



UNCRPD - Summary alternative report BDF

12/09/2024

Summary

Handstreaming is still not sufficiently integrated within the work of legislative bodies.

- Not only is no mechanism in place to revise existing regulations in the light of the UNCRPD, but new laws also do not comply with the stipulations of the UNCRPD in all cases.
- In addition, awareness amongst policy-makers and judicial staff (e.g. the legislation department of the Council of State, justices of the peace) needs to be increased.
- The organisations representing persons with disabilities must also be **consulted as a matter of course and in good time** and not *for form's sake*, as is often still the case today.
- This advisory work is carried out as a voluntary-sector initiative and insufficient compensation is being provided for this at the present time.

Mainstreaming (handstreaming) the rights of persons with disabilities must be accompanied by a number of examples of standard practice for policy leaders, such as impact assessments and purposeful consultation with persons with disabilities and with organisations that represent them. It is important that sufficient budget be set aside for this when the government is formed this year. New and existing laws must also be routinely and thoroughly checked for compliance with the UNCRPD and with existing legislation.

The concept of reasonable adaptations must be defined more effectively and made compulsory in all areas of competence.

As far as regulation is concerned, the main development that can be observed is a focus on the physical accessibility of new buildings and buildings undergoing major renovations.

- Legislation governing the accessibility of new and renovated buildings already exists, but verification of compliance is **insufficient and inadequate**.
- Unfortunately, there are **no plans to address the accessibility of existing buildings**.
- Subsidies for the renovation or construction of infrastructure are limited and rarely linked to accessibility improvements.

An **accessibility plan** must be drawn up that includes **statutory accessibility standards** backed by deadlines, binding evaluation indicators and budgetary resources. The protection of heritage cannot be any excuse for the non-fulfilment of accessibility standards.

In every action plan, the accessibility of communication and services in general is completely forgotten.

- Many websites and apps are not accessible. **In fact, a digital divide can be said to exist.**¹
- Organisations representing persons with disabilities are often seen as the first line of assistance as far as the accessibility (or non-accessibility) of digital public services is concerned.²
- Offerings that are *easy-to-read* or offerings in sign language are scarce or unavailable.
- Many service desks within public service providers are closing, reducing their hours of operation and/or shifting services to the private sector.

The solution is to impose a **statutory accessibility standard** for **communication and digital content**, including the provision of sign language free of charge.

Human support and assistance must be available at all times. This need has already been recognised by the [European Parliament \(2023\)](#).

Persons with disabilities are unable to use the vast majority of public transport independently and whenever they wish.

- Assistance when boarding a train is available in less than 30% of railway stations.³
- No assistance is provided when taking a bus or a tram, or when changing from one mode of transport to another.
- No audible, visual or sign-language announcements or automatic ramps are systematically provided.
- In December 2023, the [Court of First Instance in Antwerp](#) convicted De Lijn due to its failure, since 2019, to make changes to address its discriminatory treatment of persons with disabilities.⁴

Transport is of crucial importance (for work and to attend medical appointments, school, etc.) and recognition of this is urgently needed in the form of ambitious and enforceable accessibility requirements.

There are still too few alternatives to collective residential accommodation and facilities.

- In a certain number of collective residential facilities, individuals have very little say in their daily schedule and leisure activities, etc. **The Belgian Disability Forum (BDF) is making a case for**

those facilities to be transformed in accordance with the UNCRPD.⁵

- The collective residential facilities are generally funded by the government in Brussels⁶ and Wallonia.⁷ More investment in alternatives is needed.
- In themselves, the existing support services are **insufficient to provide a person with disabilities with a completely free choice of where to live.**⁸
- This also has an impact on carers. Due to the lack of alternatives, carers are actually obliged to take on a variety of roles themselves (carer, family member, expert, etc.).⁹ **In the absence of suitable recognition, the support they receive is below standard.** A limited amount of respite care and temporary care centres is available, but these are not ideally distributed from a geographical point of view and they are not always adapted to diverse target groups.¹⁰
- Many persons with (substantial) care needs cannot find a place in a care centre.
- In Flanders, over 17,000 people are on the **waiting list** for a personal budget to be allocated.
- In Wallonia, a [personal assistance budget](#) is available for adults with **substantial care needs**.¹¹ Only 525 people are making use of this.
- A pilot project with an assistance budget has been running in Brussels since 2014.¹² As at 15/2/2024, **48 people** were making use of this and 175 were on the waiting list.

Regional action plans must seek to guarantee persons with disabilities a choice of where and how to live. All persons with disabilities, including those living in a facility, must be consulted when those action plans are drawn up.

Existing facilities must also guarantee their residents a choice of where and how to live. An independent body is needed to handle complaints and carry out checks.

More **respite care, support and home-care services** need to be provided and must be affordable. The status of 'informal caregiver' should be accompanied by increased rights (including financial entitlements).

There is no lack of support for the development of inclusive education.

- At 6%, Belgium has the most students in special education compared to other EU countries.¹³
- The European Committee of Social Rights condemned Flanders ([in 2017](#)) and the [French community \(in 2020\)](#) for not achieving inclusive education.¹⁴
- In the **French Community**, the [Constitutional Court](#) found cases of discrimination against children with learning difficulties: such children were treated less favourably in terms of funding and support in inclusive education compared to children with a sensorimotor disability.¹⁵
- Special education receives the most support, but even there, obtaining the right support is difficult.¹⁶
- In addition, any mainstream school can refuse to enrol students if the 'reasonable adaptations' needed form too great a burden.¹⁷ That is why children with substantial care needs or multiple diagnoses are often excluded from mainstream education.

Efforts are urgently needed to **offer more (varied) support in mainstream schools**. These may possibly include partnerships with external parties and special education.

Draw up a transformation plan that includes the necessary budgetary resources and assessment indicators.

Belgium has the biggest work participation gaps amongst persons with disabilities in the EU.

- Not enough coherent, complete and transparent information is available about the impact of work on the provisions for persons with disabilities (under the Act of 1987), the premiums that exist for employers and the guidance options available to persons with disabilities, etc. This is certainly due to the fact that the competences in terms of employment are fragmented.
 - **Persons on benefits (under the 1987 Act) receive no support in searching for work**, while those who receive a living wage (and are therefore also in the social assistance system) receive a large amount of guidance from the Public Centre for Social Welfare (PCSW). **The Income Replacement and Integration Allowance Act (IVT-IT) is also not adapted to take account of an irregular career of a person with disabilities** who regularly
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needs to stop working and then resume working at a later date. **As a result, only 15% of individuals receiving income replacement allowance (IVT) are in work.**¹⁸

- There are a number of initiatives to get individuals with incapacity for work back into employment, but far **fewer initiatives are aimed at keeping individuals in work.**

Create a **one-stop-shop** that provides information (spanning the various competency levels) about all aspects of work (and returning to work), studies, reasonable adaptations, benefits, premiums and associations specialising in a specific area of work.

Employers need to be made aware of disability and, in particular, of the various measures included within the category of reasonable adaptations.

More work is needed to create more fundamental cooperation between employment intermediation services, companies in the regular labour market, supported employment companies and organisations representing persons with disabilities.

The legislation governing allowances is not flexible enough and many persons with disabilities are living below the poverty line.

- In recent years, the income-replacement allowance (IVT) has increased by 10.75%, **but it is still below the poverty line.**
- The method for calculating the integration allowance was changed, but it is still insufficient compared to the true additional costs of a disability.¹⁹
- Even the Directorate for Persons with Disabilities (**DG HAN**), which forms part of Belgium's Social Security Administration, is no longer applying the 1987 Act in a coherent way.²⁰

The 1987 Act urgently needs to be fully rewritten, based on the human rights model of disability. Account needs to be taken of persons who will never be able to go out to work, of persons who have (or will have) an irregular career and, in all cases, of the difficulties people experience when going out to work.

The income-replacement allowance (IVT) needs to be increased up to the guaranteed average minimum monthly income.

Financial support from the government is insufficient to cover the minimum additional costs associated with a disability.

- Current research shows that the minimum **costs for families with a child with care needs are 1.7 to 2.5 times higher** than the costs for families with a child without care needs.²¹
- The government mainly funds 'specialised' pathways and parents more often have to fund the 'inclusive' pathways themselves.²²
- Healthcare is not equally accessible to persons with disabilities; they are **more likely to have to delay care for financial reasons than persons without disabilities.** ²³

The medical needs of persons with disabilities must be covered. Treatments and medication represent the biggest costs for persons with disabilities and it is also the case that persons with disabilities actually need treatments and medication more often and to a greater extent than persons without disabilities.

Many people who become disabled over the age of 65 are discriminated against with regard to the reimbursement of the cost of aids.

- The federated states provide integration aids to persons whose disability was diagnosed below the age of 65. **In the eyes of the BDF, this amounts to age-based discrimination.**
- The funding that exists for elderly people is often lower than the funding provided for persons with disabilities, whilst in actual fact, older persons with disabilities have multiple care needs. Needs which, in addition, are measured using the same scale, but result in differing amounts of funding...

Make sure that aids are accessible to all persons with disabilities, regardless of the origin of the disability and the age of the person concerned. Financial accessibility needs to be guaranteed.

Despite the fact that the Covid-19 crisis and the floods in 2021 demonstrated that Belgium is poorly prepared for crisis situations, no progress has been made in adapting the emergency plans to the needs of persons with disabilities.

The emergency plans and evacuation plans, crisis communication and information urgently need to be adapted to the needs of persons with

disabilities. **Persons with disabilities and their needs must be identified in advance**, at least by the local authorities, aid services and civil protection, while maintaining the necessary guarantees to respect privacy.

It is also crucial that information and communication in emergency situations (such as press conferences, the 112 number/mobile app) are accessible to all. Ready-to-use text messages (SMS) must be developed that can be sent in emergency situations.

There is no substantial focus on support during decision-making.²⁴ No steps are being taken in that direction. This affects people's ability to act on many different levels (voting, patients' rights, having children, etc.).

- **No official statistics are available about who receives assistance and which persons have an official representative.²⁵** That makes it impossible to determine whether the law (Article 492/2 of the Civil Code), which assigns priority to assistance, is actually being followed in practice.
 - **The law also states that courts must give priority to family members, but professional attorneys are often preferred,** for the simple reason that the clerk to the court needs to provide less support.²⁶
 - Moreover, the BDF notes that **justices of the peace lack the resources and the time to develop a tailored protective measure,** and that this often results in a situation in which almost all of the disabilities and incapacities on the list are simply copied across.
 - Not long ago, the right to vote has also featured on that 'checklist'.²⁷ It is unclear how the justice of the peace must evaluate this and what points of reference should be used. **A person without disabilities can only be denied their political rights as a punishment.**
 - A person may be deemed legally incapable of exercising parental authority.²⁸ On the other hand, no intensive support/mentorship programmes are available to help persons with disabilities take on their responsibilities as parents.
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- Furthermore, contraception or sterilisation is a condition of residency in various facilities.²⁹ Although no physical coercion takes place, **patient consent is often obtained without the patient being properly informed.**
- Too many persons with disabilities in prison lack access to the correct care; the internment system generally keeps persons with disabilities locked up for longer than a conventional prison sentence.

The system of trusteeship in Belgium needs to be brought into line with the requirements of Article 12 of the UNCRPD. **Supported decision-making needs to be rolled out.**

Make sure that statistics are available: % under trusteeship, % receiving assistance and % with a representative. This is necessary in order to ensure that assistance is truly given priority.

Consent for sterilisation or for the taking of contraceptives should be obtained in a manner in which the woman is well informed (accessibility of information) and well supported in expressing her consent (legally regulated procedure). Regardless of her disability, it is up to the woman to make decisions about her body.

Denying someone their political rights because they have a disability should **not be possible.** Even if an individual has no interest in voting at a given point in time, they may later develop an interest in voting if they receive the proper guidance.

No persons with disabilities should be locked up in ordinary prisons or be interned for abnormally long periods of time.

No legal stipulations or action plans exist to ensure that persons with disabilities are equally represented in the media.

- Disability is often still only portrayed on account of the visible disability and not based on the person behind the disability.