of Disabled Persons during the discussion of a bill or proposal. However, they do not do so systematically.

1. c) Are there any examples (best practices) of political participation of persons with disabilities and how are they developed?

- at the national level?

As a reminder, the national level is made up of all the entities making up federal Belgium.

Two advisory structures have been set up on a regulatory basis that meets the BDF's expectations fairly well:

- Federal: The Superior National Council for the People with Disabilities (CSNPH) / Nationale Hoge Raad voor Personen met een Handicap (NHRPH) <http://ph.belgium.be/fr/csnph.html>
- Brussels-Capital Region - French-speaking Community Commission of the Brussels Region (COCOF): The Brussels French-speaking Advisory Council for Personal Assistance and Health - Disability Section <http://phare.irisnet.be/service-phare/a-propos-de-nous/conseil-consultatif/>

For the BDF, these two structures operate on the basis of a satisfactory regulatory framework. This enables them to issue own-initiative opinions. This is essential. Otherwise, the advisory structure still depends on the goodwill of a minister, who only asks for an opinion when it suits him or her.

- at the local level?

At the local level, Belgium has 589 municipalities and 10 provinces.

Both the provinces and the municipalities have the possibility to create advisory structures for people with disabilities. The main shortcoming at this level is that it is the municipal and provincial authorities that decide on the composition and mode of operation of their advisory structure. There can therefore be great differences from one entity to another.

The BDF collaborated very positively with a number of local advisory councils, such as the advisory council of the municipality of La Louvière, the advisory council of the city of Brussels and the Advice council of the municipality of Bruges. This last point is illustrative and does not call into question the way in which the other local advisory councils operate.

1. d) Which ministry is responsible for this topic at the national level?

Varies by entity.

- Federal: FPS Social Security and Minister in charge of Disabled Persons and Prime Minister
- Walloon Region: AViQ (Regional Agency) and- Minister in charge of the disabled and Minister President
- Region flamande : Equal opportunities Flanders - idem
- Brussels-Capital Region - COCOF: Phare (Regional Agency) - idem
- Brussels-Capital Region - COCOM : COCOM - idem
- Brussels-Capital Region: Iriscare - idem
- Communauté germanophone : Dienststelle für selbstbestimmtes Leben der Deutschsprachigen Gemeinschaft discussions autour de la création éventuelle se déroulent avec le " Minister of Health and Social Affairs "- idem
- Wallonia-Brussels Federation: Minister for Equal Opportunities (Fr. Daerden) and the Minister for Aid to People (V. Glatigny) - idem

Commenté [MO1]: A vérifier: must-we take over the agencies? or the relevant ministers???

2. a) Are there support measures for institutions/organisations or projects for the participation of people with disabilities?

Recognised representative organisations of people with disabilities can obtain public subsidies. These grants depend on the communities to which these organizations are linked (often territorial criteria). The modalities differ from one entity to another, but they are generally based either on recurrent activities or on projects.

2. b) Which department is responsible for these programs?

Varies by entity.

- Flemish Region: Minister in charge of the disabled and Minister President
- German-speaking Community: Minister in charge of the disabled and Minister President
- Fédération Wallonie-Bruxelles : Minister in charge of the disabled and Minister President

3. a) Is there an institutionalized exchange of views with self-representative organizations of persons with disabilities?

Institutionalised exchanges of views exist at the level of the existing notification structures. The BDF is not in favor of consultation of representative organisations of people with disabilities on the basis of contacts by the political authorities.

In fact, it has been observed that this type of approach presents a bias in terms of objectivity, with the "competent minister" choosing which organization to consult based on proximity of interest. In such cases, we see the emergence of "pilot projects" that are not accessible to the entire population. This is not desirable in terms of "participation".

b) Which department is responsible?

Same answer as for question 1(d).

4. a) Also in light of the current challenges posed by COVID-19: What are the main challenges regarding the participation of persons with disabilities or their representative organizations?

The Covid-19 crisis hit the most vulnerable hard. Visibility was focused on "senior citizens", the light on the living situation of disabled people came later while these people were heavily impacted in terms of purchasing power, access to care, suppression of freedom of movement, etc...

The CSNPH has systematically and urgently addressed the relevant ministers on various aspects of pandemic management. Regional advisory councils also provided varying degrees of cooperation in managing the crisis.

<u>Needs identified by the CSNPH and other advisory councils</u>	<u>Result obtained</u>
Communication in accessible format	Sign Language Translation
Access to cares and hospitals	No clear political commitment (disability remains a cause of selection in case of hospital saturation)
Assistance in trains	Two months to get it right!

Purchasing power support (including a request for an increase in allowances)	Premium of 50€ for 6 months (below the demands of the sector)
Support for parents and families of children with disabilities	Parental leave for certain categories of workers
Enabling deconfinement for persons with disabilities	The confinement of disabled people has been longer than for other citizens, due to the lack of prescriptions (testing?).
Making it possible for children with disabilities to return to school	No provision
Making the mask more flexible for disabled people who cannot wear it for medical reasons	When wearing a mask or other fabric alternative is not possible for medical reasons, a face shield may be used.

4. b) What concrete steps have been taken to improve the participation of persons with disabilities since the beginning of the pandemic?

As a result of the many questions raised and given the relevance of the questions asked, the CSNPH was included in the meetings of the consultation group of the Task Force "Vulnerable Groups".

It would be useful if the same logic could be applied to other structures for advising persons with disabilities, including at the local level, so that measures were not taken in ignorance of the situation of persons with disabilities.