

UNCRPD

Submission to the Committee on the Rights of Persons with Disabilities
Within the framework of the 2nd and 3rd review of Belgium

Alternative report presented for a coalition of organisations
by the Belgian Disability Forum asbl (BDF)
prior to the adoption by the Committee on the Rights of Persons with Disabilities
of the list of issues relating to **Belgium**.

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

The Belgian Disability Forum (BDF) is a non-profit organisation created in 2001. It currently has 18 member associations and defends the rights of approximately 250,000 persons with disabilities and their families at national and supranational level. The BDF is a full member of the European Disability Forum (EDF) as the 'National Council' for Belgium¹.

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

This contribution is submitted by the BDF on behalf of 18 organisations representing persons with disabilities and 5 advisory bodies. You will find the list below.

It was discussed and drafted on the basis of a participatory process that took place during the months of October 2018 to January 2019 at the rate of one plenary meeting per month. It was based in particular on the mid-term evaluation of the implementation of UNCRPD by Belgium carried out by the BDF with all its members in 2017.

<http://bdf.belgium.be/fr/th%C3%A9matiques/evaluation-%C3%A0-mi-parcours.html>.

In drafting this report, the BDF drew on the expertise of the European Disability Forum (EDF) and the International Disability Alliance (IDA).

1) Organisations representing persons with disabilities :

- **ALTÉO asbl (Mouvement social de personnes malades, valides et handicapées)** : inclusion on the basis of voluntary commitment and active participation of members, through advocacy, information and exchange, mutual assistance and proximity, appropriate leisure activities
<http://www.alteoasbl.be/>
- **Association des Hémophiles et Malades de von Willebrand asbl (AHVH)** : Representation of persons with hemophilia before official bodies, administrative and psycho-social assistance, organization of educational, sporting and friendly activities
<http://www.ahvh.be/fr/>
- **Association Nationale d'Aide aux Handicapés Mentaux (ANAHM)** : Promotion and defense of the rights of persons with intellectual disabilities and their families at federal, European and international level, coordination of the actions of community organisations (asbl Inclusion and vzw Stan, trefpunt

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

verstandelijk handicap)

<https://www.inclusion-asbl.be/> - <https://trefpuntstan.be/>.

- **Association de Parents et de Professionnels autour de la Personne polyhandicapée asbl (AP³)** : improvement of the relationship between parents and professionals through mutual listening, mutual assistance between parents, exchange of experiences, improvement of educational practices, rehabilitation and health care, information on the life realities of persons with multiple disabilities
<http://ap3.be/>
- **Association Socialiste de la Personne Handicapée asbl (ASPH)** : defense of the rights of persons with disabilities, interpellation and political representation, awareness-raising through campaigns and animation modules, advice to professionals on bringing public buildings into compliance, support for municipalities for the inclusion of persons with disabilities
<http://www.asph.be/Pages/default.aspx>
- **Atingo** : training in the universal design of the environment and equipment, removal of obstacles to meet everyone's needs in terms of mobility, ergonomics and comfort of use, consultancy services (technical studies, advice, certification, support)
<https://www.atingo.be/>
- **Les Briques du GAMP asbl** : finding concrete solutions to the lack of places for highly dependent persons with disabilities, supporting individuals and their families
<https://www.gamp.be/fr/briques-du-gamp/a-propos>
- **Doof Vlaanderen** : promotion of the equivalence, emancipation and development of deaf persons and the Flemish sign language in civil society, defense of the particularity, rights and well-being of deaf persons in all aspects of daily life
<https://www.doof.vlaanderen/>
- **Fédération Francophone des Sourds de Belgique asbl (FFSB)** : promotion of the deaf person as a full citizen, request for information accessible through wide and rapid access to information, promotion of Sign Language, advocacy for sign language education
<http://www.ffsb.be/>
- **Katholieke Vereniging Gehandicapten vzw (KVG)**: bringing together persons with disabilities and persons concerned by disabilities, organising activities, getting involved in meeting the needs of persons with disabilities, uniting to develop
<https://kvg.be/>
- **Kleines Forum** : Representation of the interests of persons with disabilities in the German-speaking community, public awareness and training on the interests of persons with disabilities, inclusion of persons with disabilities in civil society

- **Landsbond van de Christelijke mutualiteiten / Alliance Nationale des Mutualités chrétiennes** : social insurer and social movement aimed at guaranteeing access to well-being and quality health care for all, defending an innovative, open and humane health policy, giving priority attention to the weakest
<https://www.cm.be/> - <https://www.mc.be/>
- **Le Silex asbl** : organisation of friendly, warm, non-hierarchical meetings between adults with or without mental disabilities for access to leisure activities freely chosen according to their individual possibilities, to recognise the place of the person with disabilities in society, and to change the behaviour and attitudes of the general public
<http://www.lesilex.be/>
- **Ligue Braille asbl** : development of the autonomy of blind and partially sighted persons, defense of their interests for a better consideration of their needs, awareness of the general public of the realities of life of blind and partially sighted persons
<https://www.braille.be/>
- **Ligue Nationale Belge de la Sclérose en Plaques asbl (LNBSF)** : to encourage the meeting and exchange of experiences, to inform about the realities of multiple sclerosis, to support persons with multiple sclerosis and their families and friends in their life projects, to defend their individual and collective interests, to partially finance the additional costs associated with the disease
<http://www.ms-sep.be/fr>
- **Œuvre Fédérale Les Amis des Aveugles et Malvoyants asbl** : contribute to the well-being of blind or partially sighted persons by developing and maintaining their autonomy and enabling them to take their place in socio-economic and cultural life, by supporting actions aimed at recognising and respecting their rights, and by informing and raising awareness about the reality of visual disability
<https://www.amisdesaveugles.org/>
- **Solidaris / Nationale Verbond van Socialistische Mutualiteiten** : advise, protect, support, inform, defend
<http://www.solidaris.be/Pages/Home.aspx> - <https://www.socmut.be>
- **Vereniging Personen met een Handicap vzw (VFG)** : ensure that persons with the capacity to act differently enjoy full and complete citizenship, action based on the principle of solidarity, their own at all levels of the organisation, respect for the opinion and conviction of everyone as long as they do not conflict with the basic principles of democracy, the United Nations Convention and the European Convention on Human Rights
<https://www.vfg.be/Pages/Home.aspx>

2) Advisory bodies of persons with disabilities created in federal and federated entities :

- **Le 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 and consists of 20 persons appointed by royal decree, on the basis of their expertise in the field of disability. It issues, in complete independence, own-initiative or on request opinions in all areas related to disability issues.
<http://ph.belgium.be/fr/csnph.html>
- **La Commission wallonne des personnes handicapées (CWPH)** is composed of 15 members, mainly representatives of associations defending the interests of persons with disabilities in Wallonia. It shall deliver opinions, on request or on its own initiative, to the Walloon Council for Social Action and Health with regard to the latter's tasks
- **Conseil consultatif bruxellois francophone de l'Aide aux personnes et de la santé – Section « personnes handicapées »** is composed of 24 members and delivers its opinions independently in 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/>
- **Conseil Consultatif de la Santé et de l'Aide aux Personnes, Commission de l'Aide aux personnes, section institutions et services pour Personnes handicapées** is composed of members of both linguistic roles, French-speaking and Dutch-speaking. Its task is to issue opinions, either on its own initiative or at the request of the members of the College, on common matters relating to the disability sector, in complete independence.
<http://www.ccc-ggc.irisnet.be/fr/a-propos-de-la-cocom/conseil-consultatif>
- **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 to contribute to the elimination of any direct or indirect discrimination against persons with disabilities in the Brussels-Capital Region.

Executive summary

Since the observations of the Committee on the Rights of Persons with Disabilities in 2014, the overall life situation of persons with disabilities has improved little. The existing problems identified in this report are mainly the following:

The consultation and involvement of advisory bodies in decision-making processes (art. 4.3) is often non-existent or at the end of the regulatory process. In this case, these are only formal notices.

While draft action plans have been drawn up by the federated entities, Belgium has not adopted a national plan to support the independence and inclusion of persons with disabilities. There is a lack of coordination between federal, regional and community policies, which makes policies very difficult for persons with disabilities to understand (art. 33). The lack of properly exploitable quantitative data makes it difficult, if not impossible, to develop the policies and actions expected by persons with disabilities and their families (art. 31).

The implementation of anti-discrimination legislation does not allow for a comprehensive step forward in terms of autonomy and inclusion. No attention has been paid to the concepts of 'disability by association' and 'cross-discrimination' (art. 5-6-7-33). Moreover, the existence in the regulations of a condition linked to either the age of 65 or the IQ for access to certain aids says a lot about the approach to disability and ageing in Belgium (art. 5-20-26).

Efforts to raise awareness among the general public are mainly based on UNIA and on associations. They do not sufficiently reach economic and political actors, or even professionals who come into regular contact with persons with disabilities (art. 8).

Reasonable accommodations are often perceived as a constraint, at best a vague concept but never as an effective tool for personal autonomy. There is no national intermodality plan or even accessibility of the built environment or transport. A label is missing to guarantee the expected implementation in a large number of areas (art.5-9-20-24-27-29).

Overall, collective services are not adapted and specialized services are insufficiently developed: autonomy and participation are often a decoy (art. 5-7-8-9-12-14-14-19-20-21-23-24-27). Caregivers whose high importance has been highlighted in analyses of the functioning of social security have no status.

The notions of inclusion and integration are often confused (art. 5-7-11-19-21-23-23-24-25-27-32). When inclusion is applied in a proactive way, sufficient attention for the necessary transition has been lacking (art. 24).

While the regulations on legal capacity have been substantially reformed to allow the expression of a genuine choice of life (art. 12), in practice and in many areas of life (arts. 19, 24, 27, 30), the person with disabilities continues to suffer from an environment that does not offer them a real choice of life.

Reference to the specific articles of the Convention and proposed questions for the list of issues

General principles and obligations (Art.1-4)

Consultation and involvement of the civil society (Art.4.3) are not yet integrated at every level of the Belgian Federal State.

Advisory bodies of persons with disabilities exist at Federal, Walloon Region, Brussels-Capital Region, COCOF and COCOM levels. The Flemish Region, French Community and German Community do not have operational advisory bodies.

Resources allocated to the functioning of existing advisory bodies, to the support of their work and to their independence of action are not sufficient. The follow-up given to their advices is hardly ever specified².

The evolution of the federal structure of Belgium created problems of coherence and understanding for the citizens. Persons with disabilities are facing many difficulties in order to identify which administration is competent to answer their needs. This reality was underlined by Commissioner for Human rights of the Council of Europe, Nils Muiznieks, following his visit to Belgium in September 2015³.

A National action plan for persons with disabilities was recommended by the Committee on the Rights of Persons with Disabilities⁴. Defining and implementing such a plan would have forced the constitutive entities of the Federal Belgium to work together in the long term. Until now Federal Government and federated entities made no effort to define such a plan.

Proposed questions :

1. What concrete measures does Belgium foresee within 2 years to settle "advisory bodies" of persons with disabilities and their family through their representative organization's in each constituent entity of federal Belgium? What right of initiative and what means – especially an efficient secretariat and sufficient operating grants – will be granted to these "advisory bodies" in order to ensure real participation and follow-up for persons with disabilities and their representative organization's in the decision making process regarding them? How will the structural implication of advisory bodies be secured in political decision making processes?

² Conseil Supérieur National des Personnes Handicapées, *Avis 2018-16 relatif au Plan fédéral Handistreaming - rapportage 2017 du gouvernement fédéral* (<http://ph.belgium.be/fr/avis/avis-2018-16.html>) - Conseil Supérieur National des Personnes Handicapées, *Avis 2018-29 relatif à la note de politique générale (NPG) 2019* (<http://ph.belgium.be/fr/avis/avis-2018-29.html>)

³ *Rapport par Nils Muiznieks, Commissaire aux droits de l'Homme du Conseil de l'Europe suite à sa visite en Belgique du 14 au 18 septembre 2015*, Strasbourg, 28 janvier 2016 (CommDH(2016)1).

⁴ Committee on the Rights of Persons with Disabilities, *Concluding observations*, 3/10/2014, alinea 6.

2. What concrete measures does Belgium foresee to ensure transversality and coordination between constituent entities of federal Belgium so that the rights of persons with disabilities are met all over federal Belgium and at European level? Will Belgium foresee a national plan with short and long term objectives within 2 years?
3. What concrete measures does Belgium foresee within 2 years to check the full compliance of all existing regulations, particularly with regard to the essential aspects such as definition of disability, and full participation of persons with disabilities in all aspects of life in the society? How do the governments of the federal Belgium ensure that each new regulation will comply with the UNCRPD requirements?

Equality and non-discrimination (Art.5)

Belgium has been an European pioneer in anti-discrimination legislation⁵. **The practical implementation of these laws remains utterly difficult to obtain, particularly for persons with disabilities⁶.**

Likewise, even if **reasonable accommodations** are formalised in regulations, their use for the inclusion of persons with disabilities remains seldom due to the lack of clarity of what is "reasonable". This is particularly the case in private and public employment and in education⁷.

The Belgian Disability Forum (BDF) wants to highlight the reality of **disability by association**. The parents and relatives of a person with disabilities often have to invest time and energy to support them in their daily, school or professional life. They can find themselves blocked in their professional, social, cultural life...

Until now, Belgium doesn't recognize **cross-discriminations**.

A series of rights and services are accessible to persons with disabilities only if they were recognized as such **before their 65th birthday**: some tax or social compensations, refunding for adaptation or rehabilitation... This is constitutive of a **cross-discrimination based on age**. Until now, only the German-speaking Community did suppress this discrimination.

Proposed questions :

4. What concrete measures does Belgium foresee to eliminate all treatment differences in the intervention of the public services according to the fact that the intervention was requested by a person whose recognition as disabled occurred before or after his 65th birthday?

⁵ Laws implementing the EU directives 2000/43 and 2000/78.

⁶ Rapport de la Commission d'évaluation de la législation fédérale relative à la lutte contre les discriminations, février 2017, p.121.

⁷ UNIA, *Rapport annuel 2017*, p.24-26 ; UNIA, *A l'école de ton choix avec un handicap* (<https://www.unia.be/fr/publications-et-statistiques/publications/lecole-de-ton-choix-avec-un-handicap-les-amenagements-raisonnables-dans-lenseignement>)

5. Does Belgium intend to introduce the notions of cross-discrimination and of disability by association in its regulation on non-discrimination?
6. What concrete measures does Belgium foresee to ensure the implementation of reasonable accommodations provided by the law to persons with disabilities, in all regulations? What systematical training initiatives to reasonable accommodation were developed at all levels of federal Belgium, including the communal level ? What are the results of these trainings? How are they assessed?
7. What measures will Belgium enforce so that persons with disabilities can access to goods and services on equal basis with all citizens and throughout Belgium?

Women with disabilities (Art. 6)

Several groups of persons are facing **cross-discriminations**. This is particularly the case for women and girls with disabilities: they are discriminated because of their disability inside the group of women or girls and because of their gender inside of the group of persons with disabilities⁸.

Proposed questions :

8. What concrete measures does Belgium foresee to stop cross-discrimination women and girls with disabilities are facing in Belgian society?
9. What concrete measures does Belgium foresee to address underrepresentation of women with disabilities in specific domains such as quality employment, training, leisure, culture...?
10. What concrete measures does Belgium foresee to implement mechanisms to collect with due discretion testimonies of women with disabilities who are victim of violence's?

Children with disabilities (Art.7)

Mechanisms providing **accompaniment, support, identification of trusted persons, and communication, including sign languages and easy to read are not sufficiently developed in Belgium.**

Existing devices in **Flemish, Walloon, Brussels Regions and French speaking Community are not sufficiently coordinated** which leads to decision-making blockages to the disadvantage of children with disabilities as they fall between "youth support" and "support to persons with disabilities".

⁸ ASPH, *Les femmes handicapées perçoivent-elles une double discrimination liée au genre et au handicap ?*, Bruxelles, 2015
<http://www.asph.be/Documents/Analyses%20et%20etudes%202015/Femmes%20handicap%C3%A9es%20discrimination%20sur%20le%20genre%20et%20le%20handicap.pdf>

In order to follow teaching in the school of their choice, some children with disabilities spend more than 2 hours every day in school transportations. Specific ways of improvement were proposed by UNIA and the League for the rights of the children. Up to now, solutions remain totally insufficient^{9 10 11}.

Proposed questions :

11. What concrete measures does Belgium foresee to implement politics that will enhance choice learning among children and so increase their capacity of making choices during the rest of their life?
12. What concrete measures does Belgium foresee to ensure that children with disabilities are properly and sufficiently cared for from early childhood?
13. What concrete measures does Belgium foresee to favor inclusion and give an efficient solution to long hours spent into school transportations by children with disabilities in order to receive the support they need?
14. What concrete measures does Belgium foresee to automate the transition from recognition as a child with disabilities to recognition as an adult with disabilities?

Awareness-raising (Art.8)

Progress is needed in awareness-raising especially towards the professionals who are regularly in contact with persons with persons with disabilities: medical staff, justice staff, administration, media...

Lack of visibility of persons with disabilities in the media, mainly television, remains too big. They are systematically presented as victims and limited in a passive role or, for the best, as witnesses... This fact was again underlined by the barometer of the High Audiovisual Council in French speaking Community¹².

The announcement of disability remains too medical. It is not sufficiently multidisciplinary: medical staff is focused on bringing a solution to a health situation and not enough on the fact of living with the reality of the disabilities. More awareness-raising is needed to get rid of the medical paradigm.

Proposed questions :

16. What concrete measures does Belgium foresee to implement training of everyone to the reality of disability, beginning with professionals?

⁹ <https://www.unia.be/fr/articles/des-pistes-concretes-pour-ameliorer-le-transport-scolaire-en-wallonie-et-a>

¹⁰ <https://www.youtube.com/watch?v=t3JIHQHKsc>

¹¹ X., *Et si votre enfant est dans l'enseignement spécialisé...*, dans *Le Ligueur des Parents*, 6/09/2017.

¹² CSA, *Baromètre diversité et égalité 2017*, p.8

(http://www.csa.be/system/documents_files/2821/original/Barom%C3%A8tre%20Diversit%C3%A9%20et%20%C3%89galit%C3%A9%202017-synth%C3%A8se%20de%20l'%C3%A9tude.pdf?1524509131)

17. What concrete measures does Belgium foresee to encourage the professionals of written and audio-visual media to pay attention to diversity in their ethical code of conduct?
18. What concrete measures does Belgium foresee to implement, from the announcement of the disability, for a better support based on multidisciplinary teams instead of medical team as it is the case now?

Accessibility (Art.9)

Public transportation depends on regional authorities, except for trains which depends on the federal government. This creates a lack of interoperability and planification of the networks increasing the inaccessibility of the transportation.

Information at stop points and stations is a problem, for example:

- the purchase of a ticket is difficult for blind and partially sighted persons and people with intellectual disabilities, due to poorly designed vending machines¹³.
- unexpected modifications, such as platform changes, are problematic for people with sensory disabilities. They are a source of distress for people with cognitive disabilities. Other essential information such as the next stop, the opening side of the doors are not communicated in an fully accessible way¹⁴.

Accessibility rules for buildings and public spaces specify the following: each new construction and each important modification to an existing construction must respect the regional regulation on accessibility.

Nevertheless, key problems remain, among which:

- the non-application of the regulations in force, due to a lack of control and/or sanction: there are no deadlines for compliance or sanctions in the event of non-compliance with the regulatory requirements ...
- incompatibility of regulations relating to the preservation of heritage and buildings with accessibility regulations: often the classification of a building is used to justify its non-compliance
- lack of training in accessibility and Universal Design of the officials delivering the construction certificates

The lack of social housing, its obsolescence and poor geographical distribution¹⁵ explains why many persons with disabilities do not have housing that meets their needs.

¹³ Conseil Supérieur National des Personnes Handicapées, *Avis 2014/19 relatif à l'accessibilité et la convivialité des distributeurs automatiques de billets* (<http://ph.belgium.be/fr/avis/avis-2014-19.html>)

¹⁴ Conseil Supérieur National des Personnes Handicapées, *Avis 2018/05 relatif à l'annonce du côté de sortie du train* (<http://ph.belgium.be/fr/avis/avis-2018-05.html>)

¹⁵ <https://www.rtl.be/info/belgique/societe/126-000-personnes-en-attente-d-un-logement-social-les-chiffres-incroyables-de-la-situation-en-wallonie-et-a-bruxelles-918141.aspx>

The number of sign language interpreters and trained assistants for deaf-blind persons¹⁶ remains far too low to meet their accessibility needs. For instance, in 2017, in Brussels-Capital Region, 16,64% of the requests could not be met due to the lack of French Belgian sign language interpreters¹⁷.

Proposed questions :

19. What concrete measures does Belgium foresee in order to adopt a comprehensive plan for all buildings open to the public, roads, transportation, services and digital accessibility devices that encompasses the needs of all persons? What assessment process will Belgium implement?
20. What targeted and deterrent penalties will be implemented by Belgium to face non-compliance with legal provisions related to accessibility ?
21. What concrete measures does Belgium foresee to ensure that the public authorities issuing construction certificates receive certification training in accessibility and universal design?
22. What concrete measures does Belgium foresee to ensure that there is sufficient accessible or adaptable social housing, distributed equitably throughout the country? What planning and evaluation will be developed to achieve this? How will it ensure that they are given priority to people with disabilities?
23. What concrete measures does Belgium foresee to ensure accessibility to public services throughout the country, in the various official languages, including sign languages, in the various forms of communication, including new technologies, but not exclusively?
24. What concrete measures does Belgium foresee to remedy to address the lack of sign language interpreters and people trained in communicating with people who are deaf-blind? What measures are planned to grant them professional status?

Situations of risk and humanitarian emergencies (Art.11)

Since 2016, the reception conditions for refugee candidates in Belgium have been challenging: Belgium followed a logic of "non reception" in order to avoid a so-called "air draught". It resulted in the limitation of cases treated by the "Office for Foreigners" to 50 a day and in the transformation of the Maximilian Parc in a kind of refugee camp managed by citizens... Finally, such an approach was denounced by the same government when it partly resigned. On 11/11/2018, the new minister in

¹⁶ <http://www.asph.be/Documents/analyse-etudes-2013/2013-27-reconnaissance-surdicite.pdf> et http://annatimmerman.be/documenten/ElienVDVoorde_masterproef_2017_Verworven%20doofblindheid.pdf).

¹⁷ Service d'interprétation des sourds de Bruxelles, *Rapport d'activité 2017*, P.28-33.

charge demanded to her office to gradually increase the number of files analyzed every day¹⁸

In such a context, the situation of **asylum seekers with disabilities** preoccupies the BDF.

About risk situations, the BDF and the National High Council of Persons with disabilities did question the federal government about the implementation of efficient emergency call services¹⁹, that could be used by each person with disabilities, according to his/her specific communicational needs²⁰.

An emergency "app" does exist, but it does not allow the video to be used and thus is of no use for deaf persons.

Proposed questions :

25. What concrete measures does Belgium foresee to ensure an inclusive reception of refugees and asylum seekers with disabilities? What measures are planned to evaluate existing procedures?
26. What concrete measures does Belgium foresee to ensure that all disabled person have access to emergency call services ('112'), anywhere and 24 hours a day, in interoperability and by giving them the choice between several modes of communication.

Equal recognition before the law (Art.12)

In 2014, the BDF welcomed the efforts made to reform the legislation on the status of legal protection²¹. **Since then, even if assisted decision making is encouraged, the possibility of using a substitution of decision making by a third person has been maintained** ²².

Several problems related to the application of this law, such as the lack of training and the overload of work for the justice of peace and for the judicial protection²³.

¹⁸ <https://www.lesoir.be/194990/article/2018-12-11/demandes-dasile-maggie-de-block-demande-ses-services-de-revoir-les-quotas-la>

¹⁹ Conseil Supérieur National des Personnes Handicapées, *Avis sur la note conceptuelle relative à l'accès aux services de secours via un message électronique écrit (SMS) pour les sourds, les malentendants et les personnes souffrant de troubles de la parole*, 15/04/2013 (<http://ph.belgium.be/nl/adviezen/advies-2013-08.html>).

²⁰ BDF, *Lettre au Premier Ministre concernant l'exclusion des centres d'appel d'urgence du champ d'application de la Directive COM/2015/0615 final - 2015/0278 (COD)*, 30/08/2018. Conseil Supérieur National des Personnes Handicapées, *Lettre au Ministre de l'Intérieur, concernant le projet « BE Alert »*, 16/03/2018.

²¹ Loi du 17 mars 2013 réformant les régimes d'incapacité et instaurant un nouveau statut de protection conforme à la dignité humaine (http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&table_name=loi&cn=2013031714)

²² Legal World (<http://www.legalworld.be/legalworld/nouveau-statut-de-protection-pour-les-personnes-incapables.html?LangType=2060>)

²³ Gauthier DE BECO, *Mieux protégées les personnes handicapées mentales ?*, dans *La Libre Belgique*, 12/10/2014 (<http://www.lalibre.be/debats/opinions/mieux-protégees-les-personnes-handicapees-mentales-54380300357030e6104585f0>)

They are presently subject to a research by a series of organization's and universities among which the Catholic University of Leuven (KUL).

Since the entry into force of this new legislation, on 1st September 2014, other problems were reported in relation to its practical implementation:

- Justices of the Peace cite, on the one hand, that health professionals are not sufficiently familiar with the International Classification of Functioning, Disability and Health (ICF)²⁴ and produce detailed medical certificates that don't respect the ICF. On the other hand, they point out the too short deadline for the adaptation of the provisional administrations. Initially scheduled for 1 September 2016, this was finally postponed to 1st September 2019²⁵.
- Families of persons with disabilities issued a complaint before the High Council of Justice (CSJ) mainly pointing out that:
 - the designation of professional administrators is systematical whereas the law gives priority to the personal network
 - the organization of general administration with representation of the person and/or goods is systematical whereas the law is based on the capacities of the person and on the fact that "incapacity" should be the exception
 - the lack of implication of the person's entourage during the evaluation process of his legal capacity whereas the law precisely reinforces the role of the entourage
 - the designation of trusted persons remains the exception whereas the law encourages it
- The Minister of Justice presented a new text to the Parliament reforming this law. The National High Council of Persons with Disabilities expressed a series of reservations about this text²⁶.

Proposed questions :

27. What concrete measures does Belgium foresee to take to provide sufficient financial and human resources to allow the implementation of the assistance to decision making and to allow judges of peace to take decisions adapted to the person as specified in the law of 2014? What measures does Belgium foresee to abolish the use of the "curatorship" system in favor of a system based on respect for the person's preferences?
28. What concrete examples and what data can Belgium provide in order to demonstrate the evolution from 'substitution' towards 'assistance'?

²⁴ OMS, http://apps.who.int/iris/bitstream/10665/42418/1/9242545422_fre.pdf

²⁵ Loi du 10 août 2015 modifiant le Code judiciaire et la loi du 17 mars 2013 réformant les régimes d'incapacité et instaurant un nouveau statut de protection conforme à la dignité humaine(http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&table_name=loi&cn=2015081019)

²⁶ Conseil Supérieur National des Personnes Handicapées, *Avis 2018/34 relatif à la capacité juridique* (<http://ph.belgium.be/fr/avis/avis-2018-34.html>)

29. What concrete measures does Belgium foresee to take to overcome the concept of 'not having the capacity to give his consent'?

Access to justice (Art.13)

BDF worries about cost-saving measures made in the justice department since 2014. According to the Justice High Council, 54 judges and 110 clerks are missing in Belgium in 2018²⁷. These measures have an impact on the way persons with disabilities have access to justice.

Proposed questions :

30. What concrete measures does Belgium foresee to guarantee conditions of access to justice for persons with disabilities on an equal basis with all other litigants?
31. What concrete measures does Belgium foresee to ensure that persons with disabilities receive adequate support and assistance in all legal proceedings affecting them?
32. What concrete measures does Belgium foresee to guarantee the payment of expenses to those who accompany people with disabilities in legal proceedings concerning them?

Liberty and security of person (Art.14)

The federal government started building two forensic psychiatry facilities in Flemish Region (Ghent and Antwerp). The first is operational²⁸. However, as the total number of internees persons did increase, the lack of places remains.

The BDF must reiterate the same findings as in 2014:

- Internees placed in the psychiatric annexes of prisons wait between two and four years after the decision of the Social Defense Committee before being transferred to a social defense institution.
- In the meantime, they are placed in the psychiatric annexes of prisons that are overcrowded, which has consequences for their conditions of detention, the quality of health care, the work of staff... They generally do not benefit from the support of a multidisciplinary team within a non-prison social defense structure to facilitate their reintegration into society.

²⁷ CLEMENT (Ch.) et HOUARDY (A.), *La justice manque cruellement de moyen et de personnel*, RTL Info, 22/01/2019 (<https://www.rtl.be/info/belgique/societe/la-justice-manque-cruellement-de-moyens-et-de-personnel-voici-les-consequences-concretes-a-namur-989103.aspx>)

²⁸ https://www.rtb.be/info/societe/detail_les-internees-ne-sont-plus-les-oublies-de-la-justice-et-du-soin-en-belgique-selon-pierre-titeca-psychiatre-a-schaerbeek?id=10113873

Proposed questions :

33. How will Belgium revise the May 2014 law aiming to eliminate the system of security measures for persons with disabilities declared irresponsible for their actions? How will it ensure that persons with disabilities found responsible for committing a crime will be tried in accordance with ordinary criminal procedure, on an equal footing with others and with the same guarantees, as well as with the specific procedural arrangements necessary to ensure their equal participation in the criminal justice system?
34. By what concrete measures will Belgium ensure that internees are supported by a multidisciplinary team within a non-prison social defense structure in order to facilitate their reintegration into society?
35. By what concrete measures will Belgium guarantee the right to reasonable accommodation for all persons with disabilities who are detained in prison, ensure their access to health care on the basis of their free and informed consent, and at the same level of health care as that provided in society in general?

Freedom from torture or cruel, inhuman or degrading treatment or punishment (Art.15) / Freedom from exploitation, violence and abuse (Art.16) / Protecting the integrity of the person (Art.17)

The BDF does not have any study results to refute or confirm suspicions of abuse of persons with disabilities. Testimonies collected by organisations of persons with disabilities and social services are systematically received anonymously since victims fear filing a complaint because of their strong dependence on the environments in which these events occur.

These abuses are said to be of two types: restraint, both physical and chemical, and sterilization or forced contraception. These acts are allegedly perpetrated in psychiatric institutions, institutions and day centres for persons with disabilities and specialized educational institutions²⁹.

Proposed questions :

36. What figures does Belgium have on the use of physical or chemical restraint in day centres or institutions? Do the identified cases always correspond to situations that justify this recourse, as provided for by Belgian legislation: risks for the person or for third parties due to the behaviour of the person concerned? What measures will Belgium take to stop the use of restraint?

²⁹ Servais (L.), Leach (R.), Jacques (D.) et Rousseaux (J.-P), *Sterilisation of intellectually disabled women, in European Psychiatry*, 2004, p.428-432 (<http://www.ncbi.nlm.nih.gov/pubmed/15504650>).

37. What concrete measures will Belgium take to facilitate the identification of cases of forced medication?

Living independently and being included in the community (Art.19)

The need for services is constantly increasing. Unfortunately, they are not sufficiently met in Belgium. This puts many persons with disabilities in non-inclusion situations.

This results in long waiting lists for a Personal Assistance Budget, access to institutional places and certain services, particularly in terms of support.

The implementation of the various aspects of General Comment No. 5 and, in particular, the development of the conditions necessary for the implementation of an effective deinstitutionalization process, depends on the existence and complementarity of these services.

The BDF denounces the lack of transparency regarding the establishment and management of these waiting lists which, in some cases, may exceed 10 years!³⁰

Persons with disabilities and their representative organisations are not sufficiently consulted on how to implement deinstitutionalisation. However, they are the key actors in defining their needs.

The National High Council of Persons with Disabilities has carried out in-depth work on the implementation of General Comment n°5. He drew a position paper from it for the Belgian authorities in charge of this case³¹.

It sets out 5 essential criteria for a transition that respects the well-being and quality of life of persons with disabilities:

- accessibility of general services
- freedom to choose and change their place of residence
- individualisation of living spaces
- democratic and participatory institutions
- primacy of the life project

The position paper also makes 8 recommendations to the competent authorities in order to achieve these objectives

On the basis of data provided by the Fundamental Right Agency, Belgium appears to be one of the European Union Member States that has made the least use of European Social Fund subsidies for projects related to deinstitutionalisation³².

³⁰ <https://www.onafhankelijken.be/blog/detail/hoe-lang-is-die-wachlijst-nu>

³¹ Conseil Supérieur National des Personnes Handicapées, *Note de position sur le General comment n°5* : <http://ph.belgium.be/fr/news/news-la-d%C3%A9institutionnalisation-des-personnes-en-situation-de-handicap.html>

³² FRA, *From institutions to community living. Part II: Funding and budgeting*, Luxembourg, 2017, p.24.

Proposed questions :

38. What action plans will be developed at all levels of the State to ensure access to services that promote independent living for all persons with disabilities so that they can live in the community, without being dependent on an institutional framework? What will be the phasing of this plan, in the short, medium and long term, to progress towards the objective of deinstitutionalization? What accompanying measures will be implemented to prevent some persons with disabilities from being distraught by developments for which they have not been properly prepared?
39. What concrete measures will Belgium take to ensure the consultation and participation of persons with disabilities, their representative organizations and family members in the deinstitutionalization process?
40. What procedures will be implemented to clear existing waiting lists and ensure that persons with disabilities have access to sufficient financial resources to meet all their needs? How are these waiting lists established and managed?
41. What are the reasons why Belgium is one of the European Union Member States that makes the least use of the "structural funds? What concrete measures does Belgium foresee to ensure effective use of the European Structural Funds? What concrete measures does Belgium plan to take to involve representative organisations of persons with disabilities throughout the process of steering the European Structural Funds, in accordance with the corresponding directive?
42. What concrete measures does Belgium foresee to promote inclusion.

Personal mobility (Art.20)

Persons recognized as disabled after the age of 65 are not entitled to the same benefits as persons recognized as disabled before the age of 65. (cf. art.5, question 1). Mobility aids are an essential element of home support and living independently.

Some mobility aids are not sufficiently addressed by regional agencies. This greatly reduces the mobility of the persons concerned, for example: only 25% of the costs of training guide dogs are covered in the Walloon and Brussels-Capital Regions and 50% in the Flemish Region, while the electronic white cane is not funded at all...

Proposed questions :

43. What concrete measures does Belgium foresee to finance all mobility aids, including support and without age limit, in a more equitable way?
44. What concrete measures does Belgium foresee to ensure reasonable accommodation by public transport companies when they cannot provide transport for a person because of his/her disability?

Freedom of expression and opinion, and access to information (Art.21)

French Belgian sign language and Flemish sign language are recognised by the respective linguistic communities but not at federal level. There is no official recognition of German sign language. These recognitions are only symbolic and do not grant the right to deaf and hard of hearing persons to use this language in contacts with public authorities, neither in education nor in the development of their cultural identity, which makes their inclusion in society very difficult³³.

In addition, the number of sign language interpreters currently in activity remains insufficient in relation to the needs of deaf persons and their aspiration to participate fully in society.

Proposed questions :

45. What concrete measures does Belgium plan to take to ensure that everyone, regardless of their disability situation, has access to all the information they need to participate fully in the society?
46. What concrete measures will Belgium foresee to ensure the implementation of the Marrakesh Treaty to enable blind and partially sighted persons to access written sources at a reasonable cost?
47. What concrete measures will Belgium implement to provide public support to private media in order to make information accessible to all persons with disabilities?
48. What concrete measures will Belgium implement to ensure access to websites?
49. What concrete measures does Belgium foresee to recognise the right of deaf and hard of hearing persons and their relatives to learn and use sign language from early childhood in all areas of life, including in their contacts with public authorities?
50. What concrete measures is Belgium planning for the recognition of German sign language?
51. What concrete measures does Belgium foresee to ensure that information and education on sexual health, desire for parenthood and family planning are provided to all persons with disabilities, according to their age, so as to enable them to make an informed choice?

³³ Flemish Sign Language Advisory Committee on the structural anchoring of family support for parents of deaf children
(<http://www.adviesvgt.be/sites/default/files/atoms/files/Advies%20over%20de%20structurele%20verankering%20van%20gezinsondersteuning%20voor%20ouders%20van%20dove%20kinderen.pdf>)

Respect for home and the family (Art.23)

The law of 12 May 2014 on the recognition of the close carer of a person in a situation of high dependency³⁴ defines the notion of "close carer" and establishes a recognition procedure. It is currently inapplicable because the recognition procedure and the related rights have not yet been specified, even though it has been promised to thousands of families for the past 5 years?

A study conducted by the Catholic University of Louvain (UCL) and the King Baudouin Foundation³⁵ on a sample of more than 5,000 people and their "close carers" showed their importance in home care, in terms of solidarity and economic development. The National High Council of Persons with Disabilities has identified a series of support and social protection measures necessary to enable "close carers" to carry out their support tasks with dignity³⁶. The federal government did not act on it.

There is also a "time credit" system to enable parents of children with disabilities to assist their child, but it is very limited in time and does not meet the needs of families in the long term.

Social services developed at regional levels are currently insufficient.

In the Walloon Region, the option was to develop "respite" services, "daycare centres" and "support services". These services address the most pressing needs. Applicants are often placed on "waiting lists".

In the Flemish Region, the option was to develop a system of "informal carers" (mantelzorgers). They should be able to benefit from more support to reduce the risk of social isolation resulting from their investment with their relative with disabilities and to be able to combine their support and their professional life in a more flexible way.

In general, there are many no-rights zones when the place of schooling is not the place of accommodation. For example, a visually impaired child who lives in Flanders and attends school in Brussels will not receive any help to have a suitable screen in the classroom.

Proposed questions:

52. What public support has Belgium implemented to help parents care for their relative with disabilities?
53. What concrete measures does Belgium foresee so that a persons with disabilities living in the community has access to sufficient conditions of intimacy to develop the relational, emotional or sexual life that is necessary to lead a harmonious life in society? What concrete measures are foreseen

³⁴ *Moniteur Belge*, 06/06/2014.

³⁵ CES (S.) et alia, *Les aidants proches des personnes âgées qui vivent à domicile en Belgique : un rôle essentiel et complexe*, Bruxelles, 2017. (<https://www.kbs-frb.be/fr/Virtual-Library/2016/20170106PP01>)

³⁶ <http://ph.belgium.be/fr/th%C3%A8mes-cl%C3%A9s/aidants-proches.html>

to support persons with disabilities in their parenting or in their desire for parenting?

54. What concrete measures does Belgium foresee to ensure that each person in the entourage of a person with disabilities can keep his or her role as a parent or friend and should not take the place of public authority?
55. What concrete measures does Belgium plan to allocate the necessary resources to support families of persons with disabilities, improve the provision of general and adapted services, prevent their abandonment and placement in institutions and ensure their inclusion and participation in the community on an equal footing with others? In such a case, what measures are planned to ensure that the person with disabilities does not have a reduced chance of obtaining his or her Personal Assistance Budget in the Flemish Region?

Education (Art.24)

Teaching, both ordinary and specialized, is part of the Community competences, depending on the linguistic role of the students. The Flemish, French and German-speaking Communities have put in place regulatory provisions that evolve in different ways. They aim, as the case may be, at the inclusion or at the integration total or partial of children with disabilities into mainstream education while maintaining the existence of non-inclusive special education.

In a logic of gradual transition towards inclusive education and respect for freedom of choice, the BDF is not opposed to the coexistence of these two systems in the coming years.

Given the gap that has developed between the educational systems in the 3 communities, it is necessary to address them separately.

Flemish Community

In the Flemish Community, the 2014 M-Decree supplemented in 2017 by the new support model, establishes inclusive mainstream education. This proactive approach is in line with the logic of UNCRPD. However, some problems have emerged. The two main ones are:

- The fact that a school has the possibility to refuse the enrolment of a child or adolescent with disabilities, if its inclusion can only be made with adaptations that are not "reasonable". Given the vagueness of the concept of reasonable accommodation, the right to inclusive education is not really guaranteed.
- The fact that the transfer of teachers and supervisors from special education to inclusive mainstream education is much more difficult in reality than in theory. Students with disabilities do not always receive the support they need in inclusive education.

Globally, the organisations representing persons with disabilities regretted that these decrees were set up in a hurry, with limited consultation, without sufficient

consideration of the need for a transition and without sufficient information to the concerned persons³⁷.

As a result, since the 2017-2018 school year, an increasing number of parents want their child to have the opportunity to return to specialized education, even though they had opted for enrolment in inclusive general education: an increase of 770 pupils in basic education and 342 in secondary education in 2017³⁸.

Flemish regulations still do not provide for the establishment of inclusive and bilingual Dutch classes - Vlaamse Gebarentaal meeting the needs of deaf children³⁹.

A judgment of 7/11/2018 condemned a primary school in the Flemish Community for refusing to enroll a student with Down syndrome⁴⁰.

Communauté française

Since 09/02/2011⁴¹, schools in the French Community have been obliged to include the concept of integration of children with special needs in their school projects. Institutions that achieve this integration in practice are supported throughout the process.

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

The number of children enrolled in special education remains very high compared to those in inclusive education.

The BDF also notes that the overall number of children with disabilities in "integration" has doubled between 2012 and 2016. However, this progression mainly concerns students who were in specialized education of "type 6 (Visual impairments) and 8" (Learning disabilities) but not at all students who are in specialized education of "type 2" (Moderate or severe mental retardation) and "type 5" (Diseases or convalescence)"⁴².

Moreover, the implementation of reasonable accommodation remains far away from the spirit of the UNCRPD, as shown in Article 4 of the Decree of 7/12/2017: "...Every student in ordinary education... is entitled to reasonable accommodation... provided

³⁷ <https://www.kinderrechtencommissariaat.be/advies/implementatie-m-decreet-tussentijdse-evaluatie>

³⁸ AMKREUTZ(R.), *Realitycheck voor M-decreet: meer kinderen keren terug naar buitengewoon onderwijs*, dans *De Morgen*, 8/6/2017 (<https://www.demorgen.be/dmselect/realitycheck-voor-m-decreet-meer-kinderen-keren-terug-naar-buitengewoon-onderwijs-b71a8e15/?referer=https://www.google.com/>)

³⁹ <http://docs.vlaamsparlement.be/pfile?id=1378754>

⁴⁰ UNIA, *Eerste vonnis dat recht op inclusief onderwijs erkent*, 12/11/2018

(<https://www.unia.be/nl/artikels/eerste-vonnis-dat-recht-op-inclusief-onderwijs-erkent>)

⁴¹ Arrêté du Gouvernement de la Communauté française établissant les listes des implantations de l'enseignement fondamental et de l'enseignement secondaire bénéficiaires de l'encadrement différencié..., modifié par le décret du 9 février 2011 organisant un encadrement différencié au sein des établissements scolaires de la Communauté française...

(http://www.gallilex.cfwb.be/document/pdf/36474_000.pdf)

⁴² Les indicateurs de l'enseignement 2017-07, Tableau 7.4 (<http://www.enseignement.be/index.php?page=0&navi=2264>)

that his situation does not make it essential for special education to take care of him⁴³. This almost automatically refers the child to special education.

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

The French Community is carrying out a major reform of education, the "Pacte d'excellence". There is no provision for inclusive education nor for special education.

The regulatory measures taken do not prevent the persistence of problems, both in ordinary and specialized education, often due to a lack of resources allocated at the technical, human and financial levels, which are essential for the development of effective and sustainable education.

German-speaking Community

In 2009, the German-speaking Community created a specialized educational support center for children with disabilities enrolled in mainstream education⁴⁴.

The pedagogical aid for children and adolescents with disabilities provides only 4 hours of pedagogical aid, per child, per week, in basic education and for the first 4 years of secondary school. For the last two years of secondary school, young persons with disabilities are entitled to 8 hours of educational assistance per week. In higher education, 15 hours per week are planned. For the superior, this seems to correspond to the needs.

This decree aims to integrate children with disabilities. It does not follow an inclusive logic. Initially, it aimed to include special education students in mainstream education. After 10 years, it can be seen that the number of children in special education is not decreasing.

At the level of the three communities

While the three Communities have put in place useful initiatives, the lack of places for children with disabilities and the lack of sufficient resources to do so are to be deplored: UNIA, regularly receives reports of children with disabilities pointing out the difficulty of obtaining reasonable accommodation at school⁴⁵ ⁴⁶. UNIA has published a "barometer of diversity in education" in this regard⁴⁷.

The territorial grid provided by special education institutions does not provide each child with the appropriate education within a reasonable distance of his or her home

⁴³ Decree of 7/12/2017 on the reception, support and retention in ordinary basic and secondary education of pupils with special needs (https://www.gallilex.cfwb.be/document/pdf/44807_000.pdf)

⁴⁴ Decree of 11/05/2009 on the Centre for Support Pedagogy and Special Education, aimed at improving specialised pedagogical support in ordinary and specialised schools and encouraging support for pupils with special needs or with social maladjustment or learning difficulties in ordinary and specialised schools (http://www.etaamb.be/fr/decret-du-11-mai-2009_n2009202854.html)

⁴⁵ UNIA : <http://www.diversite.be/manque-damenagements-raisonnables-pour-les-enfants-en-situation-de-handicap>

⁴⁶ UNIA :

http://www.diversite.be/sites/default/files/documents/publication/cgkr_redelijkeaanpassingen_fr_dec2014.pdf

⁴⁷ <https://www.unia.be/fr/publications-et-statistiques/publications/barometre-de-la-diversite-enseignement>

and special education institutions are often located in places not properly served by public transport. The dilemma for the family is often to make their child with disabilities suffer long journeys or to move with the consequences that this can have for the child, but also for other family members: uprooting, professional difficulties, loss of social network...

Proposed questions :

56. What concrete measures does Belgium foresee in order to put in place a coherent strategy for inclusive education for children with disabilities, allocating sufficient financial, material and human resources?
57. What concrete measures have been implemented by Belgium to ensure a quality transition from special to inclusive education? Is there any planning for this transition? If so, what are the main lines of action? Is the move towards inclusive education being made equally for all types of disabilities? Are organisations of persons with disabilities involved in the whole process?
58. What concrete measures does Belgium plan to take to make inclusive education part of teachers' training?
59. What concrete measures does Belgium foresee to enable pupils with disabilities to choose the education that best suits them and to provide them with complete, correct and accessible information in appropriate formats on the various options available to them? In the chosen educational institution, what measures will enable the student to receive an appropriate response to his or her needs for support and accompaniment as well as adapted teaching methodologies, including inclusive bilingual sign language instruction, to enable him or her to obtain a qualifying diploma?

Health (Art.25)

Since 2000, the desire to "rationalize" and save money in health care has increased the imbalances in medical supply between the country's various sub-regions. This is particularly true for rural areas. The overall ageing of healthcare providers, in particular general practitioners⁴⁸ and the aging of the population further accentuate these imbalances⁴⁹. The current trend is therefore likely to have particularly harmful effects for the most economically vulnerable patients and for patients with disabilities.

⁴⁸ RTBF, *La Première*, 30/01/2019, 17:40-17:55.

⁴⁹ CHAPELLE (A.), Morel (M.) et Regueras (N.), *La performance des soins de santé en Belgique : une analyse des études récentes*, dans *MC-Information Analyses et points de vue*, n°265, septembre 2016, p. 3-25 (https://www.mc.be/media/mc-informations_265_septembre_2016_tcm49-33135.pdf); VRIJENS (F.) et alia, *La performance du système de santé belge – Rapport 2015*, KCE Report 259B, Bruxelles, 2015 (https://kce.fgov.be/sites/default/files/atoms/files/KCE_259B_rapportperformance2015_1.pdf)

Financial access to health care is one of the key issues for a growing number of persons with disabilities. More and more persons with disabilities or illnesses are postponing or cancelling necessary treatments⁵⁰.

Despite the principles set out in the Charter on the Rights of the Patient, complete and correct information of the patient, in clear language adapted to his or her needs, is not sufficient to guarantee the quality of care he or she needs⁵¹... and to allow the patient to exercise free and informed consent to the care applied to them.

Further progress is still needed to allow patients to truly consult their data. Currently, even if the patient's file is more and more often updated electronically, its consultation by the patient remains very difficult to achieve⁵².

The need for regular and/or important care often generates important concessions in the choice of life, sometimes forcing the person to give up schooling or a job...

Proposed questions :

60. By what concrete measures will Belgium ensure that all persons with disabilities have access to the same medical products and medical technologies they need on an equal footing? Will this include the presentation of possible alternative solutions?
61. In the context of home care, what have the Belgian authorities done to meet the growing need for home care services: nurses, nursing assistants, etc. (in particular for taking medicines, for meals in cases of risk of "false swallowing", etc.)?
62. How does the state integrate access to health care into the overall framework of life choice?
63. What measures will Belgium take to guarantee the right to emotional, relational and sexual health for persons with disabilities?

Habilitation and rehabilitation (Art.26)

Due to the poor geographical distribution of services, persons with disabilities are sometimes forced to travel very long distances, in order to access the adaptation or rehabilitation services they need, even though it is particularly difficult given their disability situation.

Some persons with disabilities find themselves in living situations that force them to use the services of providers attached to their place of residence. This is particularly the case for physiotherapy providers in some institutions for persons with disabilities.

⁵⁰ Conseil Supérieur National des Personnes Handicapées, *La situation de soins et d'accompagnement qui répond aux besoins du patient handicapé...*, note de position, septembre-octobre 2017 (http://ph.belgium.be/media/static/files/import/soins_sante/2017-09-19-note-de-position-cadre-de-soins.pdf)

⁵¹ *Ibid.*

⁵² *Ibid.*

Persons with disabilities with an IQ of less than 85 cannot obtain reimbursement from the National Institute of Disability Health Insurance (INAMI) for speech therapy services on the pretext that they can benefit from them free of charge if they are enrolled in a specialized educational institution.

In October 2015, the General Delegate for the Rights of the Child, UNIA and the National Association for the Assistance of the Mentally Disabled transmitted a recommendation to the Minister of Social Affairs and Public Health requesting the adaptation of the legislation in question⁵³, without effect so far.

Proposed questions :

64. What concrete measures does Belgium foresee to expand the offer of rehabilitation services, without constraints linked to age, place of residence, schooling or pathology? What concrete measures are planned to ensure that any person with disabilities who needs services such as speech therapy can benefit from the financial intervention of the National Institute of Disability Health Insurance, regardless of their IQ and place of residence?
65. What concrete measures does Belgium foresee to ensure an equitable distribution of rehabilitation facilities throughout the country, so that all person with disabilities can use them under reasonable conditions, regardless of their disability and their place of residence?
66. What concrete measures does Belgium foresee to ensure that the person can use the provider of his or her choice, in accordance with the Charter on the Rights of the Patient, regardless of where he or she lives?

Work and employment (Art.27)

In 2011, the employment rate of persons with disabilities (40.7%) was much lower than the national average (66.4%)⁵⁴, which placed Belgium among the lowest in Europe⁵⁵. Since then, this gap has not decreased. The issue of access to employment for persons with disabilities has been the subject of a position paper of the National High Council of Persons with Disabilities⁵⁶. It provides a complete picture of the situation and identifies 3 types of problems:

- the particular difficulty for persons with disabilities to find employment
- the lack of social responsibility of employers
- the existence of "employment traps" that prevent many persons with

⁵³ https://www.unia.be/files/Documenten/Aanbevelingen-advies/recommandation_logopédie_déf.pdf

⁵⁴ Conseil supérieur de l'emploi, *Rapport 2017*.

<http://www.emploi.belgique.be/publicationDefault.aspx?id=46240>

⁵⁵ Eurostat, <http://ec.europa.eu/eurostat/documents/2995521/6181600/3-02122014-BP-FR.pdf/55394f4c-1dea-4d3d-a9bd-6fc936455d03>

⁵⁶ Conseil Supérieur National des Personnes Handicapées, *Emploi des personnes handicapées : note de position*, Janvier 2014 (<http://ph.belgium.be/media/static/files/2014-01-14---note-position-emploi.pdf>)

disabilities from "taking the risk" of engaging in employment

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

The main consequence of the "back to work" measures developed by the federal government is not to put people back to work but to dismiss them⁵⁷.

The notion of reasonable accommodation is not properly taken into account in the workplace. It is only partially binding and employers tend to ignore it. This is particularly noticeable in situations of persons who want to return to work after a period of sickness or an accident.⁵⁸

The compartmentalisation between public bodies is also a problem here: in Walloon Region, a person with disabilities who receives income replacement benefits cannot access training organised by FOREM (Public Employment and Training Service in Wallonia) because he or she is not considered as a "job seeker".

Proposed questions :

67. What concrete measures, both regulatory and incentive, does Belgium provide for to guarantee the right to employment for person with disabilities, in the private and public sectors, by ensuring effective protection against discrimination, vocational training, adequate accessibility and the necessary reasonable accommodation?
68. Given the low employment rate of person with disabilities, what does Belgium foresee to improve the efficiency of policies for their employment? What is it doing to promote the transition from sheltered employment to ordinary employment from an inclusive perspective?
69. How can employer's interest in recruiting persons with disabilities be strengthened? How can we ensure that existing employment quotas in the public sector are respected?
70. What concrete measures does Belgium foresee to identify and remove the "employment barriers" and "employment traps" existing in the various laws and regulations? What measures are planned to make employment support measures more understandable?
71. How can persons with disabilities be equipped with tools (knowledge, life skills and know-how) that will enable them to work, in particular by acting on guidance, education, training and support, and on the ability to invest in a job search?
72. What are the actual figures for the return to work of persons recognised as "disabled"? What concrete measures does Belgium plan to take to remedy this situation through "Back to work" measures, the result of which is not

⁵⁷ Conseil national du Travail, *Avis n° 2099*, p.10-11 - <http://www.cnt-nar.be/AVIS/avis-2099.pdf>.

⁵⁸ Conseil Supérieur National des Personnes Handicapées, *Avis n° 2015/10 relatif au projet d'Arrêté Royal pris en exécution de l'article 153 de la Loi programme du 19 décembre 2014*, <http://ph.belgium.be/fr/avis/avis-2015-10.html> et *Avis n° 2016/12 relatif aux nouveaux trajets de réinsertion professionnelle, avis « Back to work »* <http://ph.belgium.be/fr/avis/avis-2016-12.html>

to get people back into employment, but to have them dismissed? What has Belgium done to support reasonable accommodation in the field of employment? What is Belgium doing to help persons with disabilities to make sheltered employment a stepping stone to ordinary employment, without outsourcing?

Adequate standard of living and social protection (Art.28)

In its 2010 National Reform Plan (NRP), Belgium stated "...Belgium has the ambition that, by 2020, 380,000 people will no longer face the risk of poverty and social exclusion compared to the reference year (2008).⁵⁹". The BDF notes that this is far from being the case.

The Court of Auditors was very critical, in 2016, about the 2nd Federal Plan to Combat Poverty: "...Everything is missing in the plan: mobilization of administrations, contribution of the plan to the achievement of the national objective, no deadline, no general budget envelope, no estimation of the cost of the objectives or actions. In summary, the second poverty plan is more a "list of actions" than a public policy instrument.... "»⁶⁰.

The National High Council of Persons with Disabilities has made the same observation concerning the 3rd Federal Plan to Combat Poverty 2016-2019⁶¹: the fight against poverty is not a priority for Belgium⁶². On the contrary, poverty is on the rise and is also spreading to some workers, particularly those with disabilities⁶³.

Access to housing is the first step in lifting a person out of poverty. For many persons with disabilities, finding housing that meets their needs is impossible because they have an income below the poverty line.

Many persons with disabilities should access housing in a "social housing society" to reduce their housing-related expenses - including heating, water and electricity - to a maximum of one third of their available monthly budget⁶⁴.

Unfortunately, the social housing sector has been experiencing a housing shortage for years, which greatly reduces the chances of self-sufficiency. In addition, there are two aggravating factors: these dwellings are dilapidated, which leads to high heating consumption and few meet accessibility standards. Finally, the notion of

⁵⁹ http://ec.europa.eu/europe2020/pdf/nrp/nrp_belgium_en.pdf, page 31

⁶⁰ https://www.rtf.be/info/belgique/detail_la-cour-des-comptes-tacle-severement-la-belgique-incapable-de-reduire-la-pauvrete?id=9354244

⁶¹ Conseil Supérieur National des Personnes Handicapées, *Avis n° 2016/09, relatif au projet de troisième Plan fédéral de lutte contre la pauvreté*, 4/4/2016, <http://ph.belgium.be/fr/avis/avis-2016-09.html>

⁶² Conseil Supérieur National des Personnes Handicapées, *Opinion n°2018/30 on the report "The evolution of social protection in Belgium 2018*, p.109-113 (<http://ph.belgium.be/fr/avis/avis-2018-30.html>)

⁶³ FPS Social Security, *Trends are confirmed: the risk of poverty is decreasing for the elderly but remains high among the low-skilled in Belgium*, Press release on the Silk survey, 26/08/2016.

⁶⁴ On average, in 2005, households whose budgets were below the poverty line spent 33.7% of their budgets on these items. Among these, people who are not fortunate enough to have social housing spent significantly more than 50% of their available monthly budget on it: http://croco.solsoc.be/IMG/pdf/Qui_are_the_poor_in_Belgium.pdf (pp.5-6)

"adaptable" housing is still not included as an essential element in their construction or rehabilitation specifications⁶⁵.

The **complexity of the administrative system** regularly leads persons with disabilities to lack the necessary documents to prove that they are in good standing at the administrative level. For persons with disabilities, the system for recognising their disability situation has become particularly complex (see art. 1-4). It has been adapted by successive keys to solve problems but would need to be reviewed as a whole with a view to simplification and efficiency⁶⁶.

The **law on allocations for persons with disabilities** dates back to 27 February 1987. It has been modified several times. However, no fundamental reforms have been made. This law is outdated and the many amendments made to it over the years have resulted in a disparate, complex and opaque whole⁶⁷.

A significant number of persons with disabilities living in Belgium do not have sufficient income to achieve a satisfactory standard of living. The income replacement allowance (ARR) for a single person is 20% below the poverty line and almost 60% below the guaranteed minimum wage (as of 01.09.2018, ARR= 910.75€; poverty line = 1139€; minimum wage = 1.562.59€).

40% of persons who receive a disability allowance in Belgium actually live below the poverty line⁶⁸ and inflict many deprivations on themselves, including the most basic needs (food, housing, health care, etc.).

The situation is all the more cruel since living with disabilities entails additional costs, due to an inaccessible environment. Meeting the costs of living has a greater impact on the budget of a person with disabilities, even though he or she often has a lower level of income.

During the years 2016-2018, the **Directorate General for Persons with Disabilities** experienced very serious IT problems which, coupled with a lack of staff, generated very significant delays in the management of disability benefit files.

There is a **growing phenomenon of non-take-up** (persons who do not activate their rights for lack of information or misunderstanding). Persons with disabilities are no exception. This phenomenon also distorts existing statistics⁶⁹.

⁶⁵ Unia, *The Housing Diversity Barometer*, p.274-275

(http://www.unia.be/files/legacy/barometre_de_la_diversite_logement.pdf)

⁶⁶ Conseil Supérieur National des Personnes Handicapées, *Note de position sur les dispositifs financiers*, January 2014 (<http://ph.belgium.be/fr/th%C3%A8mes-cl%C3%A9s/note-de-position-dispositives-financiers.html>)

⁶⁷ Conseil Supérieur National des Personnes Handicapées, *Avis 2014/04 relatif à la décision du Conseil des ministres du 19/12/2013 " 5 fondamentaux pour améliorer et simplifier la vie des personnes handicapées "* (<http://ph.belgium.be/fr/avis/avis-2014-04.html>)

⁶⁸ Handilab, *Synthèse du projet d'étude "Handilab". Position socioéconomique des personnes handicapées et effectivité des allocations aux personnes handicapées*, Leuven, 2012, p.18. http://www.belspo.be/belspo/organisation/Publ/pub_ostc/adora/ragkkk154samenv_en.pdf

⁶⁹ Conseil Supérieur National des Personnes Handicapées, *Avis 2018/09 relatif au rapport bruxellois sur l'état de la pauvreté 2016*, <http://ph.belgium.be/fr/avis/avis-2018-09.html>

Proposed questions :

73. What concrete measures, action plan and timetable does Belgium foresee to **increase the amount of benefits for** persons with disabilities so that they provide everyone with an adequate income, at least equal to the amount of the guaranteed minimum wage established at Belgian level?
74. What concrete measures does Belgium foresee in the next 4 years to set up **a system of benefits for persons with disabilities** based on a mix of criteria for participation in society and medical criteria that will make it possible to take better account both of the reality of life of persons with disabilities and of the need for objectification desired by the State?
75. What concrete measures does Belgium foresee to **implement or extend access for persons with disabilities to services such as "personal assistance services"**?
76. What concrete measures does Belgium foresee to **make social protection measures more readable and to eliminate cases of "non-take-up"**? Which rights are not automatically granted and what does Belgium foresee to automate them?
77. What measures will the federal government take to ensure that the **Directorate General for Persons with Disabilities** is equipped with the computer and human resources needed to process cases efficiently and quickly, as well as to ensure proper telephone and electronic accessibility for both persons with disabilities and social services?

Participation in political and public life (Art.29)

Some obstacles to the effective exercise of these rights remain, linked in particular to the multiplication of levels of power and the lack of harmonization of texts, procedures and tools in this area.

The National High Council of Persons with Disabilities has taken up in a position paper of 2016 all the points of attention to which Belgium should provide a concrete response to guarantee the full participation of persons with disabilities in political and public life. They are structured in 4 axes: attention points valid throughout the electoral cycle, attention points valid during the pre-electoral period, attention points valid at the time of voting, attention points valid during the post-electoral period⁷⁰.

⁷⁰ Conseil Supérieur National des Personnes Handicapées, *Participation à la vie politique, Participation à la vie politique, Participation à la vie politique, Note de position*, Décembre 2016.
<http://ph.belgium.be/resource/static/files/Notes%20de%20position/2016-12-note-de-position-vie-politique-elections.pdf>

These 4 axes were summarised by the BDF in its comments to the Council of Europe in August 2017 on Belgium's 11th national report on the ⁷¹revised Social Charter.

On the basis of articles 492/1 and 497/2,26° of the Civil Code and article 7 of the Electoral Code, a Justice of the Peace may decide "which acts the protected person is incapable of performing". The person may have his or her voting rights suspended because of his or her disability and his or her vote may not be transferred⁷².

Proposed questions :

78. What concrete measures does Belgium foresee to ensure that each person with disabilities is able to form and express his or her own opinion, in particular by participating in public life, exercising his or her right to vote and having the opportunity to stand as a candidate in elections?
79. What concrete measures will Belgium take shortly to make the right to vote unconditional, so that every citizen, regardless of his or her disability, will have the right to vote?
80. What concrete measures does Belgium foresee to ensure that everyone has access to the necessary information, in forms appropriate to their disability situation, in order to participate fully in political and public life?
81. What concrete measures does Belgium foresee to ensure that civil society organisations are really able to make the necessary efforts to encourage their members to become actors in public and political life?
82. What concrete measures does Belgium foresee to ensure that every person has a real opportunity to cast his or her vote as provided for in the Constitution, especially since voting is compulsory in Belgium?
83. What concrete measures have been taken by Belgium to ensure that each citizen can cast his or her vote independently and in accordance with the secrecy of the vote? What measures does Belgium plan to take to guarantee voters that it will be possible for them to safely identify the candidate for whom they wish to vote once in the polling booth?

Participation in cultural life, recreation, leisure and sport (Art.30)

Many persons with disabilities have limited access to "leisure" activities of their choice on an equal footing with other citizens. This situation results from a limited adapted offer and limited time available for persons with disabilities due to the obstacles to be overcome for the "essential" activities of life in society (schooling, employment, movement...).

⁷¹ BDF, *Commentaires des associations et conseils d'avis représentant les personnes handicapées, sur le 11^{ème} rapport national de la Belgique sur la mise en œuvre du groupe 2 de la Charte sociale européenne*, Août 2017, pp. 20-22.

⁷² www.fondationshan.be

High performance athletes with disabilities are examples to many. In Belgium, it must be noted that sport for all is not very subsidized. It is in these leisure clubs that the vast majority of persons with very severe disabilities are active.

For example, high-level sport for persons with disabilities is funded 4 times more than sport for all in the French Community of Belgium, for a number of members 3 times less... This situation seems likely to increase with the draft decree currently under negotiation.

Proposed questions :

84. What concrete measures have been taken by Belgium to facilitate the participation of persons with disabilities in cultural and recreational activities, leisure and sports? What are the results obtained in terms of dissemination and use of the European Disability Card?
85. What concrete measures does Belgium plan to increase the supply of cultural, recreational, leisure and sports activities accessible to persons with disabilities?
86. What concrete measures does Belgium foresee to prevent the development of top-level sport from being to the detriment of sport for all?

Statistics and data collection (Art.31)

The BDF regrets that the collection of global and specific data, reflecting the needs of persons with disabilities, is still not a priority for Belgium, in all its components.

There are many useful databases in the field of disability, but they have been built on the basis of the regulations applied by each administration, which uses its own definition of disability according to its specific missions⁷³.

As a result, data collection methods and results differ from region to region and cannot be compared. It is necessary to integrate the available information in order to make it usable by solving compatibility problems between databases existing at different levels⁷⁴.

The BDF stresses that this need for statistical data is one of the causes of the shortcomings in policy planning regarding the situation of persons with disabilities, cf. article 1-4, question 2.

The lack of statistical data **disaggregated by sex, age and disability, unsegmented and sufficiently detailed**, is undoubtedly one of the obstacles to the development of legislation, decision-making and institutional capacity building required to monitor progress in the implementation of the provisions of the Convention.

⁷³ UPR, *Joint Submission BDF-2016*, p.4 - <http://bdf.belgium.be/resource/static/files/epu---rapport-bdf.pdf>.

⁷⁴ *Ibid.*

The BDF notes that the **collection of data** reflecting the needs of women and children with disabilities is still not a common priority for Belgium, in all its federal, regional and community components. This situation persists, despite the recommendations made to Belgium by the Committee on the Rights of Persons with Disabilities as part of the monitoring of the implementation of UNCRPD⁷⁵.

The warnings expressed by the BDF in its alternative reports to the UNCRPD in 2014⁷⁶ and the Sustainable Development Goals in 2017⁷⁷ remain unheeded..

Proposed questions :

87. What concrete measures does Belgium plan to take to systematize the collection, analysis and dissemination of data disaggregated by sex, age and disability, unsegmented and sufficiently detailed?
88. What concrete measures does Belgium foresee to develop statistics on the number of persons with disabilities and the needs they face, so as to have a long-term vision of disability policy and the planning of services to be developed and/or improved?
89. What concrete measures does Belgium foresee to ensure that all statistical data are collected according to a process that guarantees the full accessibility of respondents, whatever their needs in terms of means of communication, assistance or assistance in communication and understanding?
90. What concrete measures have been implemented by Belgium to use the list of indicators developed by the Washington Group in its statistical data collection processes?
91. What concrete measures does Belgium foresee to systematically collect, analyse and disseminate data on girls and boys with disabilities?
92. When and how will Belgium ensure that statistical data are collected and published taking into account the gender and disability reality of the respondents?

International cooperation (Art.32)

The BDF and its member organisations have little experience in international cooperation. However, it seems that little is being done to condition Belgium's participation in cooperation processes on compliance with the principles of inclusion.

⁷⁵ Committee on the Rights of Persons with Disabilities, *Concluding observations*, 3/10/2014, alinea 43.

⁷⁶ UNCRPD, *Rapport alternatif BDF. Position des associations et structures d'avis représentant les personnes handicapées, Bruxelles, 2014*, p. 258-259 (http://bdf.belgium.be/media/static/files/pdf_uncrpd/2014-02-20---rapport-alternatif---belgian-disability-forum.pdf)

⁷⁷ SDG's, *Commentaire du BDF sur le rapport volontaire de la Belgique sur les SDGs* (http://bdf.belgium.be/media/static/files/members/import/sdgs_rapport/2017-06-20-sdgs-1st-voluntary-report-belgium-15721belgium_english.pdf)

Proposed questions :

93. What international cooperation programmes does Belgium plan to develop to promote the rights of persons with disabilities abroad?
94. How does Belgium ensure that all cooperation programmes in which it participates respect the rights of persons with disabilities, and include organisations representing them when these programmes affect their lives?
95. Does Belgium provide means to enable persons with disabilities to participate in international exchanges?

National implementation and monitoring (Art.33)

The dispersion of disability competences between the federal, regional and community levels creates various problems, including a lack of coordination at the inter-federal level. The Inter-ministerial Conference '*Welfare, Sport and the Family*', which was supposed to promote this coordination, has not met since 23 November 2013... It should be reactivated quickly so that important decisions on disability can be concerted and integrated.

Belgium has not yet taken the necessary steps to create a national human rights institution. UNIA was only able to obtain a B status due to the limited scope of its mandate.

Proposed questions :

96. What concrete measures will Belgium take to ensure sufficient consultation and coordination between the levels of power with regard to all important decisions concerning persons with disabilities?
97. When will Belgium take the necessary steps to set up a national human rights institution?