



## Convention on the Rights of Persons with Disabilities

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### Committee on the Rights of Persons with Disabilities

### Concluding observations on the initial report of Belgium\*

#### I. Introduction

1. The Committee considered the initial report of Belgium (CRPD/C/BEL/1) at its 149th and 150th meetings (CRPD/C/SR.149 and 150), held on 18 and 19 September 2014 respectively. At its 166th meeting, held on 1 October 2014, the Committee adopted the following concluding observations.
2. The Committee welcomes the initial report of Belgium, which was prepared in accordance with the Committee's reporting guidelines, and thanks the State party for its written replies (CRPD/C/BEL/Q/1/Add.1) to the list of issues prepared by the Committee.
3. The Committee appreciates the fruitful dialogue held with the State party's delegation and commends the State party on the strength of its delegation, which included government representatives of the relevant regions and communities and their respective administrations.

#### II. Positive aspects

4. The Committee commends Belgium on a number of its achievements. The Committee welcomes the enactment in 2013 and in 2014 of important pieces of legislation which are likely to improve the situation and lives of persons with disabilities. It notes the strong political commitment in the different regions and communities of Belgium to improve the living conditions of persons with disabilities and the establishment of a network of "disability focal points", appointed within each administration and federal cabinet and tasked specifically with ensuring that the disability perspective is taken into account.

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\* Adopted by the Committee at its twelfth session (15 September–3 October 2014).



### III. Principle areas of concern and recommendations

#### A. General principles and obligations (arts. 1–4)

5. The Committee is concerned that the State party has not brought its domestic legislation into line with the Convention, and notes that there are no specific regulations with provisions that apply to persons with disabilities. The Committee also notes the absence of a national plan or strategy focusing exclusively on persons with disabilities. Moreover, little attention is paid to the participation of persons with disabilities, particularly persons with intellectual disabilities, in policymaking processes.

6. **The Committee recommends that the State party proceed to bring its domestic legislation into line with all its obligations under the Convention, adopt and implement a plan for persons with disabilities, and ensure the full participation of persons with disabilities and disabled persons' organizations in these processes.**

7. The Committee is concerned that the implementation of regulations often reflects a medical model of disability.

8. **The Committee urges the State party to adopt a human rights-based approach to disability in line with the Convention, in consultation with disabled persons' organizations.**

9. The Committee notes that persons with disabilities are represented by the National Higher Council for Persons with Disabilities at the federal level. However, it regrets the absence of advisory councils in the Flemish Region and in the French- and German-speaking Communities.

10. **The Committee urges the State party to establish, and allocate adequate resources to, advisory councils in all regions. These advisory councils should be closely involved in the development, implementation and monitoring of legislation and policies.**

#### B. Specific rights (arts. 5–30)

##### Equality and non-discrimination (art. 5)

11. The Committee takes note of the anti-discrimination law which recognizes the concept of reasonable accommodation. It remains concerned about the situation of foreign persons with disabilities living in Belgium who experience situations of discrimination, and about cases of discrimination by association with a person or child with disabilities.

12. **The Committee recommends that the State party review the remedies provided for by this law to ensure that complainants are able to seek injunctions and can receive damages once their claims for discrimination have been proven in court. It urges the State party to strengthen protection against discrimination, including discrimination by association, through the introduction of positive discrimination measures and awareness-raising and training of public officials at all levels.**

##### Women with disabilities (art. 6)

13. The Committee is concerned at the lack of knowledge about whether women with disabilities are discriminated against because of their gender and about the extent to which women and girls with disabilities are discriminated against as compared to men and boys with disabilities, and to women without disabilities.

14. **The Committee recommends that the State party ensure the integration of gender and disability perspectives in its legislation and policies, surveys, plans, evaluation and monitoring activities and services. It also recommends that the State party adopt effective and specific measures to prevent intersecting forms of discrimination against women and girls with disabilities.**

#### **Children with disabilities (art. 7)**

15. The Committee is concerned that the State party is now among the European countries with the highest rates of children with disabilities placed in institutions, according to a 2013 European Union report on children with disabilities. The Committee is also concerned that children with disabilities are not systematically included in decisions which affect their lives and do not have the opportunity to express their opinion about issues that affect them directly.

16. **The Committee recommends that the State party allocate the necessary resources to support families of children with disabilities, in order to prevent the abandonment and placement of those children in institutions and to ensure their inclusion and participation in the community on an equal basis with other children. The Committee recommends the adoption of measures to protect the right of children with disabilities to be consulted on all issues affecting them through the provision of age- and disability-appropriate support.**

#### **Awareness-raising (art. 8)**

17. The Committee is concerned that there is no sign that a paradigm shift has occurred following ratification of the Convention, whereby persons with disabilities are recognized as basic rights holders taking part in decisions affecting them and asserting their rights in society. The stigmatization and exclusion of persons with disabilities is evident in several policies because of, among other things, the continued existence of a strong medical model, reliance on residential care as the main form of care and the maintenance of the segregated education system.

18. **The Committee recommends that the State party introduce a national strategy to raise awareness of the content of the Convention. In this regard, the Committee recommends that the State party carry out accessible information and awareness-raising campaigns on the rights of persons with disabilities and foster among the general public a positive image of persons with disabilities and their contributions to society, through close consultation with, and the active involvement of, representative organizations of persons with disabilities in the design, implementation, monitoring and evaluation of those information and awareness-raising campaigns.**

19. The Committee notes with concern that persons with disabilities are portrayed in the media mainly as persons with a disability rather than as citizens who participate fully in society.

20. **The Committee recommends that the State party encourage print and broadcast media professionals to take account of diversity in their code of ethical conduct and provide them, and all relevant professionals, with appropriate training and awareness-raising to ensure better representation of persons with disabilities in the media.**

#### **Accessibility (art. 9)**

21. The Committee is concerned about poor accessibility for persons with disabilities, the absence of a national plan with clear targets and the fact that accessibility is not a priority. It notes that government action has focused primarily on accessibility for persons

with physical disabilities and that few measures have been taken to promote accessibility for persons with hearing, visual, intellectual or psychosocial disabilities.

22. **The Committee recommends that the State party establish a legal framework with specific, binding benchmarks for accessibility, including in respect of buildings, roads and transport, services, and e-accessibility. This legal framework should also provide for the monitoring of accessibility and set out a detailed time frame for monitoring and evaluating the incremental changes made to infrastructure. Dissuasive penalties for non-compliance with these provisions must be incorporated into the legal framework. The Committee urges the State party to ensure that public authorities issuing building permits receive training on accessibility and universal design. In that regard, the Committee recommends that the State party develop a coherent accessibility strategy, including a national plan with clear short-, medium- and long-term objectives. It recommends that all aspects of accessibility should be promoted, in accordance with the Convention, and in the light of the Committee's general comment No. 2 (2014), with specific regard to sign-language accessibility. Sign language should be made available across the country in order to ensure access to public services for persons with disabilities on an equal basis with other citizens, in the various official languages and in different formats, regardless of place of residence, and particularly for procedures relating to law and order.**

#### **Equal recognition before the law (art. 12)**

23. The Committee commends the State party's efforts to reform legislation on legal capacity. It notes the adoption of the new Act reforming legal incapacity regimes, but is concerned that the new law continues to adhere to a substitute decision-making model and does not provide for the right to supported decision-making.

24. **The Committee recommends that the State party take immediate steps to revise the Act of 17 March 2013 in view of the Committee's general comment No. 1 (2014), and allocate sufficient financial and human resources to provide for supported decision-making and enable justices of the peace to take decisions on a case-by-case basis, as required by the law.**

#### **Liberty and security of the person (art. 14)**

25. The Committee is concerned that the Act on mental health adopted in 1990 allows for the involuntary hospitalization of persons with psychosocial disabilities.

26. **The Committee recommends that the State party repeal laws providing for the involuntary hospitalization of persons with psychosocial disabilities on the basis of their disability.**

27. The Committee is concerned that the new Act on the Confinement of Persons, adopted in May 2014, which governs safety measures applicable to persons who have been deprived of legal capacity, is not in conformity with the Convention. The measures are forms of social punishment that are adopted not on the basis of the principle of proportionality, but rather in response to a person's perceived "dangerous" state. The procedure used to put in place safety measures for persons who have been deprived of legal capacity is not in accordance with the procedural guarantees established in international human rights law, such as, inter alia, the presumption of innocence, the right to a defence and the right to a fair trial.

28. **The Committee recommends that the State party revise the Act of May 2014 to remove the system of safety measures applicable to persons with disabilities who have been deprived of legal capacity. Persons with disabilities who have committed a crime should be tried under the ordinary criminal procedure, on an equal basis with others**

and with the same guarantees, although with specific procedural adjustments to ensure their equal participation in the criminal justice system.

29. **The Committee also recommends that the State party should guarantee the right to reasonable accommodation for all persons with disabilities who are detained in prison; ensure their access to health care on an equal footing with others, on the basis of their free and informed consent, and to the same level of health care as that provided in society at large; establish an independent formal complaints mechanism accessible to all persons detained in prisons or in forensic institutions; and repeal extrajudicial intervention programmes that involuntarily commit individuals to mental health establishments or force them to register with the mental health services. The provision of these services should be based on the free and informed consent of the person concerned.**

#### **Freedom from exploitation, violence and abuse (art. 16)**

30. The Committee is concerned about the lack of protection for women, children and girls with disabilities against violence and abuse. It is also concerned about the absence of protocols to register, monitor and track the conditions in institutions that care for persons with disabilities, particularly those that care for older persons with disabilities.

31. **The Committee urges the State party to take measures to prevent and eliminate all forms of domestic or institutional violence against women, children and girls with disabilities. It also calls for the drafting and introduction of protocols to register, monitor and track the conditions in institutions that care for persons with disabilities, particularly those that care for older persons with disabilities.**

#### **Living independently and being included in the community (art. 19)**

32. The Committee notes with concern the high rate of referral to institutional care for persons with disabilities in the State party and the lack of deinstitutionalization plans. It also notes that there is insufficient information on opportunities to continue living in society and the community, since institutional care is too often seen as the only lasting solution. Moreover, there are very few opportunities for persons with disabilities to live independently owing to a lack of investment and the inadequacy of personal assistance services. The Committee is concerned about the policy on registration of institutions that care for French persons with disabilities, in particular children with disabilities, in the State party and the lack of monitoring of such institutions.

33. **The Committee recommends that the State party work towards deinstitutionalization by reducing investment in collective infrastructure and promoting personal choice. The Committee urges the State party to implement a disability action plan at all levels of the State to guarantee access to services and an independent life for persons with disabilities so that they are able to live in the community. The action plan must eliminate current waiting lists and ensure that persons with disabilities have access to sufficient financial resources and that communities are accessible for persons with disabilities. The Committee recommends that the State party devise international cooperation programmes that respect the right of persons with disabilities to live in the community and involve disabled persons' representatives and their families in their preparation.**

#### **Respect for home and the family (art. 23)**

34. The Committee is concerned about the lack of support for parents of children with disabilities, particularly mothers, who often leave their jobs to care for their children. It is also concerned that the minimum requirements for protecting the private life of persons

with disabilities living in institutions are not guaranteed. Similarly, it regrets that persons with disabilities do not have access to age-appropriate information and education on reproduction and family planning matters.

**35. The Committee strongly recommends the establishment of a support mechanism for families of children with disabilities with a view to preventing their abandonment or institutionalization. The Committee recommends that the State party take adequate measures to ensure that service providers respect and protect the right of persons with disabilities to a private and family life. It also recommends that access to age-appropriate information and education on reproduction and family planning should be made available to all persons with disabilities.**

#### **Education (art. 24)**

36. The Committee is concerned at reports that many students with disabilities are referred to and obliged to attend special schools because of the lack of reasonable accommodation in the mainstream education system. As inclusive education is not guaranteed, the special education system remains an all too frequent option for children with disabilities. The Committee is also concerned about poor accessibility in schools.

**37. The Committee requests that the State party implement a coherent inclusive education strategy for children with disabilities in the mainstream system and ensure the provision of adequate financial, material and human resources. It recommends that the State party ensure that children with disabilities receive the educational support they need, in particular through the provision of accessible school environments, reasonable accommodation, individual learning plans, assistive technology in classrooms, and accessible and adapted materials and curricula, and guarantee that all teachers, including teachers with disabilities, receive comprehensive training on the use of Braille and sign language with a view to improving the education of all children with disabilities, including boys and girls who are blind, deaf-blind, deaf or hard of hearing. The Committee also recommends that inclusive education should form an integral part of teacher training at university and during continuing professional development.**

#### **Work and employment (art. 27)**

38. The Committee notes with concern the low number of persons with disabilities in regular employment. The Committee also notes the Government's failure to reach targets for the employment of persons with disabilities within its own agencies, as well as the lack of a quota in the private sector.

**39. The Committee recommends that the State party take all necessary regulatory measures and incentives to guarantee the right of persons with disabilities to employment, in both the private sector and the public sector. It should ensure that they have effective protection against discrimination, vocational training, adequate accessibility and the necessary reasonable accommodation.**

#### **Participation in cultural life, recreation, leisure and sport (art. 30)**

40. The Committee is concerned that the State party has not yet ratified the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, adopted in 2013 by the World Intellectual Property Organization, which facilitates access to published material for blind persons, persons with visual impairments and persons with other difficulties in accessing published works.

**41. The Committee encourages the State party to adopt all appropriate measures to ratify and implement the Marrakesh Treaty as soon as possible.**

## C. Specific obligations (arts. 31–33)

### Statistics and data collection (art. 31)

42. The Committee regrets the lack of disaggregated data on persons with disabilities. It recalls that such information is indispensable to: understanding the situations of specific groups of persons with disabilities in the State party who may be subject to varying degrees of vulnerability; developing laws, policies and programmes adapted to their situations; and assessing the implementation of the Convention.

**43. The Committee recommends that the State party systematize the collection, analysis and dissemination of data disaggregated by gender, age and disability; enhance capacity-building in that regard; and develop gender-sensitive indicators to support legislative developments, policymaking and institutional strengthening for monitoring and reporting on progress made with regard to implementation of the various provisions of the Convention.**

44. The Committee is concerned that there is insufficient data on matters affecting girls, boys and women with disabilities.

**45. The Committee recommends that the State party systematically collect, analyse and disseminate data on girls, boys and women with disabilities.**

### International cooperation (art. 32)

46. The Committee regrets the lack of attention given to the rights of persons with disabilities in the policy and programmes related to the Millennium Development Goals, despite the call by the United Nations General Assembly for the collection of data and information on the situation of persons with disabilities in the context of development and the realization of the Millennium Development Goals.

**47. The Committee recommends that the State party integrate a disability rights-based perspective in the post-2015 development framework.**

### National implementation and monitoring (art. 33)

48. The Committee is concerned that the Interfederal Centre for Equal Opportunities, which is responsible for monitoring the implementation of the Convention, appears to lack the independence required by the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

**49. The Committee recommends that the State party complete the process to ensure the Centre's compliance with the Paris Principles.**

### Follow-up and dissemination

50. The Committee requests the State party to implement the recommendations of the Committee as contained in the present concluding observations. It recommends that the State party transmit the concluding observations for consideration and action to members of the Government and Parliament, officials in relevant ministries, local authorities and members of relevant professional groups, such as education, medical and legal professionals, as well as to the media, using modern social communication strategies.

51. The Committee strongly encourages the State party to involve civil society organizations, in particular disabled persons' organizations, in the preparation of its periodic report.

52. The Committee requests the State party to disseminate the present concluding observations widely, including to non-governmental organizations and representative

organizations of persons with disabilities, as well as to persons with disabilities themselves and members of their families, in national and minority languages, including sign language, and in accessible formats. The Committee also requests the State party to disseminate them on the Government's human rights website.

**Next report**

53. The Committee requests the State party to submit its combined second and third periodic reports no later than 2 August 2019 and to include therein information on the implementation of the present concluding observations. The Committee invites the State party to consider submitting the above-mentioned reports under the Committee's simplified reporting procedure, according to which the Committee prepares a list of issues at least one year prior to the due date set for the submission of the report of a State party. The replies of a State party to such a list of issues constitute its report.

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