

# Franet National contribution to the Fundamental Rights Report 2020

**Belgium**

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## Franet country study: policy and legal highlights 2019

<b>Issues in the fundamental rights institutional landscape</b>	<p><b>Important steps towards a single, independent NHRI:</b> <a href="#">Law</a> establishing a Federal Institute for the Protection and Promotion of Human Rights adopted on 12 May 2019 and entered into force on 1 July 2019.</p> <p><b>Fundamental rights cooperation - a double edged sword:</b> New Flemish Government coalition announces withdrawal from the Belgian equality body, UNIA, in 2023 in order to establish a Federal body. Other bodies dealing with fundamental rights reinforced their cooperation in 2019, e.g. UNIA and the Institute for Equality of Women and Men signed a cooperation agreement.</p>
<b>EU Charter of Fundamental Rights</b>	<p><b>Little domestic attention to EU Charter of Fundamental Rights:</b> References to the Charter by higher courts is not exceptional, similarly, the Charter receives very little to no attention in parliamentary debates, newly adopted legislation and academic output in 2019.</p>
<b>Equality and non-discrimination</b>	<p><b>Implementation of policy tools to ensure equality of opportunities:</b> <a href="#">Equal opportunities test</a> becomes mandatory in the Brussels-Capital Region for all legal and regulatory drafts. Various Regions use <a href="#">situation testing</a> in the labour and housing markets. The Belgian Equality Body, UNIA publishes various studies on the situation and rights of persons with disabilities, including in education, participation in elections, and access to hospitals.</p>
<b>Racism, xenophobia &amp; Roma integration</b>	<p><b>New law and policy to fight xenophobia and racism:</b> <a href="#">New law</a> makes denial, gross minimalisation, attempts to justify or approval of a genocide, a crime against humanity or a war crime. Brussels-Capital Region adopts <a href="#">Action Plan against Racism and Discrimination</a>.</p>
<b>Asylum &amp; migration</b>	<p><b>Right to international protection for unaccompanied minors:</b> Unaccompanied minors seeking asylum entitled to adapted reception conditions and assistance (e.g. foster care, guardianship), until the age of 18. Unaccompanied children not seeking asylum can request an authorisation to reside in the country through a <a href="#">durable solution assessment</a>. Regardless of immigration status, <a href="#">unaccompanied children cannot be forcibly returned</a> from Belgium.</p> <p><b>Migration and politics:</b> migration has played an important role in Belgian politics in 2019, influencing the elections held in May. Furthermore, changes in <a href="#">legislation</a> have made explicit the possibility of detaining migrants during Dublin procedures.</p>
<b>Data protection and digital society</b>	<p><b>National data protection authority begins enforcement action under GDPR:</b> <a href="#">Executive Committee</a> of the newly formed the <a href="#">Data Protection Authority</a> assumes position in April 2019. In 2019, the Authority issued <a href="#">multiple opinions</a> on domestic compliance with the GDPR, applied its first <a href="#">financial sanction</a> in May and a high sanction of 10,000 euros for <a href="#">abusive practice by a merchant</a> in September .</p>
<b>Rights of the child</b>	<p><b>Procedural reform for detention of minors:</b> Following <a href="#">legal reform in February 2019</a>, the procedural rights of minor suspects in criminal proceedings is now subject to a new legal framework at federal and regional level.</p>
<b>Access to justice, including victims of crime</b>	<p><b>Access to justice for victims of terrorism:</b> A series of laws on the rights of victims were adopted in early 2019 aimed at, amongst others, facilitating the access of victims of terrorist acts to compensation by introducing a <a href="#">“one-stop-shop” mechanism</a>, and extending the type of assistance they may receive (legal fees, travel and accommodation for victims living abroad).</p> <p><b>Increased funding for new sexual violence centres:</b> Six million euros funding has been allocated for the development of <a href="#">Sexual Violence Centres</a>.</p>
<b>Convention on the Rights of Persons with Disability</b>	<p><b>Focus on rights of persons with disabilities in regional Action Plans:</b> The new <a href="#">Regional Policy Statement of Wallonia 2019-2024</a> and the <a href="#">Agreement of the Brussels-Capital region Government 2019-2024</a> place emphasis on inclusive education, employment and overall well-being of persons with disabilities.</p>

# Chapter 1. Equality and non-discrimination

## 1. Legal and policy developments in 2019 relevant to combating discrimination based on gender identity, religion or belief, disability, age or sexual orientation

### Religion or belief

- On 5 July 2018, the Court of First Instance of Ghent ruled that the prohibition of burkinis or other body-covering swimwear for reasons of hygiene or safety in two municipal swimming pools (Ter Wallen in Merelbeke<sup>1</sup> and Van Eyck in Ghent<sup>2</sup> respectively) was not justified and discriminatory based on religious beliefs. The judgments are in line with an advice formulated by the inter-federal centre for equality of opportunities UNIA (Interfederaal Gelijkekansencentrum/Centre inter-fédéral pour l'égalité des chances) (national human rights institution with B-status) on this topic in 2017.<sup>3</sup> Since 1 September 2018, the **regulations of all municipal swimming pools in Ghent have been amended: body-covering swimwear is allowed**, provided that it is suitable for swimming and meets the safety and hygiene requirements (meaning that it may not concern loose-fitting clothing).<sup>4</sup> The City of Ghent as well as the municipal company that manages the swimming pool in Merelbeke have appealed the decision (ongoing).<sup>5</sup> The former finds the judgment too restrictive as it focuses solely on religion and ideological beliefs, thereby disregarding transgenders and persons wishing to wear body-covering swimwear post-surgery. The latter does not find the prohibition of body-covering swimwear to be discriminatory.

### Disability

- Early 2019, the Walloon Minister for Equal Opportunities established a **working group that focuses among other issues on tackling problems of access to healthcare institutions by persons with guidance dogs**.<sup>6</sup> Some hospitals refuse access to persons with an assistance dog without there being an objective and reasonable reason for doing so. The working group includes various stakeholders, including UNIA, the Walloon agency for a life of quality AVIQ (Agence pour une vie de qualité), and associations for persons with a disability. The establishment of the working group follows the request to UNIA made by the Walloon Minister for Equal Opportunities in 2018 to provide advice on the access of assistance dogs to public institutions and provisions within the framework of the reform of the Walloon Code of Social Action and Health (CWASS, Code wallon de l'action sociale et de la santé).<sup>7</sup>
- In Flanders, people who are deaf or hard of hearing have the right to assistance from an interpreter, meaning they are entitled to a number of free hours from an interpreter of Flemish

<sup>1</sup> Belgium, Court of First Instance of Ghent, [2018/8812](#), 5 July 2018 [last accessed 5 October 2019].

<sup>2</sup> Belgium, Court of First Instance of Ghent, [2018/8813](#), 5 July 2018 [last accessed 5 October 2019].

<sup>3</sup> Belgium, UNIA (Interfederaal Gelijkekansencentrum/Centre inter-fédéral pour l'égalité des chances) (2017), Advice: Unia answers questions about body-covering swimwear ([Advies: Unia antwoordt op vragen over lichaamsbedekkende zwemkleding](#)), 12 July 2017. UNIA (2017), Unia answers questions about body-covering swimwear ([Avis: Unia répond à des questions sur le maillot de bain couvrant le corps](#)), 11 July 2017 [last accessed 5 October 2019].

<sup>4</sup> Belgium, Gent City (*Stad Gent*) (2018), Regulations for swimming clothes for urban swimming pools in Ghent, modified as from 1 September 2018 ([Voorschriften zwemkledij Gentse stedelijke zwembaden aangepast vanaf 1 september 2018](#)), 2018 [last accessed 5 October 2019].

<sup>5</sup> Belgium, UNIA (Interfederaal Gelijkekansencentrum/Centre inter-fédéral pour l'égalité des chances) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussel, UNIA, p 74 [last accessed 5 October 2019].

<sup>6</sup> Belgium, UNIA (Interfederaal Gelijkekansencentrum/Centre inter-fédéral pour l'égalité des chances) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussel, UNIA, p 63 [last accessed 5 October 2019].

<sup>7</sup> Belgium, UNIA (Interfederaal Gelijkekansencentrum/Centre inter-fédéral pour l'égalité des chances) (2018), Notice regarding the access of assistance finet to establishments and facilities intended for the public ([Avis relatif à l'accès des chiens d'assistance aux établissements et installations destinés au public](#)), 13 December 2018 [last accessed 5 October 2019].

sign language, a writing interpreter or an oral interpreter to support them in the workplace.<sup>8</sup> The Flemish government gives deaf persons interpreting hours, because in many situations it is unreasonable to ask the employer to always pay for interpreting hours. Prior to January 2019, everyone received the same number of interpreting hours, whereas some people need more hours than others. Since January 2019, **the ceiling for the number of interpreting hours for deaf persons has been increased in Flanders.**<sup>9</sup> The Flemish government took the decision on 26 October 2018 following the request made by UNIA and Deaf Flanders (Doof Vlaanderen) to take into account the individual situation and work context when determining the number of interpreting hours someone gets.<sup>10</sup> Since 1 January 2019, deaf persons are entitled to an increase of the interpreting package at work to 30% of the working time (compared to 20% before).<sup>11</sup> UNIA and Doof Vlaanderen are happy with this meaningful step forward that offers a solution for most deaf persons.<sup>12</sup> In the long term, UNIA asks the government to simplify the entire system of interpreting hours and to tailor it to each individual case. Whereas most individual notifications concerned Flanders in the past, UNIA makes the same recommendation to the other governments because the inclusion of deaf persons in the labour market is a relevant topic for the entire country.

- In February 2019, UNIA submitted a report to the United Nations Committee on the Rights of Persons with Disabilities (UNCPRD), in preparation of the second and the third country report on Belgium. In the report, **UNIA highlights all the recommendations made by the UNCPRD in its final observations on Belgium in 2014, which have not been implemented:** the French- and the German-speaking Community still do not have advisory councils; no progress has been made in improving accessibility; an ambitious and concrete plan is missing at each level of government (federal, regions, communities); the availability of independent housing remains a huge challenge for the coming years; inclusive education and employment for persons with disabilities remains key challenges; the 2013 reform of the law regulating incapacity and introducing a new protection status does not guarantee that justices of peace will be able – given the influx of files and the lack of time and means – to correctly assess the present and future capacities of a persons with a disability.<sup>13</sup>

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<sup>8</sup> The conditions for interpreting assistance for the deaf can be found at: Belgium, Flemish Employment Service (*Vlaamse Dienst voor Arbeidsbemiddeling en Beroepsopleiding VDAB*) (2019), Conditions assistance deaf interpreter (*Voorwaarden bijstand doventolk*), 2019 [last accessed 24 November 2019].

<sup>9</sup> Belgium, Flemish Employment Service (*Vlaamse Dienst voor Arbeidsbemiddeling en Beroepsopleiding VDAB*) (2019), Extension of the number of interpreting hours requested (*Uitbreiding aanvragen van het aantal tolkuren*), 2019 [last accessed 5 October 2019].

<sup>10</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2018), Recommendation on the inclusion of deaf persons on the Flemish labour market (*Aanbeveling over de inclusie van dove personen op de Vlaamse arbeidsmarkt*), 1 May 2018. UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) and Doof Vlaanderen (2018), Interpretation hours for deaf people at work and in job applications and vocational training: Recommendation 182 (*Tolkuren voor dove personen op het werk en bij sollicitaties en beroepsopleidingen*, Aanbeveling 182), April 2018 [last accessed 5 October 2019].

<sup>11</sup> Belgium, Flemish Employment Service (*Vlaamse Dienst voor Arbeidsbemiddeling en Beroepsopleiding VDAB*) (2019), *Uitbreiding aanvragen van het aantal tolkuren*, 2019. Doof Vlaanderen (2018), *Verhoging Arbeidstolkurenpakket (A-uren) naar 30%*, 9 November 2018 [last accessed 5 October 2019]. Belgium, Flemish Government (*Vlaamse Overheid*), Decision of the Flemish Government concerning the professional integration of persons with a work disability (*Besluit van de Vlaamse Regering betreffende de professionele integratie van personen met een arbeidshandicap*) [last accessed 1 December 2019]. Article 27 of the amended Decision reads: "For persons with an auditory disability, the Flemish Employment Agency takes care of the services provided by an interpreter for the deaf and hard of hearing in work situations adapted to the work disability, which entail occasional tasks or circumstances where verbal communication is necessary in order to achieve optimum performance of function and performance of duties and thus justify technical support from a professionally trained interpreter. The service provision charged is limited on an annual basis to a maximum of 10% of the effective working time that the user performs. The Flemish Employment Agency can allow a deviation from the maximum stated in the previous paragraph, if the nature of the work justifies this or in the case of expansion of work, promotion or retraining of the person with a hearing disability, from whom the restriction to 10% of the effective working time is not sufficient. That increased charge may not exceed 30% of the effective working time on an annual basis. The Flemish Employment Agency pays the interpreter's actual travel cost incurred."

<sup>12</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), Annual Report 2018 - Restoring human rights (*Jaarverslag 2018 – Mensenrechten in ere herstellen*), Brussel, UNIA, p 59. Doof Vlaanderen (2018), *Verhoging Arbeidstolkurenpakket (A-uren) naar 30%*, 9 November 2018 [last accessed 5 October 2019].

<sup>13</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), Annual Report 2018 - Restoring human rights (*Jaarverslag 2018 – Mensenrechten in ere herstellen*), Brussel, UNIA, pp 57 and 62 [last accessed 5 October 2019].

- On 7 February 2019, the Parliament of the French-speaking Community adopted the Decree on various measures relating to higher education.<sup>14</sup> The amended Decree corrects inconsistencies between the previous Decree and implementing decisions. The individualised support plan that defines the reasonable accommodations must be developed more quickly, namely within two months and not more than three months of the acceptance of the application. This has significant repercussions for the student, especially to ensure that arrangements are made for the January evaluations. Furthermore, the Decree revised the appeal system and has included it in a separate chapter to improve readability and understanding. Only the Commission of Higher Inclusive Education (*Commission de l'Enseignement supérieur inclusif* – CESI) is competent for appeals after exhaustion of the domestic remedies.<sup>15</sup> When an appeal is lodged to contest the final decision of the establishment relating to the setting up of reasonable accommodation, CESI limits itself to verifying the conformity of the procedure and the adequacy of the motivation.<sup>16</sup> CESI does not decide on reasonableness, which UNIA regrets because it means that students must turn to a judicial procedure in case there is a disagreement after an internal appeal.<sup>17</sup> The latter makes it impossible to implement adjustments due to the judicial delays.

### Sexual orientation

- Since 1 March 2019, victims of LGBTQI-phobia violence can anonymously report violence through the [Rainbow House](#) upon which information is provided that refers victims to the police, UNIA or the Institute for the Equality of Women and Men (*Instituut voor de Gelijkheid van Vrouwen en Mannen / Institut pour l'Égalité des Femmes et des Hommes*).<sup>18</sup>

### Disability/Age/Health Status

- An increasing number of businesses and public services in Wallonia use **attendance premiums**. It concerns a financial reward for employees based on their attendance at work. UNIA argues that despite the apparent neutrality of such type of measure as it applies to all employees, it appears to be contrary to Belgian anti-discrimination legislation because it may disadvantage certain employees due to their present or future health status, disability or age.<sup>19</sup> Furthermore, UNIA adds that it has not been proved that such a measure helps to counter absenteeism. In 2018, a Walloon municipality – and thus a local government – wanted to give each employee who was absent for less than 15 days per year a fixed amount of 250 euro. UNIA argued that this was discriminatory. The Walloon Minister for Local Government also considered the measure to be discriminatory and therefore cancelled it. On 13 February 2019, following the observation that use of attendance premiums was increasing in the public and the private sector, UNIA said that this system constitutes a source of discrimination and provided advice to the Walloon Minister of Local Administrations.<sup>20</sup>
- In 14 June 2019, the Labour Court of Liège ([Cour du Travail de Liège](#)), role number 2018/CL/1, confirmed that the **denial of reasonable accommodation by the employer** makes up a form of discrimination.<sup>21</sup> A municipality in the province of Namur appealed a decision of the labour tribunal of 9 March 2018 that ruled in favour of an employee who has neuromuscular problems

<sup>14</sup> Belgium, French-speaking Community (2019), Decree on various measures relating to higher education ([Décret portant diverses mesures relatives à l'Enseignement supérieur](#)), 7 February 2019 [last accessed 1 December 2019].

<sup>15</sup> Previously, the Chambers of Inclusive Education were competent to decide in case of modification of the support plan.

<sup>16</sup> Art. 31/2 of the amended Decree.

<sup>17</sup> Belgium, Email exchange with UNIA on 10 October 2019.

<sup>18</sup> Belgium, Email exchange with UNIA on 8 October 2019.

<sup>19</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfedéral pour l'égalité des chances*) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussel, UNIA, p 60 [last accessed 5 October 2019].

<sup>20</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfedéral pour l'égalité des chances*) (2019), The presence bonus, a source of discrimination ([De aanwezigheidsbonus, een bron van discriminatie / La prime de présentisme, une source de discrimination](#)), UNIA, 13 February 2019 [last accessed 5 October 2019].

<sup>21</sup> Belgium, Labour Court of Liège ([Cour du Travail de Liège](#)), role number 2018/CL/1, 14 June 2019.



and suffers from chronic pains. The municipality had accommodated changes to her working hours between 2011 and 2017 by allowing her to work part-time. However, the municipality refused to extend the system of reasonable accommodations in 2017, despite it being satisfactory for all parties. UNIA's tried to intervene but the municipality refused to negotiate. As at first instance, the appellate court condemned the municipality for discrimination on the basis of disability and was ordered to pay a non-compliance penalty of 1000 euro per day until the discrimination ends. The Appeal court ruled that the municipality must give the employee two half days off every week and allow her to work from home two half days and that the employee is entitled to damage compensation of more than 44000 euro, corresponding to six months of gross salary. The municipality also has to pay the appellate costs of the employee and UNIA (1440 euro each).

Age/Sexual Orientation/Civil status/Birth/Wealth/Philosophical or Religious Beliefs/Political Beliefs/Trade Union Membership/Language/State of Health/Disability/Physical or Genetic Characteristic/Social Background/Nationality/Presumed Race/Skin Colour/Ancestry/National or Ethnic Origin/Gender

- On 11 January 2019, the Federal Government approved a **Royal Decree that makes it possible for private employers to adopt positive action for persons who are under-represented in a company or sector**.<sup>22</sup> Whereas federal anti-discrimination legislation in Belgium already included a provision on positive action,<sup>23</sup> no legal framework had been adopted to clarify what are the circumstances and conditions that allow employers to adopt such measures.<sup>24</sup> A positive action plan can be established by a collective labour agreement or by an act of accession. The latter requires a company to complete a model and to inform all employees about the draft, allowing them to write down their remarks in a register or to write them down in a letter that is given to the supervising civil servant to whom the register is sent. Once completed, the act of accession is deposited to the Federal Public Service Employment (FOD Werkgelegenheid / SPF Emploi). The competent Minister has to approve the positive action plan, before it can be implemented. If companies implement positive action in a different way than through a collective labour agreement or an act of accession, communication of the plan to the Minister of Work can be done merely for informative reasons. The Royal Decree entered into force on 11 March 2019. The Federal Public Service Employment has to draft an evaluation report every two years, in collaboration with the National Labour Council (Nationale Arbeidsraad / Conseil National du Travail). On 16 January 2019, UNIA explained the difference between positive action, which employers can now adopt provided they follow strict rules, and positive discrimination, which employers in Belgium are not allowed to do.<sup>25</sup>
- Since the Law of 15 January 2018,<sup>26</sup> the **Labour Inspection can organise mystery calls and use situation testing** to check whether employers respect the Law of 10 May 2007 to fight

<sup>22</sup> Belgium, Royal Decree to determine the conditions of positive action ([Koninklijk Besluit tot bepaling van de voorwaarden inzake positieve acties / Arrêté royal fixant les conditions de l'action positive](#)), 11 February 2019. Publication in Belgian Official Gazette 1 March 2019 [last accessed 5 October 2019].

<sup>23</sup> Belgium, Law to fight certain forms of discrimination ([Wet ter bestrijding van bepaalde vormen van discriminatie / Loi tendant à lutter contre certaines formes de discrimination](#)), 10 May 2007, art. 10. Publication in Belgian Official Gazette 30 May 2007 [last accessed 5 October 2019].

<sup>24</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussel, UNIA, pp 8 and 13 [last accessed 5 October 2019].

<sup>25</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum*) (2019), Why companies should not discriminate positively ([Waarom bedrijven niet positief mogen discrimineren](#)), UNIA, 16 January 2019. UNIA (*Centre interfédéral pour l'égalité des chances*) (2019), No to positive discrimination in companies, but yes to positive actions ([Non à la discrimination positive dans les entreprises, mais oui aux actions positives](#)), UNIA, 17 January 2019 [last accessed 5 October 2019].

<sup>26</sup> Belgium, Law containing various provisions concerning work ([Wet houdende diverse bepalingen inzake werk / Loi portant des dispositions diverses en matière d'emploi](#)), 15 January 2018. Publication in Belgian Official Gazette 5 February 2018 [last accessed 5 October 2019].

certain forms of discrimination.<sup>27</sup> Inspectors who receive a complaint or a notification, have to ask the labour auditor for permission to use situation testing. According to UNIA, this renders the procedure complex and cumbersome. In order to eliminate all legal uncertainties, it asked the College of Procureurs-generaal and the Ministers of Justice and Work to develop uniform criteria and give the auditorates practical guidelines in a joint circular.<sup>28</sup> Early 2019, a **confidential circular was approved**.<sup>29</sup> It is hoped that removal of legal obstacles will render the practical application of the legislation more efficient.<sup>30</sup>

- On 21 December 2018, the **Ordinance amending the Brussels Housing Code** was approved in order to strengthen the fight against discrimination in access to housing.<sup>31</sup> The Ordinance entered into force on 1 September 2019. This new instrument makes the Brussels-Capital Region a forerunner in this area, as it already has been in the area of employment since 2017.<sup>32</sup> The Brussels Housing Code covers discrimination on the basis of sex, so-called race, skin colour, origin, nationality, national or ethnic origin, age, sexual orientation, civil status, birth, wealth, religion or belief, political conviction, language, health status, disability, physical or genetic characteristic, social origin and position, and syndical convictions.<sup>33</sup> The Ordinance states that the regional housing inspection passes on the observation of discrimination to the public prosecutor, who decides whether or not to prosecute. In case of no prosecution, the regional housing inspection itself can impose an administrative fine of 125 to 6200 euro, depending on the seriousness of the infringement, the degree of recidivism and the appeal of the infringer. The fine goes to the Regional Solidarity Fund.

On 21 March 2019, the government of the Brussels-Capital Region adopted the **Decision implementing the Ordinance of 21 December 2018 amending the Brussels Housing Code to strengthen the fight against discrimination in access to housing**.<sup>34</sup> The Decision regulates the further implementation of article 214ter of the Brussels Housing Code which stipulates that the Regional inspection service can determine discrimination with or without a practical test.

- On 20 March 2019, **UNIA and the Institute for Equality of Women and Men (IGVM, Instituut voor de gelijkheid van vrouwen en mannen / IEFH, Institut pour l'égalité des femmes et des hommes) signed a cooperation agreement**. The agreement addresses one of the concerns of the experts of the evaluation commission of the federal anti-discrimination legislation concerning the fight against discrimination, namely that the existence of multiple

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<sup>27</sup> Belgium, Law to fight certain forms of discrimination ([Wet ter bestrijding van bepaalde vormen van discriminatie / Loi tendant à lutter contre certaines formes de discrimination](#)), 10 May 2007. Publication in Belgian Official Gazette 30 May 2007 [last accessed 5 October 2019].

<sup>28</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussel, UNIA, p 8 [last accessed 5 October 2019].

<sup>29</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussel, UNIA, p 8 [last accessed 5 October 2019].

<sup>30</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussel, UNIA, pp 8-9 [last accessed 5 October 2019].

<sup>31</sup> Belgium, Ordinance amending the Brussels Housing Code ([Ordonnantie tot wijziging van de Brussels Huisvestingscode teneinde de strijd tegen discriminatie bij de toegang tot huisvesting te versterken / Ordonnance modifiant le Code bruxellois du Logement afin de renforcer la lutte contre la discrimination dans l'accès au logement](#)), 21 December 2018. Publication in Belgian Official Gazette 1 January 2019 [last accessed 5 October 2019].

<sup>32</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussel, UNIA, pp 17 [last accessed 5 October 2019].

<sup>33</sup> Belgium, Ordinance containing the Brussels Housing Code ([Ordonnantie houdende de Brusselse Huisvestingscode \(versie 2013\)/Ordonnance portant le Code bruxellois du Logement \(version 2013\)](#)), 17 July 2003, arts. 192 and 193. Publication in Belgian Official Gazette on 26 July 2003 [last accessed 24 November 2019].

<sup>34</sup> Belgium, Decision implementing the Ordinance of 21 December 2018 amending the Brussels Housing Code to strengthen the fight against discrimination in access to housing ([Besluit van de Brusselse Hoofdstedelijke Regering houdende uitvoering van de ordonnantie van 21 december 2018 houdende wijziging van de Brusselse Huisvestingscode om de strijd tegen discriminatie bij de toegang tot huisvesting te versterken / Arrêté d'exécution du Gouvernement de la Région de Bruxelles-Capitale portant exécution du 21 décembre 2018 modifiant le Code bruxellois du logement afin de renforcer la lutte contre la discrimination dans l'accès au logement](#)), 21 March 2019. Publication in Belgian Official Gazette 11 July 2019 [last accessed 5 October 2019].



institutions to promote equality can cause confusion and make it difficult for victims to find their way. The Commission requested that both institutions have one counter, virtually if needed, that refers people to the right body that will deal with their file. Whereas both organisations have had a joint free phone number for anti-discrimination since 2007, the frequency of the interactions between both organisations had not yet been put in an official form until 2019.<sup>35</sup>

- In 2019, UNIA, the Federal Migration Centre MYRIA and the Combat Poverty, Insecurity and Social Exclusion Service submitted a **parallel report (in French and in English) concerning Belgium’s compliance with the International Covenant on Civil and Political Rights**, within the framework of the 6<sup>th</sup> periodic report of Belgium to the Committee of Human Rights of the United Nations.<sup>36</sup> The report focuses, among other things, on discrimination based on sexual orientation, discrimination and racist violence, the effect of anti-terrorist measures on human rights, internment, and the need to change certain articles of the law. As explained in the methodology part of the report, it is based on the following sources of information: “reports submitted to Unia and Myria by individuals or associations; the results of Unia’s monitoring and recommendation missions; our participation in various working groups, commissions, advisory boards; reports of the authorities and bodies concerned; biennial reports of the Service to Combat Poverty; reports and recommendations of civil society.”<sup>37</sup>
- Since 1999, government statements have repeatedly promised to introduce a single, independent national human rights institution according to the Paris Principles. While awaiting the establishment of an inter-federal institution with a general human rights mandate and thus A-status, UNIA was recognised as a national human rights institution with B-status in May 2018.<sup>38</sup> The Bill for **the establishment of a Federal Institute for the Protection and Promotion of Human Rights** (Federaal Instituut voor de bescherming en de bevordering van de Mensenrechten / Institut fédéral pour le protection et le promotion des droits de l’homme) was submitted on 20 March 2019.<sup>39</sup> Next, on 12 May 2019, the Law establishing a Federal Institute for the Protection and Promotion of Human Rights was adopted.<sup>40</sup> It entered into force on 1 July 2019. This federal (inter-federal in the future, based on a collaboration agreement between the federal government and the federated entities) national institute enjoys a residual competence and will work on themes that are not yet dealt with by the other Belgian so-called “sector-related institutions” for the protection of human rights. Within the limits of its residual federal competences, the Institute can go to the Council of State or the Constitutional Court

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<sup>35</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l’égalité des chances*) (2019), Annual Report 2018 - Restoring human rights (*Jaarverslag 2018 – Mensenrechten in ere herstellen*), Brussel, UNIA, p 92 [last accessed 5 October 2019].

<sup>36</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l’égalité des chances*), Myria (*Federaal Migratiecentrum/Centre fédéral Migration*), and Combat Poverty, Insecurity and Social Exclusion Service (*Steunpunt tot bestrijding van armoede, bestaansonzekerheid en sociale uitsluiting/Service lutte contre la pauvreté, la précarité et l’exclusion sociale*) (2019), International Covenant on Civil and Political Rights: parallel report (*Internationaal verdrag inzake burgerrechten en politieke rechten: parallel rapport / Rapport parallèle CCPR*), Brussels, Belgium [last accessed 5 October 2019].

<sup>37</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l’égalité des chances*), Myria (*Federaal Migratiecentrum/Centre fédéral Migration*), and Combat Poverty, Insecurity and Social Exclusion Service (*Steunpunt tot bestrijding van armoede, bestaansonzekerheid en sociale uitsluiting/Service lutte contre la pauvreté, la précarité et l’exclusion sociale*) (2019), International Covenant on Civil and Political Rights: parallel report (*Internationaal verdrag inzake burgerrechten en politieke rechten: parallel rapport / Rapport parallèle CCPR*), Brussels, Belgium, p.2 [last accessed 5 October 2019].

<sup>38</sup> Belgium, UNIA’s predecessor, the Centre for the Equality of Opportunities and the Fight against Racism, enjoyed such B-status until 2014. UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l’égalité des chances*) (2019), Annual Report 2018 - Restoring human rights (*Jaarverslag 2018 – Mensenrechten in ere herstellen*), Brussel, UNIA, p 99 [last accessed 5 October 2019].

<sup>39</sup> Belgium, (2019), Bill establishing a Federal Institute for the protection and promotion of human rights (*Wetsvoorstel tot oprichting van een Federaal Instituut voor de bescherming en de bevordering van de rechten van de mens / Proposition de loi portant création d’un Institut fédéral pour le protection et la promotion des droits de l’homme*), 20 March 2019 [last accessed 5 October 2019].

<sup>40</sup> Belgium, (2019), Law establishing a Federal Institute for the protection and promotion of human rights (*Wet tot oprichting van een Federaal Instituut voor de bescherming en de bevordering van de rechten van de mens / Loi portant création d’un Institut fédéral pour la protection et la promotion des droits humains*), 12 May 2019 [last accessed 5 October 2019].

whenever it is of the opinion that normative acts of the legislative or the executive power violate fundamental rights. Furthermore, a consultative body will be established for those sectoral authorities, thereby replacing the current Human Rights Platform. That body will become operational when the National Human Rights Institution becomes inter-federal.

- On 25 April 2019, the government of the Brussels-Capital Region adopted the **Framework Ordinance in view of a policy of promoting diversity and combating discrimination in the Brussels local civil service**.<sup>41</sup> The Framework Ordinance also applies to contractual employees.
- On 4 October 2018, the **Ordinance introducing an equal opportunities test** was adopted in the Brussels-Capital Region.<sup>42</sup> By way of a number of questions, this tool makes it possible to examine the impact of policy measures on different population groups whose situation and specific needs are sometimes overlooked when introducing general policy measures.<sup>43</sup> The test focuses on the discrimination grounds gender, disability, ethno-cultural origin, sexual orientation, gender identity and gender expression, and social background and situation.

The Brussels Regional Public Service considers the equal opportunities test to be a huge step forward in the Region's equal opportunities policy.<sup>44</sup> On 22 November 2018, the **Decision of the Brussels-Capital Government implementing the Ordinance of 4 October 2018 establishing the equal opportunities test** was adopted.<sup>45</sup>

Since 1 January 2019, the equal opportunities' test **must be applied** to all legal and regulatory drafts in the Brussels-Capital Region.<sup>46</sup> Since 1 March 2019, the test is also mandatory for drafts of management agreements, drafts of strategic planning documents, drafts of contract and concession agreements concerning proposed public procurement contracts and concessions of more than 30.000 euro, drafts of subsidy rules, and drafts of decisions awarding a grant of more than 30.000 euro in the Brussels-Capital Region. For subsidies over 30.000 euro, the test has to be applied during the preparation of the subsidy rules and again when awarding the subsidies. For public procurement contracts over 30.000 euro, the test must be completed during the drafting of the specifications.

There are different ways of submitting the equal opportunities' test and, as a result, not all tests are received by the same organisation (namely equal.brussels). The Ordinance and the Decision stipulate that the Regional Committee for Equal Opportunities is responsible for the evaluation of the equal opportunities test. This committee meets once a year in its operational composition and once every 2 years in its strategic composition. The Regional Committee will soon meet

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<sup>41</sup> Belgium, Framework ordinance for a policy to promote diversity and combat discrimination in the Brussels local civil service (*Kaderordonnantie met het oog op het beleid voor de bevordering van diversiteit en de bestrijding van discriminatie bij de Brusselse plaatselijke ambtenarij / Ordonnance-cadre visant à assurer une politique de diversité et de lutte contre les discriminations au sein de la fonction publique locale bruxelloise*), 25 April 2019 [last accessed 5 October 2019].

<sup>42</sup> Belgium, Ordinance to introduce the equal opportunities test (*Ordonnantie tot invoering van de gelijkkansentest / Ordonnance tendant à l'introduction du test d'égalité des chances*), 4 October 2018 [last accessed 5 October 2019]. The draft test was submitted for consultation to the Economic and social council; Brussels Council for Gender Equality (Conseil bruxelles de l'égalité entre les femmes et les hommes); Institute for gender equality (l'institut pour l'égalité des femmes et des hommes); Easy.brussels and Unia. Furthermore, other administrations of the regional public service, and the specialised institutions (Unia, the Institute for Equality between Women and Men; Rainbowhouse; Cawab) of each target group were involved in the elaboration of the test. Written Communication

<sup>43</sup> Belgium, The [website of equal.brussels](#) gives more information about the test, frequently asked questions, the applicable legal framework, trainings and organisations working on the different discrimination grounds [last accessed 5 October 2019].

<sup>44</sup> Belgium, Equal.brussels (2018), equal.brussels introduces its equal opportunities test (*equal.brussels presenteert de gelijke kansentest / equal.brussels a présenté son test égalité des chances!*), equal.brussels, 7 December 2018 [last accessed 5 October 2019].

<sup>45</sup> Belgium, Decree of the Government of the Brussels-Capital Region implementing the ordinance of 4 October 2018 on the introduction of the equal opportunities test (*Besluit van de Brusselse Hoofdstedelijke Regering tot uitvoering van de ordonnantie van 4 oktober 2018 tot invoering van de gelijke kansentest / Arrêté du Gouvernement de la Région de Bruxelles-Capitale portant exécution de l'ordonnance du 4 octobre 2018 tenant à l'introduction du test égalité des chances*), 22 November 2018 [last accessed 5 October 2019].

<sup>46</sup> Belgium, Equal.brussels, [De test](#), equal.brussels [last accessed 5 October 2019].

for the first time to determine the method of evaluation. Furthermore, the evaluation will also include analysis of the equal opportunities's tests in order to determine the impact of regulatory measures. The findings of this analysis will be publicly available and to date, no requests have been received regarding the contents of completed tests.<sup>47</sup>

- In 2019, the **City of Antwerp** gave the green light for **situation tests** on the labour and the housing market in order to objectively map and quantify discrimination, which will then be used to adopt a targeted anti-discrimination policy.<sup>48</sup> The aim of the situation tests is to empower and to tackle any form of exclusion. Contrary to the city of Ghent, that started doing situation tests in 2015, the city of Antwerp will focus more on scientific research into the mechanisms behind discrimination. The research will be done by a research team at the University of Ghent and the Free University of Brussels (VUB).

#### Government policy accords

- In July 2019, the new **Brussels government** announced its **coalition agreement for the period 2019-2024**.<sup>49</sup> The Brussels government plans on working on a law against discrimination that applies to all regional competences and those of the Community commissions. It also stipulates that labour and housing inspections will be able to conduct situation tests more proactively. In order to fight housing discrimination, the Brussels government policy accord also includes the plan to establish a central rent guarantee fund and additional social housing. The new Brussels government supports the launch of an inter-federal action plan against racism.
- In September 2019, the new **government of the French-speaking Community** announced its **coalition agreement**.<sup>50</sup> The government plans to continue with the implementation of the Pact for excellent education (*Pacte pour un enseignement d'excellence*) and with the breaking down of barriers between regular and special education. The agreement also foresees the inclusion of modules on discrimination, migration, the women's movement and LGBTQI+ in the basic education and the supplementary training of teachers, greater attention for the fight against bullying, and the expansion of a diverse administration with special attention for gender equality, people with disabilities and people of foreign origin. The new government of the French-speaking Community also supports the launch of an inter-federal action plan against racism.
- In September 2019, the new **government of the Walloon Region** announced its **coalition agreement** for the period 2019-2024.<sup>51</sup> The new government plans to develop a legal framework to organise situation tests on the labour market, promote diversity in public and private organisations, establish a diverse administration based on gender equality, and promote work for people with disabilities and for people of foreign origin. The new Wallonian government also supports the launch of an inter-federal action plan against racism.

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<sup>47</sup> Belgium, Email exchange with Regional Public Service equal.brussels 2 December 2019.

<sup>48</sup> Belgium, SP.A Stad Antwerpen (2019), Situation test in labour market and rental market ([Praktijktesten arbeidsmarkt en huurmarkt](#)), SP.A, June 2019 [last accessed 5 October 2019].

<sup>49</sup> Belgium, Joint General Policy Statement of the Government of the Brussels-Capital Region and the United College of the Joint Community Commission ([Gemeenschappelijke Algemene Beleidsverklaring van de Brusselse Hoofdstedelijke Regering en het Verenigd College van de Gemeenschappelijke Gemeenschapscommissie – Regeerperiode 2019-2024](#)), July 2019 [last accessed 5 October 2019].

<sup>50</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), Unia welcomes the agreement of the government of the Wallonia Brussels Federation ([Unia salue l'accord du gouvernement de la Fédération Wallonie-Bruxelles](#)), UNIA, 17 September 2019 [last accessed 5 October 2019].

<sup>51</sup> Belgium, Wallonia Policy Statement 2019-2014 ([Déclaration de politique Wallonie 2019-2014](#)), September 2019 [last accessed 5 October 2019].

- On 30 September 2019, the new **Flemish government** finalised its **coalition agreement**.<sup>52</sup>

The Flemish government will stop the collaboration with UNIA. In order for this to materialise, the Flemish government has to inform UNIA of its decision by 15 September 2022 (the previous deadline to end the collaboration agreement was 15 September 2019, which the Flemish government missed due to the lack of a coalition agreement) in order to end the collaboration on 15 March 2023. UNIA was not involved in the decision of the Flemish government to end the cooperation. The establishment of an additional institution that focuses only on Flemish competences raises questions and concerns regarding the transfer of competences and expertise away from UNIA and regarding the added value of adding another institution working on equality and discrimination.<sup>53</sup> After the end of the cooperation, UNIA will remain active in Flanders for federal competencies such as hate speech and hate crime.

The new government will also require newcomers to pay for the integration process and plans on introducing higher thresholds for social benefits (including for access to social housing). The Minorities Forum (*Minderhedenforum*) is concerned about the additional barriers that these measures will constitute for people with a migration background.<sup>54</sup> Concerns have also been expressed about the decision to remove caravan dwellers and people without legal residence as target groups of the integration policy. Furthermore, the Flemish coalition agreement stipulates that organisations focussing on ethno-cultural origin, thereby promoting segregation, risk losing their subsidies (see further down).

All discrimination grounds (in Belgium: Age/Sexual Orientation/Civil status/Birth/Wealth/Philosophical or Religious Beliefs/Political Beliefs/Trade Union Membership/Language/State of Health/Disability/Physical or Genetic Characteristic/Social Background/Nationality/Presumed Race/Skin Colour/Ancestry/National or Ethnic Origin/Gender)

- In 2019, the Brussels Regional Public Service Housing Brussels (Huisvesting Brussels/Bruxelles Logement) published a brochure on **Discrimination on the housing market**.<sup>55</sup> The aim of the publication is to inform tenants and lessors about discrimination by addressing the issues people face in finding decent and affordable housing because of their ethnic origin, their disability, their gender and so on. The brochure also aims at providing tenants and lessors with the appropriate tools to respond to discrimination. The Regional Public Service equal.brussels co-financed the publication.<sup>56</sup>

### Positive action

- In 2019, the non-profit organisation Minorities Forum (Minderhedenforum) that represents ethnic-cultural associations in Flanders and Brussels, published a **brochure entitled ‘Time for Positive Action’** (Tijd voor Positieve Acties).<sup>57</sup> It concerns a worksheet with practical examples for employers with a sense of innovation. The publication provides a clear definition for positive action, expands on the legal framework (international, federal and regional), the

<sup>52</sup> Belgium, Flemish government 2019-2024 - Coalition agreement (*Vlaamse regering 2019-2024 - Regeerakkoord*), September 2019 [last accessed 5 October 2019].

<sup>53</sup> Belgium, Cavaria (2019), Flemish Coalition Agreement: Plus and Minut Points (*Vlaams Regeerakkoord: Plus- en Minpunten*) [last accessed 1 December 2019]. Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre inter fédéral pour l'égalité des chances*) (2019), Unia reacts to stop cooperation Flanders (*Unia reageert op stop samenwerking Vlaanderen*), UNIA, 30 September 2019 [last accessed 5 October 2019].

<sup>54</sup> Belgium, Minority Forum (*Minderhedenforum*) (2019), Minority Forum responds to the coalition agreement (*Minderhedenforum reageert op het regeerakkoord*), Minderhedenforum, 1 October 2019 [last accessed 5 October 2019].

<sup>55</sup> Belgium, Brussels Housing (*Brussel Huisvesting / Bruxelles Logement*) (2019), Discrimination on the housing market. What is it about? How to respond? (*Discriminatie op de huisvestingsmarkt. Waar gaat het over? Hoe reageren we erop? La discrimination au logement. De quoi s'agit-il? Comment y réagir?*), Brussels, Brussel Huisvesting / Bruxelles Logement [last accessed 5 October 2019].

<sup>56</sup> Belgium, Equal.brussels (2019), Brochure: Discrimination on het housing market (*Brochure over discriminatie op de huisvestingsmarkt / Brochure: discrimination au logement*), equal.brussels, 16 July 2019 [last accessed 5 October 2019].

<sup>57</sup> Belgium, Terlien M. and Spaas, N. (Minderhedenforum) (2019), Time for positive action. Inspiration for employers who want to innovate (*Tijd voor positieve actie. Inspiratie voor werkgevers met zin voor innovatie*), Brussels, Minderhedenforum [last accessed 5 October 2019].

conditions the measures must fulfil, the difference with positive action, the broad range of measures available that should be a part of a total approach, a fact check of the main arguments against positive action, and a hands-on roadmap that translates the theory on positive action to concrete action.

## 2. Research findings, studies or surveys on either experiences of discrimination or rights awareness

### Religion/Gender

- In 2018, UNIA was a member of the follow-up committee of a research project of the Centre for Intersectional Justice and Actiris. The research aimed at **investigating how insights on intersectional discrimination can be translated into practice**.<sup>58</sup> UNIA explains in its 2019 Annual Report that this project is particularly relevant to improve the labour market situation of women wearing a headscarf, who face discrimination based on their gender as well as their religion.<sup>59</sup> Whereas such type of intersectional discrimination has been receiving increasing attention, it has not yet resulted into concrete initiatives. The aim of the report was to transpose the concept of intersectionality into the analysis of the demographic, legal and economic context of the Brussels-Capital Region. The research project results from the desire of different social partners and intermediary organisations to implement a new method capable of diagnosing blind spots that hard any anti-discrimination policy. In this specific case, the blind spot is that such policies disregard a considerable number of groups who specifically suffer from discrimination. Therefore, the need for a paradigm shift in the assessment and the fight against discrimination in public policy takes up centre stage in this study.

The final report was presented by the Diversity Service of Actiris at a seminar entitled 'Intersectionality, a different view on discrimination' on 22 November 2018 in Brussels.<sup>60</sup> One of the main conclusions of the report is that gender, origin and other identity must be crossed, rather than considering the labour market in a one-dimensional way, in order to uncover those processes that lead to prejudices and inequalities in employment. Furthermore, the research pinpoints origin (non-European) and gender (women) as the main markers that affect employment opportunities.<sup>61</sup> Furthermore, the position of persons with a migration background on the labour market is influenced by their level of education and whether or not they have a diploma. The report and the remarks made by various stakeholders, including social partners and employers, will be used to develop specific measures to fight inequalities and discrimination in the labour market.<sup>62</sup> The focus will first be on the current policy in the

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<sup>58</sup> Belgium, Bentouhami, H., Center for Intersectional Justice and Actiris Brussels (2018), Intersectionality - Analysis of the transposition of the concept of intersectionality in the framework of the reform of the instruments to promote diversity and combat discrimination, ([Intersectionnalité – Analyse de la transposition du concept d'intersectionnalité dans le cadre de la réforme des instruments de promotion de la diversité et de lutte contre les discriminations](#) / [Intersectionaliteit – Analyse van de transpositie van het concept van intersectionaliteit in het kader van de hervorming van de instrumenten ter bevordering van diversiteit en bestrijding van discriminatie](#)), Berlin, Center for Intersectional Justice [last accessed 5 October 2019].

<sup>59</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussel, UNIA, p 71 [last accessed 5 October 2019].

<sup>60</sup> Belgium, European Commission Directorate-General Justice and Consumers (2019), [Intersectionality, a different view on discrimination](#), 9 April 2019 [last accessed 5 October 2019].

<sup>61</sup> Belgium, Bentouhami, H., Center for Intersectional Justice and Actiris Brussels (2018), Intersectionality - Analysis of the transposition of the concept of intersectionality in the framework of the reform of the instruments to promote diversity and combat discrimination ([Intersectionnalité – Analyse de la transposition du concept d'intersectionnalité dans le cadre de la réforme des instruments de promotion de la diversité et de lutte contre les discriminations](#) / [Intersectionaliteit – Analyse van de transpositie van het concept van intersectionaliteit in het kader van de hervorming van de instrumenten ter bevordering van diversiteit en bestrijding van discriminatie](#)), Berlin, Center for Intersectional Justice [last accessed 5 October 2019].

<sup>62</sup> Belgium, European Commission Directorate-General Justice and Consumers (2019), [Intersectionality, a different view on discrimination](#), 9 April 2019 [last accessed 5 October 2019].



Brussels-Capital Region, before proposing changes to the policy on intersectionality in the other two Regions.

The researchers developed an adapted methodology that makes it possible to take multiple and intersectional discrimination into account in the instruments included in the Brussels Reform Strategy 2025.<sup>63</sup> One way of doing so was by developing target group categories that are more inclusive. Special consideration was given to the difference between social and legal categories, given their strong overlap in terms of content as well as their differences in terms of functions. The researchers were aware of the risk of re-stigmatisation, while also pointing out that stigmatisation is rather a consequence of political and media discourses rather than of categorisation. The researchers' method included three different steps: (a) state of affairs & quantitative analysis of discrimination in the employment sector; (b) specific application of the concept intersectionality in companies; (c) making intersectionality read for use as a tool for government action.<sup>64</sup>

## Disability

- Following years of complaints from deaf and hard of hearing persons about problems to make an appointment, to find their way in a building, the lack of availability of an interpreter for Sign Language, UNIA published a **study report on how to improve the accessibility of hospitals for deaf and hard of hearing persons** in the summer of 2019.<sup>65</sup> Two queries about the accessibility of deaf and hard of hearing persons lay at the basis of the report. In the spring of 2017, in commission of UNIA, a student surveyed all Flemish hospitals via an online questionnaire, supplemented with several qualitative interviews with hospital staff. 31 out of 63 hospitals in Flanders replied to the questionnaire, of which 28 were complete. At the end of 2017, UNIA surveyed French-speaking and German-speaking hospitals by means of an online questionnaire. Out of 52 general hospitals (Walloon, Brussels and German-speaking) contacted for the second survey, 20 completed the questionnaire. Both questionnaires inquired about the familiarity with deaf and hard of hearing persons and the provision of services for this group. Some of the questions were adjusted following the first survey.

In the report, UNIA emphasises that right to health care is a fundamental human right and that they are entitled to reasonable accommodation in the hospital. Thresholds preventing equal access to hospitals are identified in prevention and information campaigns on health from the government, in the preparation of a hospital visit (information, appointment), in the hospital itself (waiting rooms, stay), during consultations and treatments (communication).

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<sup>63</sup> Belgium, Bentouhami, H., Center for Intersectional Justice and Actiris Brussels (2018), Intersectionality - Analysis of the transposition of the concept of intersectionality in the framework of the reform of the instruments to promote diversity and combat discrimination (*Intersectionnalité – Analyse de la transposition du concept d'intersectionnalité dans le cadre de la réforme des instruments de promotion de la diversité et de lutte contre les discriminations / Intersectionaliteit – Analyse van de transpositie van het concept van intersectionaliteit in het kader van de hervorming van de instrumenten ter bevordering van diversiteit en bestrijding van discriminatie*), Berlin, Center for Intersectional Justice, pp 7-8 [last accessed 5 October 2019].

<sup>64</sup> Belgium, Bentouhami, H., Center for Intersectional Justice and Actiris Brussels (2018), Intersectionality - Analysis of the transposition of the concept of intersectionality in the framework of the reform of the instruments to promote diversity and combat discrimination (*Intersectionnalité – Analyse de la transposition du concept d'intersectionnalité dans le cadre de la réforme des instruments de promotion de la diversité et de lutte contre les discriminations / Intersectionaliteit – Analyse van de transpositie van het concept van intersectionaliteit in het kader van de hervorming van de instrumenten ter bevordering van diversiteit en bestrijding van discriminatie*), Berlin, Center for Intersectional Justice, p 9 [last accessed 5 October 2019].

<sup>65</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), Study report and recommendations: for better accessibility of hospitals for the deaf and hard of hearing (*Studierapport met aanbevelingen: betere toegankelijkheid ziekenhuizen voor dove en slechthorende personen / Rapport d'étude et recommandations: pour une meilleure accessibilité des hôpitaux aux personnes malentendantes et sourdes*), Brussels, UNIA, 4 July 2019 [last accessed 5 October 2019].

The report includes recommendations in order to ensure respect for the fundamental rights of deaf and hard of hearing persons as persons with disabilities. To remove the abovementioned thresholds, policymakers (accessible campaigns, clear guidelines and sufficient funding), hospitals (improve awareness and policies) and deaf and hard of hearing persons (better knowledge about their rights and existing provision of services) must take action. The recommendations were formulated in collaboration with association of deaf and hard of hearing persons, interpretation services, associations of interpreters, the competent administrations, hospitals and some hospital employees. UNIA also developed an information sheet for hospital employees in order to improve communication with deaf and hard of hearing persons.

- Persons with disabilities not only face mobility and accessibility issues to exercise their right to vote, but also in terms of insufficient accessible support and information or the lack of a well-educated and informed setting.<sup>66</sup> Their capacity to vote is also often questioned. Within the framework of the 2018 local elections and the 2019 federal, regional and European elections in 2019, UNIA conducted **a study on civic participation of persons with a mental and/or physical disability**.<sup>67</sup> The study aimed at gathering information about voting practices in communities, identifying obstacles persons with disabilities face when exercising their right to vote, and measuring the participation of citizens to the 2018 and 2019 elections.<sup>68</sup> On 16 May 2019, the co-director of UNIA wrote an opinion on this topic in anticipation of the 26 May elections in which it stated that voters with a mental limitation or a physical vulnerability often do not vote and so their voice is not heard, which needs to be changed.<sup>69</sup>

For the study, persons with a disability, those around them and experts were interviewed.<sup>70</sup> UNIA held a range of individual interviews and group meetings with 80 people with a mental and/or a physical vulnerability, focusing on their experiences. The participants either live independently, in a familial community or in a facility. All participants were between 18 and 81 years old and spread across all three Regions. UNIA also talked about the course and the preparation of the elections with close family members, the direction of facilities, doctors, educators, social workers and heads of departments. Additionally, a questionnaire was spread across the management of facilities in order to assess the participation of their target audience in the elections and find out more about their vision on the right to vote for people with a disability.

On 23 April 2019, UNIA announced the first findings of the study: persons with a disability have the same interest in politics compared to others; some are equally prepared for the elections; some persons with disabilities do not face any difficulties to vote; some professionals consider the right to vote as part of their mission to fully integrate persons with disabilities into society and they make great efforts to prepare them for the elections.<sup>71</sup> The first findings also

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<sup>66</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussel, UNIA, p 50 [last accessed 5 October 2019].

<sup>67</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussel, UNIA, p 58 [last accessed 5 October 2019].

<sup>68</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussel, UNIA, p 50 [last accessed 5 October 2019].

<sup>69</sup> Belgium, Keytsman E. (2019), Voters with a disability or psychological vulnerability often do not vote ([Kiezers met een beperking of psychische kwetsbaarheid gaan vaak niet stemmen](#)), *opinion on Sociaal.Net*, 16 May 2019 [last accessed 5 October 2019].

<sup>70</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), People with disabilities want to vote, but prejudices and a lack of resources make it difficult ([Mensen met een handicap willen gaan stemmen, maar vooroordelen en een gebrek aan hulpmiddelen maken dat moeilijk / Les personnes handicapées veulent voter, mais les préjugés et le manque de moyens font obstacles](#)), 23 April 2019 [last accessed 5 October 2019].

<sup>71</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), People with disabilities want to vote, but prejudices and a lack of resources make it difficult ([Mensen met een handicap willen gaan stemmen, maar vooroordelen en een gebrek aan hulpmiddelen maken dat moeilijk / Les personnes handicapées veulent voter, mais les préjugés et le manque de moyens font obstacles](#)), 23 April 2019 [last accessed 5 October 2019].

point to some difficulties: some professionals wonder whether persons with a disability are capable to cast a knowledgeable vote; professionals lack the time and means to properly prepare their people for the elections; a lack of comprehensible information and documentation prevents those who want this to properly prepare for the elections; polling stations are not always adjusted to the needs of the target audience (some find it difficult to understand the ballot papers and instructions; persons with a psychological vulnerability may experience polling stations as a stressful environment).<sup>72</sup> The first findings also show that the circle around persons with a mental and/or physical disability plays an important role in their political participation. In April 2019, UNIA published an article on its website to disprove some of the prejudices that exist about voters with a physical and a mental disability.<sup>73</sup> In its 2018 annual report, UNIA announced that the final report of the study would be published in the autumn of 2019.<sup>74</sup>

In September (in French) and October (in Dutch) 2018, UNIA made available on its website an overview of the tools (to be) used by associations and public services in order to prepare persons with a disability to vote.<sup>75</sup> It concerns information about campaigns, websites, brochures, information sessions, educational material, and best practices. UNIA regularly updates the webpage.

- In 2019, UNIA published a report on **the most important challenges to rendering Belgian schools inclusive**, including the need for a long-term vision, the training of personnel, the attribution of budgetary resources, and the organisation of transition.<sup>76</sup> The report includes inspiration and examples of schools that work inclusively. The publication of the report follows months of collaboration with UNIA’s so-called “Inspiration group”, which gathers experts from the education sector, policy, academics, organisations representing persons with a disability, and persons with a disability themselves. One of the issues raised for effective inclusive education was school transport for persons with disabilities.<sup>77</sup> This remains a topical issue that has been included in both the government agreements.<sup>78</sup> A number of concrete measures have been taken in 2019 in order to improve school transportation:
  - At the end of 2018, the government of the Walloon region decided to allocate an additional 1 million euros in the 2019 budget for the establishment of a personalised

<sup>72</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), People with disabilities want to vote, but prejudices and a lack of resources make it difficult ([Mensen met een handicap willen gaan stemmen, maar vooroordelen en gebrek aan hulpmiddelen maken dat moeilijk / Les personnes handicapées veulent voter, mais les préjugés et le manque de moyens font obstacles](#)), 23 April 2019 [last accessed 5 October 2019].

<sup>73</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), Elections 2019: What are the prejudices about voters who are mentally vulnerable and mentally disabled? (*Verkiezingen 2019: Wat zijn de vooroordelen over kiezers met een psychische kwetsbaarheid en verstandelijke beperking?*), 23 April 2019. UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), The right to vote also for people with a mental disorder or intellectual disability ([Le droit de vote aussi pour les personnes avec un trouble psychique ou une déficience intellectuelle](#)), 23 April 2019 [last accessed 5 October 2019].

<sup>74</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussel, UNIA, p 50 [last accessed 5 October 2019].

<sup>75</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2018), Tools to prepare persons with disability to vote ([Outils pour préparer les personnes en situation de handicap au vote](#)), 10 September 2018. UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2018), Preparing people with disabilities for elections ([Mensen met een handicap voorbereiden op de verkiezingen](#)), 2 October 2018. UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussels, UNIA, pp 58-59 [last accessed 5 October 2019].

<sup>76</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), Towards an inclusive education system in Belgium: inspiration and examples ([Naar een Inclusief Onderwijssysteem in België: inspiratie en voorbeelden / Vers un système d'éducation inclusif en Belgique: inspirations et exemples](#)), Brussels, UNIA [last accessed 5 October 2019].

<sup>77</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), UNIA Annual Report 2018 ([UNIA Jaarrapport 2018 / UNIA Rapport Annuel 2018](#)), Brussels, UNIA [last accessed 2 January 2020].

<sup>78</sup> Belgium, Flemish Government (*Vlaamse Overheid*) (2019), Flemish Coalition Agreement 2019-2024 ([Vlaams Regeerakkoord 2019-2024](#)), p. 30, October 2019 [last accessed 2 January 2020]; Belgium, Wallonia-Brussels Federation (*Fédération Wallonie-Bruxelles*) (2019), [Regional Policy Statement of the Wallonia-Brussels Federation \(Déclaration de politique de la Fédération Wallonie-Bruxelles 2019-2024\)](#), p. 13 [last accessed 2 January 2020]; Belgium, Government of the French Community (*Gouvernement de la Communauté française*) (2019), [Regional Policy Statement of Wallonia 2019-2024 \(Déclaration de politique régionale pour la Wallonie 2019-2024\)](#), pp. 95 [last accessed 2 January 2020].

taxi service for children who face long journeys on a daily basis. In addition, the duration of school journeys was the subject of an audit carried out on the management of the transport for the management of school transport for pupils with special needs in the Walloon Region. The audit found that in March 2018, 1.613 pupils experienced a daily school journey longer than three hours, and for 400 of these pupils the duration of the journey increased to four hours.<sup>79</sup>

- In September 2019, the French Community Committee (COCOF) of the Brussels-Capital Region set up two new routes to address the problem of journey times. A prospective audit will be carried out. The results are expected in the summer of 2020.<sup>80</sup>
- According to a survey conducted by the Academy of Research and Higher education (Académie de recherche et d'enseignement supérieur), the **number of requests for reasonable accommodations in higher education increased** because the Decree of 30 January 2014 on Inclusive Higher Education<sup>81</sup> and the procedures became more visible, considering that secondary education also introduced reasonable accommodations and that services for inclusive education have been established in the educational institutions in the French-speaking Community. 57% of the requests concerns learning disabilities, 20% concerns serious illness, 9% concerns psychological disabilities, 7% concerns sensory disabilities, and 6% concerns motor disabilities. Notwithstanding the increase in the number of applications and the overall positive evaluation that points to a beginning of a change in mentality among students and teachers (willingness to change things and work together), the report highlights that a number of problems remain, including respect for the deadlines to process applications and the diversity and complexity of certain profiles.

### Situation testing

- On 11 December 2018, the non-profit organisation Mycadis announced the results of first range of **situation testing** it had organised **among service voucher companies** (dienstenchequesbedrijven) **in the Flemish Region**.<sup>82</sup> All recognised companies active in Flanders were included in the random sample. The number of calls per company were based on the number of service vouchers submitted. It was decided at random which branch of a company was called. The calls were made by experienced mystery callers in a home-setting with the following scenario: "I am looking for help with my household/ironing/groceries/transportation for myself/my (grand)parents. Would it be possible to have an aid who is not an immigrant/male/young person?" The mystery agent completed a short questionnaire with closed and open questions following each mystery call. Best practices, if present, were also written down. Each questionnaire was validated by an Ipsos project leader to ensure the accuracy of the assessment of the answer given to the discriminatory question.

A total of 1364 mystery calls were made between 20 June 2018 and 24 September 2018. 1281 were done in Dutch and 83 in French. Out of 1249 executed mystery calls in which a discriminatory question was asked, 30% showed indications of discrimination. Most often it concerned the discrimination ground age (younger and older employees) (47%), followed by

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<sup>79</sup> Belgium, Belgium Audit Court (Cour des comptes), the management of the transport for the management of school transport for pupils with special needs in the Walloon Region ([La gestion du transport scolaire des élèves à besoins spécifiques en Région wallonne](#)), 19 April 2019 [last accessed 2 January 2020].

<sup>80</sup> Belgium, Brussels Francophone Parliament (Assembly of the French Community Committee) [Parlement francophone bruxellois \(Assemblée de la Commission communautaire française\)](#) Session 2019-2020, 4 October 2019, C.R. N° 5 (2019-2020), p. 14 [last accessed 2 January 2020]; Belgium, email exchange with Unia, 10 October 2019.

<sup>81</sup> Belgium, Decree on inclusive higher education ([Décret relatif à l'enseignement supérieur inclusif](#)), 30 January 2014. Publication in Belgian Official Gazette 9 April 2014 [last accessed 5 October 2019].

<sup>82</sup> Belgium, Vandenborne, K. and Vandewalle, J. (Ipsos) (2018), '[Mystery calls in the dienstenchequesector](#)', presentation given to the Flemish Parliament, 11 December 2018 [last accessed 5 October 2019].



gender (25%) and origin (18%). According to Mycadis, the numbers can be explained by age being less well known as a discrimination ground, whereas companies are more aware that asking clients about the origin of an employee is discriminatory and punishable.<sup>83</sup> When it comes to gender, this discrimination ground is more difficult to evaluate because not many men are employed in service voucher companies. In 22% of the mystery calls, the discriminatory question is not sufficiently clear rejected. Those companies that accepted discriminatory requests have to follow a training on anti-discrimination legislation and diversity management. In practice, this means that 281 of the 529 companies contacted are eligible for coaching and follow-up. While acknowledging that it concerns an important first for Belgium, UNIA regrets that the tests are only organised by the sector itself, instead of by an independent organisation in a complementary way.<sup>84</sup>

- Researchers from the Vrije Universiteit Brussels conducted a study in 2018 in order to examine, to the extent possible, the extent to which the three categories of measures included in the Action Plan against Discrimination on the Brussels Housing Market<sup>85</sup> have had an impact on **the willingness of real estate agents in Brussels to accept discriminatory requests**.<sup>86</sup> Between 18 September and 17 October 2018, the researchers organised 283 mystery calls concerning ethnical discrimination and 237 mystery calls concerning discrimination based on source of income. The study also uncovers that 25% / 34% of the real estate agents in Brussels is willing to – at the request of the owner – treat prospective tenants of foreign origin / receiving social benefits less favourably one way or the other. The research findings show that 29% of the real estate agents who accept a discriminatory assignment mention spontaneously that this is essentially illegal. As such, it concerns very conscious discrimination. UNIA points out that this demonstrates that a purely preventive approach to discrimination does not suffice.<sup>87</sup> Compared to data from 2017, the willingness among real estate agents in Brussels to discriminate has decreased considerably when it concerns discrimination on the basis of racial origin (from 43% in 2017 to 25% in 2018). For discrimination based on source of income, the decrease is less pronounced (from 37% in 2017 to 34% in 2018). The researchers point out that no causal links can be made between the action plan and the discrimination patterns, because the 2018 study did not include a Controle group of real estate agents in the Brussels-Capital Region to whom the action plan did not apply. Other possible explanatory factors (including the broader societal climate and offer/demand on the housing rental market) cannot be verified. The researchers continue that, despite these limitations and assuming that the action plan has had an effect, the statistical analysis does not allow them to say which specific categories of measures (e.g. training day for real estate agents; regionalisation of the rental agreements; information and awareness campaigns and the media discourse of the Brussels Minister of Housing) from the plan potentially did (not) have an effect.

### Sexual orientation

In May 2019, Méthos published the report entitled ‘**Insecurity, discrimination and violence against LBTIQI+ persons in the Brussels Capital Region**’.<sup>88</sup> The qualitative study in the

<sup>83</sup> Belgium, Vandenborne, K. and Vandewalle, J. (Ipsos) (2018), ‘[Mystery calls in the dienstenchequesector](#)’, presentation given to the Flemish Parliament, 11 December 2018 [last accessed 5 October 2019].

<sup>84</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussel, UNIA, p 9 [last accessed 5 October 2019].

<sup>85</sup> Belgium, Fremault, C. (2018), Situation tests to identify discriminatory practices in access to housing ([Situatietesten om discriminerende praktijken bij de toegang tot huisvesting op te sporen](#)), 26 October 2018 [last accessed 5 October 2019].

<sup>86</sup> Belgium, Verhaeghe, P. And Mastari, L. (2018), Mystery shopping by estate agents in the Brussels-Capital Region ([Mystery shopping by makelaars in het Brussels Hoofdstedelijk Gewest](#)), Brussels, Vrije Universiteit Brussel [last accessed 5 October 2019].

<sup>87</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussel, UNIA, p 18 [last accessed 5 October 2019].

<sup>88</sup> Belgium, Méthos (2019), Insecurity, discrimination and violence against LBTIQI+ persons in the Brussels Capital Region (*Onveiligheid, discriminatie en geweld tegen LBTQI+ personen in het Brussels Hoofdstedelijk Gewest / L'insécurité, la violence et la discrimination à l'égard des personnes LBTQI+ dans la région de Bruxelles-Capitale*). Belgium, Email exchange with regional public service equal.brussels, 2 December 2019.



Brussels' LGBTQI+ communities was commissioned by the Regional Public Service equal.brussels and the State Secretary for Equal Opportunities of the Brussels-Capital Region. The study ran between November 2018 and February 2019 and included a focus group and interviews that inquired about the micro dynamics of feelings of insecurity and experiences with verbal, physical, sexual and material violence against LGBTQI+ persons in the regional public space, what it means to become a victim and how insecurity feelings and violence affect the personality and daily life. The result shows that the respondents have a critical awareness about the position of LGBTQI+ in the Brussels Capital Region. LGBTQI+ cannot always fully experience their sexual orientation and gender identity in the public space, particularly in some neighborhoods, which the respondents describe as socially disadvantaged. Incidents in the public space happen unexpectedly and at any moment of the day. Furthermore, incidents largely are reactions to visible characteristics as well as perceived characteristics of the victims, including their gender, age, sexual orientation and gender identity, ethnicity and socio-economic status. Violence against LGBTQI+ can be seen as a result of the clash between a privileged position and a disadvantaged position (examples cited include man vs. women, gender stereotypical vs. gender conformity; white vs. coloured; etc). As such, problems are mainly caused by present power structures. Negative impacts on respondents caused by feelings of insecurity include emotional consequences and behavioural adjustments. Policy measures addressing these issues should take account of the large diversity within the LGBTQI+ community. The researchers believe that intensive cooperation between government agencies and civil society is crucial.

## Chapter 2. Racism, xenophobia and related intolerance

### 1. Legal, policy developments and measures relating to the application of the Racial Equality Directive

- On 5 May 2019, the **Law amending the Criminal Code, with a view to increasing the use of alternative means to curb racial or xenophobic delinquency, and to prevent repeat discrimination more effectively** was adopted.<sup>89</sup> It entered into force on 7 June 2019. The amendments facilitate the use of alternative measures among the probation conditions that can be applied within the framework of the anti-racism law, the anti-discrimination law, the negationism law and the sexism law.
- In March 2019, on the occasion of the international day against racism, UNIA announced that the **number of files on racism it had opened in 2018 further increased for the fourth time in a row**.<sup>90</sup> The number of cases about racism increased from 782 in 2017 to 866 in 2018. UNIA stressed the need for an action plan at all levels of government to fight racism.
- In 2011, at the occasion of the Durban UN Conference, Belgium promised to **adopt an Action Plan Against Racism**. Considering that this never happened, UNIA repeats this recommendation for the 17<sup>th</sup> year in a row (making it one of its oldest recommendations).<sup>91</sup> The former State Secretary for Equal Opportunities had promised to define the outlines of this plan, which was renamed the ‘Plan for Living Together’ or ‘Society Plan’ that had to address all forms of radicalism, racism and societal issues. The **federal government** resigned, however, even before the consultations with stakeholders had started. In the meantime, civil society established a National Coalition for an inter-federal action plan against racism in 2018, in order to work on the matter in parallel.<sup>92</sup> The Coalition has 50 members and lobbies who are in favour of an action plan.<sup>93</sup> In May 2018, the Coalition formulated 11 proposals that could form the basis for an inter-federal plan and presented them to the Chamber of Representatives. The proposals were also sent to all Belgian parliamentarians as well as to the Ministers and State

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<sup>89</sup> Belgium, Law amending the Criminal Code, with a view to increase the use of alternative means to curb racial or xenophobic delinquency, and to prevent repeat discrimination more effectively (*Wet houdende wijziging van het Strafwetboek, teneinde meer in te zetten op alternatieve maatregelen bij de beteugeling van door racisme of xenofobie ingegeven delinquentie, en in verband met discriminatie herhaling doeltreffender tegen te gaan / Loi portant modification le Code Pénal afin de favoriser les mesures alternatives dans la prise en charge de la délinquance inspirée par le racisme ou la xénophobie et de mieux lutter contre la récidive en matière de discrimination*), 5 May 2019. Publication in the Belgian Official Gazette 28 May 2019 [last accessed 5 October 2019].

<sup>90</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre inter-fédéral pour l'égalité des chances*) (2019), In 2018, Unia once again open more files related to racism (*In 2018 nam het aantal dossiers over racisme verder toe bij UNIA / En 2018, Unia a de nouveau ouvert plus de dossiers sur le racisme*), UNIA, 21 March 2019 [last accessed 5 October 2019].

<sup>91</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre inter-fédéral pour l'égalité des chances*) (2019), Annual Report 2018 - Restoring human rights (*Jaarverslag 2018 – Mensenrechten in ere herstellen*), Brussel, UNIA, pp 65-66 [last accessed 5 October 2019].

<sup>92</sup> Belgium, Coalition for a national plan against racism (*Coalition pour un plan national contre le racisme*) (2018), *‘Le plan de “vivre ensemble” de Zuhair Demir, une drôle de conception de l’antiracisme’*, opinion in *La Libre Belgique*, 29 November 2018. Coalition for an inter-federal action plan against racism (*Coalitie voor een interfederaal actieplan tegen racisme*) (2018), *‘Waar blijft het langverwachte actieplan tegen racisme van deze regering?’*, opinion in *Knack*, 3 December 2018. Coalition for an inter-federal action plan against racism (*Coalitie voor een interfederaal actieplan tegen racisme*) (2018), *Racisme bestrijd je niet met voornemens alleen*, opinion in *De Standaard*, 22 May 2018 [last accessed 5 October 2019].

<sup>93</sup> Belgium, As an independent government institution for equal opportunities, UNIA is not a member of the Coalition, but UNIA has attended some of the meetings as a observer. UNIA (*Interfederaal Gelijkekansencentrum/Centre inter-fédéral pour l'égalité des chances*) (2019), Annual Report 2018 - Restoring human rights (*Jaarverslag 2018 – Mensenrechten in ere herstellen*), Brussel, UNIA, p 66 [last accessed 5 October 2019].

Secretaries of all governments.<sup>94</sup> In July 2019, the Coalition met with all the political parties involved in negotiating the new Brussels government agreement.<sup>95</sup>

The 11 proposals put forward by the Coalition as the basis of a first intergovernmental action plan against racism include: (1) Monitor the systematic involvement of all relevant actors; (2) Pay attention to intersectionality and specific forms of racism; (3) Improve the judicial follow-up of infringements of anti-discrimination laws; (4) Conduct an inclusive neutrality policy, rather than restricting the wearing of signs of (suspected) ideological accessories; (5) Conduct a sustainable subsidy policy for anti-racist organisations; (6) better map racism in Belgium through monitoring and research; (7) Implement positive actions; (8) Introduce anti-discrimination plans for the federal and local police; (9) Diversity in the legal system; (10) Conduct an anti-discrimination test for every new Belgian law; (11) Tackle racist cyberhate.<sup>96</sup>

- Following the approval of a preliminary draft in July 2018, the **Brussels-Capital Region** adopted its **Action Plan against Racism and Discrimination** in March 2019.<sup>97</sup> UNIA as well as the National Coalition for an intergovernmental action plan against racism provided advice to the Brussels' regional government and emphasised the importance of a clear and well-structured process of consultation on this topic.<sup>98</sup> The Plan was developed and will be executed by various actors, including UNIA, the Institute for the Equality of Women and Men, the boards of the Brussels Regional Public Service (Housing, Local Authorities, Economy and Employment), talent.brussels, Actiris, and the labour unions and Brussels' associations that are members of the intergovernmental Coalition for the Fight against Racism.<sup>99</sup> The Brussels Regional Public Service equal.brussels will coordinate the implementation of the action plan, which includes 23 concrete measures to fight racism and discrimination and to create a society in which respect, tolerance and solidarity between population groups play a central role. All the Ministers and State Secretaris of the Brussels government have to take the anti-racism and anti-discrimination policy into account within the framework of their competences.
- The **project entitled 'Holocaust, police and human rights'** (Holocaust, politie en mensenrechten) in the Kazerne Dossin in Mechelen **has a positive and sustainable impact.**<sup>100</sup> The project, a structural collaboration between the Belgian federal police, the Kazerne Dossin<sup>101</sup> and UNIA, kicked off on 27 January 2014, exactly 69 years after the liberation of Auschwitz.

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<sup>94</sup> Belgium, Orbit (2018), [Coalitie voor een interfederaal actieplan tegen racisme](#), Orbit vzw, 22 May 2018. Orbit (2019), Coalition for an intergovernmental plan against racism ([Coalition pour un plan interfedéral contre le racisme](#)), Orbit, 6 January 2019 [last accessed 5 October 2019].

<sup>95</sup> Belgium, Orbit (2019), Coalition for an intergovernmental plan against racism ([Coalition pour un plan interfedéral contre le racisme](#)), Orbit, 6 January 2019. Orbit (2018), Coalition for an intergovernmental action plan against racism ([Coalitie voor een interfederaal actieplan tegen racisme](#)), Orbit vzw, 22 May 2018 [last accessed 5 October 2019].

<sup>96</sup> Belgium, Coalitie voor een interfederaal actieplan tegen racisme (2018), Eleven propositions for an intergovernmental action plan against racism ([Elf voorstellen voor een interfederaal actieplan tegen racisme](#)), Orbit vzw, 22 May 2018. Coalition pour un plan national contre le racisme (2018), Eleven propositions for an intergovernmental action plan against racism ([Onze propositions pour un plan d'action belge contre le racisme](#)), BePax, 22 May 2018 [last accessed 5 October 2019].

<sup>97</sup> Belgium, Brussels Regional Public Service ([Gewestelijke Overheidsdienst Brussel](#)) (2019), Brussels action plan against racism and discrimination 2019-2020 ([Brussels actieplan Ter bestrijding van racisme en discriminatie 2019-2020](#)), Brussels Regional Public Service (Gewestelijke Overheidsdienst Brussel) 29 March 2019. Brussels Regional Public Service ([Service Public Régional de Bruxelles](#)) (2019), [Plan d'action Bruxellois Pour lutter contre le racisme et les discriminations 2019-2020](#), Brussels Regional Public Service (Service Public Régional de Bruxelles), 29 March 2019 [last accessed 5 October 2019].

<sup>98</sup> Belgium, The department [Equal.brussels](#) organised the consultation in 2019, with the help of UNIA. UNIA (Interfederaal Gelijkekansencentrum/Centre interfedéral pour l'égalité des chances) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussel, UNIA, p 66 [last accessed 5 October 2019].

<sup>99</sup> Belgium, Brussels Regional Public Service ([Gewestelijke Overheidsdienst Brussel](#)) (2019), Regional action plan against racism ([Gewestelijk actieplan tegen racisme](#)), Brussels Regional Public Service ([Gewestelijke Overheidsdienst Brussel](#)), 29 March 2019 [last accessed 5 October 2019].

<sup>100</sup> Belgium, UNIA ([Interfederaal Gelijkekansencentrum/Centre interfedéral pour l'égalité des chances](#)) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussel, UNIA, p 44 [last accessed 5 October 2019].

<sup>101</sup> Belgium, The barracks were used by the Nazi regime between 1942 and 1944 as a collection camp to gather as much as possible Jews and Roma. In total, 25484 Jews and 352 Roma left for Auschwitz-Birkenau from the Kazerne Dossin.

The Belgian police calls this milestone a positive evaluation in the training of police, as it would have been unthinkable 15 years ago.<sup>102</sup> It concerns the in-house training of trainers, who guide groups during the day of training Holocaust, police and human rights, which all members of the integrated police have to follow. In 2018, the trainers received a two-day refresher course, in order to improve the quality of the training. According to UNIA, the impact of the training is strengthened because it is supported by the police itself, considering that members of the police force raise awareness among their own colleague about the need to think for oneself and show moral courage in a professional context.<sup>103</sup> On 23 September 2019, Kazerne Dossin welcomed its 10.000<sup>th</sup> participant in the training Holocaust, Police and Human Rights and it was announced that almost one out of five members of the police force (the Integrated Police counts more than 51.000 employees) have completed the training.<sup>104</sup>

In 2017, researchers of the Vrije Universiteit Brussels who **researched the impact of the training on the participants** by means of a longitudinal study (in-depth questionnaire) with 3 measurement points (the first right after the training session; the second the day after the training; the third one month after the training).<sup>105</sup> The data were collected from 20 February 2017 to the end of December 2017 included. All participants of 83 sessions were asked to participate (voluntary and anonymously) and to complete the first questionnaire. Of the 1255 participants, 54.7% communicated a working email address and showed willing – in principle – to participate in the follow-up research, half (48.6%) actually participate in the second query and 33.7% in the third query.

The **results of the optimisation study** ‘Holocaust, police and human rights: a study into the influx of experiences of participants and impact of the HPM-training of Kazerne Dossin’ were published in December 2018 and uncover an undeniable impact on the participants and the sustainable effect thereof, especially so when it concerns ethnic prejudices.<sup>106</sup> The highest impacts concern the tendency of participants to punish reprehensible behaviours of colleagues, which implies that one of the key messages of the training (every individual can always say ‘no’) is being successfully transmitted. The training was further improved in 2019, based on the researchers’ conclusion that the measured impact varies according to the professional context.

- In May 2019, one year after the publication of its report on **ethnic profiling by the police**,<sup>107</sup> Amnesty International assessed the situation in Belgium.<sup>108</sup> Ethnic profiling by the police has been put on the political agenda since the publication of the report in May 2018. This has

<sup>102</sup> Belgium, Federal Police (Federale Politie) (2019), Holocaust, Police and Human rights: “Ringling a bell” (*Holocaust, politie en mensenrechten: “Een belletje doen rinkelen”*), Federal Police (Federale Politie), 27 January 2019 [last accessed 5 October 2019].

<sup>103</sup> UNIA (Interfederaal Gelijkekansencentrum/Centre interfédéral pour l’égalité des chances) (2019), Annual Report 2018 - Restoring human rights (*Jaarverslag 2018 – Mensenrechten in ere herstellen*), Brussel, UNIA, p 44 [last accessed 5 October 2019].

<sup>104</sup> Kazerne Dossin (2019), *10.000ste deelnemer opleiding HPM*, Kazerne Dossin, 23 September 2019 [last accessed 5 October 2019].

<sup>105</sup> Vrije Universiteit Brussel (2018), Executive Summary of the Study ‘Holocaust, police and human rights: an investigation into the influx of experiences of participants and the impact of the HPM training of Kazerne Dossin’ (*Executive Summary van de Studie ‘Holocaust, politie en mensenrechten: een onderzoek naar de instroom van ervaringen van deelnemers en impact van de HPM-opleiding van Kazerne Dossin’*), Mechelen, Kazerne Dossin [last accessed 5 October 2019].

<sup>106</sup> Spruyt, B., Van Droogenbroeck F. and Lemble, H. (Vrije Universiteit Brussel) (2018), Study ‘Holocaust, police and human rights: an investigation into the influx of experiences of participants and the impact of the HPM training of Kazerne Dossin. Executive Summary (*Holocaust, politie en mensenrechten: een onderzoek naar de instroom van ervaringen van deelnemers en impact van de HPM-opleiding van Kazerne Dossin. Executive Summary*)’, Brussels, Kazerne Dossin. Federale Politie (2018), Training in Kazerne Dossin makes police officers more conscious of human rights (*Opleiding in Kazerne Dossin maakt politieagenten bewuster van mensenrechten*), Federal Police (Federale Politie), 6 December 2018 [last accessed 5 October 2019].

<sup>107</sup> Belgium, Amnesty International Flanders (Amnesty International Vlaanderen) (2018), ‘You never know with people like you.’ Police policy to prevent ethnic profiling in Belgium (*‘Je weet nooit met mensen zoals jij’. Politiebeleid ter preventie van etnisch profileren in België*), Brussels, Amnesty International België [last accessed 5 October 2019].

<sup>108</sup> Belgium, Claeys, A. (Amnesty International Vlaanderen) (2019), Report on Ethnic Profiling: one year later (*Rapport etnisch profileren: één jaar later*), blog on Amnesty International Vlaanderen, 7 May 2019 [last accessed 5 October 2019].

resulted in an important dialogue with the Minister of Interior who manages the police, various parliamentary questions, a special hearing on ethnic profiling by the Commission of Home Affairs (Commissie Binnenlandse Zaken), and a debate evening with several political parties, all of which agreed with the main recommendations made in Amnesty's 2018 report and stated to be in favour of the registration of police checks.

- In June 2019, research conducted by the University of Antwerp uncovered that **young people feel ethnically profiled during identity checks by the police and that they trust the police less and even avoid them.**<sup>109</sup> Social Science students made enquiries among 640 Antwerp youngsters between the age of 15 and 23 to research ethnic profiling among Antwerp youth by the police. More specifically, the analysis of 640 surveys shows that ethnic-cultural minorities (at least one of both parents had a non-European nationality at birth) are almost three times more likely to be halted by the police without a good reason, are significantly more often the subject of identity checks, frisks and stops by a motorised vehicle, show a significant lower level of trust in the police compared to the ethnic-cultural majority, and more frequently mention disrespectful treatment by the police. This was confirmed by the results of the focus groups held. Youngsters of an ethnic-cultural minority develop coping strategies to avoid police contact by avoiding certain places, dressing differently, or being very obliging during contacts with the police.

Amnesty International Flanders responded to the university's findings and stated that this is in line with its own investigation report in which police officers themselves confirmed that ethnic profiling by the police is a reality in Belgium, and repeated its call for registrations of police checks in order to investigate and analyse the problem and adopt suitable measures to counter ethnic profiling.<sup>110</sup>

- In June 2019, the report **Profile and trajectory of jobseekers in the Brussels-Capital Region. Monitoring according to origin** was published.<sup>111</sup> It contains the results of the first diversity monitoring in the area of employment in the Brussels-Capital Region, which aimed at researching the impact of one's foreign origin on one's employment opportunities in Brussels.<sup>112</sup> The analysis was based on jobseekers registered with Actiris between 2013 and 2016 in order to study their situation over three years. To guarantee a relevant representativeness, the researchers only selected origin groups that represent at least 5% of all jobseekers enrolled on 31 December 2015. This resulted into 9 groups: Belgium, neighbouring countries, Southern Europe, Eastern Europe, Maghreb, Turkey, Congo-Kinshasa/Burundi/Rwanda, other African countries, other Asian countries. The research was conducted by view.brussels, the Brussels observatory for work and training, at the request of the Brussels Minister of Economy, Employment and Vocational Training. It concludes that a person's foreign roots make up an obstacle when looking for work.

The report first considers origin in the analysis and then the influence of a jobseeker's origin is intersected with his/her sex, level of education or place of residency. The outcome uncovers that there is very large and structural inequality based on origin in the labour market, that Brussels residents of non-European origin have a hard time finding a job even with equal

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<sup>109</sup> Belgium, Azabar, S. (Universiteit Antwerpen) (2019), Youth feels ethnically profiled ([Jeugd voelt zich etnisch geprofileerd](#)), Universiteit Antwerpen, 8 June 201 [last accessed 5 October 2019].

<sup>110</sup> Belgium, Amnesty International Flanders (*Amnesty International Vlaanderen*) (2019), Belgian Police must improve registration of identity checks ([Belgische politie moet identiteitscontroles beter registreren](#)), Amnesty International Vlaanderen, 7 June 2019 [last accessed 5 October 2019].

<sup>111</sup> Belgium, Senhadji, K. (view.brussels) (2019), Profile and trajectory of job seekers in the Brussels-Capital Region. Monitoring according to national origin ([Profiel en traject van werkzoekenden in het Brussels Hoofdstedelijk Gewest. Monitoring volgens origine / Profil et trajectoire des chercheuses et chercheurs d'emploi en Région de Bruxelles-Capitale. Monitoring selon l'origine nationale](#)), Brussels, Actiris [last accessed 5 October 2019].

<sup>112</sup> Belgium, Actiris (2019), Foreign roots: an obstacle on the way to work ([Buitenlandse roots : een obstakel op weg naar werk / L'origine étrangère: un frein à l'emploi à Bruxelles](#)), Actiris, June 2019 [last accessed 5 October 2019].



qualifications, that the non-recognition of foreign diplomas has the biggest impact on Brussels job seekers of Sub-Saharan origin, that women whose origin is outside the European Union are the most vulnerable group, and that there are strong links between place of residency, origin and unemployment.

The report includes various recommendations, namely: make systematic use of variable origin in unemployment and employment statistics and frame it in an evolutionary perspective; develop a qualitative approach to research ethnic and racial discrimination; increase representativeness within government agencies; strengthen the instruments that combat discrimination in employment and that promote diversity; strengthen actions and framework agreements at sector level; strengthen the control tools and enable more proactive testing; recognise the qualifications of persons with a foreign diploma by simplifying the procedure, making it free and encouraging recognition; support inter-federal measures and actions, elaborate an ambitious plan to combat racism and evaluation the Roma Integration Strategy.

- On 28 February 2019, the Criminal Court of Brussels found a **police officer guilty of violating the [Belgian Antiracism Law](#)**.<sup>113</sup> The police officer was sentenced to a fine of 6.000 euro for the incitement to discriminate against a person. The case concerned repeated comments made by a police officer working in the zone Brussels about a colleague of African origin, including ‘Negro’, ‘Banana eater’, ‘He is stupid because he is a monkey’. The police officer perseveres, even when called to account for his behaviour. He does not consider himself to be a racist.
- In February 2019, a working group of the United Nations shared a temporary report and recommendations about the **situation of persons of African descent in Belgium** (Afro-Belgians). The report points to structural racism and discrimination as factors that prevent Afro-Belgians from participating fully in Belgian society. Furthermore, it highlights a connection between Belgium’s colonial past in Africa and racism against Afro-Belgians (largest groups have their origins in Congo, a former Belgian colony that gained independence almost 60 years ago) today. The UN group calls on Belgium to apologise for its colonial transgressions: “The Working Group recommends reparatory justice, with a view to closing the dark chapter in history and as a means of reconciliation and healing. We urge the government to issue an apology for the atrocities committed during colonization. The right to reparations for past atrocities is not subject to any status of limitations. The Working Group recommends the CARICOM 10-point action plan for reparatory justice as a guiding framework.”<sup>114</sup>

A policy person working at the non-profit organisations *Broederlijk Delen* and *Pax Christi* wrote an **opinion** about the issue. Colonial ideas and complexes continue today, with structural discrimination of Afro-Belgians in education, the labour market and the housing market.<sup>115</sup> In Belgium, people with black skin colour often face unequal opportunities compared to people with white skin colour. There is an urgent need for decolonisation not only with regard to street names, statutes and museums, but also in terms of equal politics, social-economic and cultural participation of residents of African descent.

- On 26 November 2019, three political parties (*PVDA, sp.a* and *Groen*) submitted a motion in the Flemish Parliament to block the plans of the Flemish government (majority parties *N-VA*,

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<sup>113</sup> Belgium, [Court of First Instance of Brussels](#), 28 February 2019.

<sup>114</sup> United Nations Office of the High Commissioner for Human Rights, [Statement to the media by the United Nations Working Group of Experts on People of African Descent, on the conclusions of its official visit to Belgium, 4-11 February 2019](#), OHCHR, 11 February 2019, para. 47 [last accessed 29 November 2019].

<sup>115</sup> Belgium, Nadia Nsayi, Opinion: Belgian ‘sorry’ to Congolese does not suffice ([Opinie: Belgisch ‘sorry’ aan Congolezen volstaat niet](#)), De Standaard, 13 February 2019 [last accessed 29 November 2019].

CD&V and *Open VLD*) to stop subsidising organisations and associations – so-called “segregating associations” that fold back onto their ethnic-cultural origin and encourage segregation – in the social-cultural adult work.<sup>116</sup> Based on article 73 (ideological alarm bell procedure) of the rules of the Flemish Parliament,<sup>117</sup> the **motion concerns discrimination based on ideological and philosophical reasons of provisions in the proposal of Decree amending the Decree of 7 July 2017 on subsidising and recognizing the social-cultural adult work**<sup>118</sup>. The proposed amendments to the 2017 Decree would implement an entry from the Flemish Coalition Agreement 2019-2024<sup>119</sup> and are considered very problematic, because they target certain population groups and because the majority parties want to rush it through Parliament without following the appropriate procedure (advice from the Council of State, in consultation with the sector, with hearings and a prior discussion in commission).<sup>120</sup> Because the motion was formally complete, the reform is put temporarily on hold and so the amended rules cannot enter into force on 1 December 2019 as planned. This means that the amendments will not affect that new subsidy applications that socio-cultural organisations have to submit by the end of 2019 for the period 2021-2025. The Chamber of Representatives and the Senate will have to comment on the content of the motion now. The alarm bell procedure has only been used once before. The sector reacted positively to the postponement of the proposed amendments to the Decree and hope that the additional time will be used by the government to enter into genuine consultation with the sector.<sup>121</sup>

## 2. Legal, policy developments and measures relating to the application of the Framework Decision on Racism and Xenophobia

- On 14 December 2018, the Senate approved a proposal of a **Resolution on the fight against anti-Semitism**.<sup>122</sup> UNIA was heard on the proposal, which was submitted on 8 June 2018, in the Senate behind closed doors on 10 December 2018.<sup>123</sup> The Resolution advocates, among other things, the inclusion of a definition on anti-Semitism, the appointment of a national coordinator for anti-Semitism (following the example of other countries), and an online registration system with the police where incidents of anti-Semitism can be reported. The Resolution also calls for the reactivation of the Vigilance Cell anti-Semitism (Waakzaamheidscel antisemitisme / Cellule de veille antisémitisme), which should gather at least twice a year to discuss the fight against anti-Semitism and report on it publicly. Already in 2018, together with several other partners, UNIA had called upon the Ministers of Justice

<sup>116</sup> Meremans, M., Brouwers, K., D’Hose, S., Coudyser, C., Van de Wauwer, O. And Van Werde, M. (2019), Proposal of Decree amending the Decree of 7 July 2017 on subsidising and recognizing the social-cultural adult work ([Voorstel van decreet houdende wijziging van het decreet van 7 juli 2017 houdende de subsidiëring en erkenning van het sociaal-cultureel volwassenenwerk](#)), 153 (2010-2020) nr. 1., 18 November 2019 [last accessed 1 December 2019].

<sup>117</sup> Belgium, Flemish Parliament (*Vlaams Parlement*), Rules of the Flemish Parliament ([Reglement van het Vlaams Parlement](#)) [last accessed 1 December 2019].

<sup>118</sup> Belgium, Flemish government (*Vlaamse Overheid*), Decree on subsidising and recognizing the social-cultural adult work ([Decreet houdende de subsidiëring en erkenning van het sociaal-cultureel volwassenenwerk / Décret portant subvention et agrément de l’animation socioculturelle des adultes](#)), 7 July 2017 [last accessed 29 November 2019].

<sup>119</sup> Belgium, Flemish Government (*Vlaamse Overheid*) (2019), Flemish Coalition Agreement 2019-2024 ([Vlaams Regeerakkoord 2019-2024](#)), October 2019.

<sup>120</sup> The adjustment were also already included in the coalition agreement and in the policy note of the Flemish Minister of Culture (Jan Jambon, N-VA) but the way the proposed amendments were rushed through the system as well as the planned early entry into force of the amended rules (from 1 December 2019 onwards) were unusual. Abbeloos, Jan-Frederik (2019), No more subsidies for ‘segregating’ associations ([Geen subsidies meer voor ‘segregerende’ verenigingen](#)), De Standaard, 22 November 2019.

<sup>121</sup> Belgium, De Federatie (2019), Press statement: The Federation is happy with postponement decree amendment and pushes for dialogue ([Persbericht: De Federatie is blij met uitstel decreetswijziging en dringt aan op overleg](#)), De Federatie, 27 November 2019 [last accessed 29 November 2019].

<sup>122</sup> Belgium, Belgian Senate (*Belgische Senaat / Sénat de Belgique*), Proposed resolution relating to the fight against antisemitism ([Voorstel van resolutie betreffende de bestrijding van antisemitisme / Proposition de résolution relative à la lutte contre l’antisémitisme](#)), 8 June 2018 [last accessed 5 October 2019].

<sup>123</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l’égalité des chances*) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussel, UNIA, p 69 [last accessed 5 October 2019].

and Internal Affairs to let the Vigilance Cell resume its activities. Following the adoption of the Resolution, the Minister of Equal Opportunities called together the Cell in March 2019 for the first time in five years.<sup>124</sup> UNIA was present at the meeting, where the expertise of the Justice department, the police, UNIA and collaboration takes place with other institutions and Jewish organisations.

In March 2019, UNIA announced **the number of registered anti-Semitic incidents nearly doubled in 2018** (101 anti-Jewish incidents) **compared to 2017** (56 anti-Jewish incidents).<sup>125</sup>

According to UNIA, the increase in the number of files on anti-Semitism is linked to the evaluation towards a confrontation society (on the Internet or on the street) and the fact that an increasing number of people find their way to UNIA. Given that there has been a slightly rising trend in the reports of Jewish hatred since 2008, UNIA is of the opinion that the March 2019 meeting of the Vigilance Cell Anti-Semitism was urgently needed.

- On 5 May 2019, the Law containing various provisions in criminal matters and worship, and amending the Law of 28 May 2002 on euthanasia and the Social Criminal Code was adopted.<sup>126</sup> Article 115 of this law amends the **Law of 30 July 1981 punishing certain acts inspired by racism or xenophobia**<sup>127</sup> by supplementing its article 20 with a provision 5° that criminally punishes the denial, gross minimalization, attempts to justify or approval of a crime of genocide, a crime against humanity, or a war crime as such established by a final decision of an international court, knowing or presuming to know that such behaviours could expose either a person, a group, a community or its members to discrimination, hatred or violence based on one of the protected criteria or religion, within the meaning of Article 1(3) of the Framework Decision of the Council of the European Union of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law, even outside the domains referred to in Article 5 of the Law of 30 July 1981.<sup>128</sup> While welcoming that denying a genocide is now punishable, UNIA regrets that extension of the anti-Racism Law only concerns genocides, war crimes and crimes against humanity recognised by international law.<sup>129</sup> The latter is the case for the genocides in Rwanda and Srebrenica. Denying the Armenian genocide cannot be punished, on the other hand, despite being recognised as a genocide by Belgium, because it has not been recognised by the International Court of Justice. Prior to the 2019 amendment, UNIA could already in issues relating to the Holocaust against the Jews by the Nazi regime during World War II, including when the Holocaust was denied, justified or grossly minimised.

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<sup>124</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019 Annual Report 2018 - Restoring human rights (*Jaarverslag 2018 – Mensenrechten in ere herstellen*), Brussel, UNIA, p 69 [last accessed 5 October 2019].

<sup>125</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), More people report cases of antisemitism (*Meer mensen melden jodenhaat bij Unia / Davantage de personnes signalent des cas d'antisémitisme*), UNIA, 1 March 2019 [last accessed 5 October 2019].

<sup>126</sup> Belgium, Act laying down various provisions in criminal matters and in matters of religion, and amending the Act of 28 May 2002 on euthanasia and the Social Criminal Code (*Wet houdende diverse bepalingen in strafzaken en inzake eredienszaken, en tot wijziging van de wet van 28 mei 2002 betreffende de euthanasie en van het Sociaal Strafwetboek / Loi portant des dispositions diverses en matière pénale et en matière de cultes, et modifiant la loi du 28 mai 2002 relative à l'euthanasie et le Code pénal social*), 5 May 2019. Publication in Belgian Official Gazette 24 May 2019 [last accessed 5 October 2019].

<sup>127</sup> Belgium, Law of 30 July 1981 punishing certain acts inspired by racism or xenophobia (*Wet tot bestraffing van bepaalde door racisme of xenofobie ingegeven daden / Loi tendant à réprimer certains actes inspirés par le racisme ou la xénophobie*), 30 July 1981. Publication in Belgian Official Gazette 8 August 1981 [last accessed 5 October 2019].

<sup>128</sup> Belgium, Article 5 §1 of the Law of 30 July 1981 stipulates that the Law applies to all persons in the public sector as well as in the private sector, including public authorities, with regard to access to and supply of publicly available goods and services, social protection, including social security and health care, social benefits, supplementary social security schemes, employment relation, mentioning in an official document or an official report, membership of or involvement in an employers' or employees' organisation or any organisation whose members exercise a particular profession, including the benefits that these organisations offer, access to, and participation in, and any other exercise of an economic, social, cultural or political activity accessible to the public.

<sup>129</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), Genocide denial? Unia can intervene more often (*Genocide ontkennen? Unia kan vanaf nu vaker tussenkomen / Nier un génocide? Unia peut désormais intervenir plus souvent*), UNIA, 30 April 2019 [last accessed 5 October 2019].

- In March 2019, the Minorities Forum (Minderhedenforum) **called for stronger punishments for hate speech**.<sup>130</sup> On the one hand, the Minorities Forum calls for heavier punishments for those who commit hate speech. Currently, the sanctions for hate speech in public, on social media and on digital fora are not sufficiently deterrent. Hate speech is punishable with a maximum prison sentence of one year, which is low compared to some other EU Member States (in the UK, the maximum prison sentence is 7 years) and moreover it currently results in actual time spent in prison. The fines are also relatively low. Politicians who spread hateful messages should be removed from office, on top of other sanctions. On the other hand, the Minorities Forum also wants more attention to be given to prevention, including in schools, to counter the extreme right discourse that circulates on uncontrollable social media.

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<sup>130</sup> Belgium, Minority Forum (*Minderhedenforum*) (2019), Hate speech must be more severely sanctioned ([Hate speech moet strenger bestraft worden](#)), Minderhedenforum, 25 March 2019. Minority Forum (*Minderhedenforum*) (2019), Since when do we wish our (coloured) neighbour, classmate or baker death? ([Sinds wanneer wensen we onze \(gekleurde\) buurman, klasgenoot of bakker de dood toe?](#)), Minderhedenforum, 21 March 2019 [last accessed 5 October 2019].

## Chapter 3. Roma integration

### 1. Measures and developments addressing Roma/Travellers segregation

- The current **Belgian National Roma Integration Strategy** was adopted in 2012. UNIA emphasises in its 2018 Annual Report that the new government needs to update the action plan and adjust it in order to meet the actual needs, especially so of local administrations.<sup>131</sup> UNIA regrets that an **evaluation with adjustments did not happen by the outgoing government**, as it should have done, considering that the basis for that had been prepared by the National Roma Platform – which brings together federal, regional and local policy levels and also includes UNIA – in the previous years by organising various round table meetings, platforms and dialogue moments in different cities. UNIA reiterates that access to education remains difficult and urgent, while young Roma are still overrepresented in special education.<sup>132</sup> Furthermore, a large need remains for expertise and knowledge to work with Roma on the ground, including through bridge figures and stewards who play an essential role. UNIA also stresses the need for continuity, considering that the current approach is too fragmented and too dependent on project subsidies.
- Despite a few careful attempts to regulate, **no progress has been made concerning the reception of caravan residents (woonwagenbewoners)** since Belgium was rapped on the knuckles by the European Committee of Social Rights of the Council of Europe in 2012 for not respecting the European Social Charter in this matter.<sup>133</sup> In May 2019, UNIA expressed its concern about the large-scale police operation ‘Strike’ that took place on 7 May in several locations and that led to the seizure of caravans, leaving 90 families with children without a roof over their head<sup>134</sup> (more information on the police operation ‘Strike’ can be found in the next main bullet point).
  - **Brussels:** To avoid hostile reactions from their residents, many Brussels mayors opt for a ‘not in my backyard’-policy and force families in caravans/trailers to leave private terrains without offering an alternative solution. UNIA explains that these expulsions are the consequence of **failed measures of the Brussels-Capital Region**, despite the right to mobile living being recognised in the Brussels Housing Code and resources being made available by the Region to Brussels’ municipalities in order to set up sites.<sup>135</sup> UNIA urges the Brussels-Capital Region to urgently adjust its policy by obliging municipalities to open sites and/or to set up and manage regional sites itself.<sup>136</sup>
  - **Flanders:** In the Flemish Region, there are about 30 residential sites for caravan residents and 5 sites for those caravan residents who are passing through (so-called

<sup>131</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussel, UNIA, p 70 [last accessed 5 October 2019].

<sup>132</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussel, UNIA, p 71 [last accessed 5 October 2019].

<sup>133</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussel, UNIA, p 21 [last accessed 5 October 2019].

<sup>134</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), Seizure of Travellers' caravans: a critical situation for families ([Ook mensenrechten in beslag genomen / Saisie des caravans des gens du voyage: une situation critique pour les familles](#)), 17 May 2019 [last accessed 5 October 2019].

<sup>135</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussel, UNIA, p 21 [last accessed 5 October 2019].

<sup>136</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussel, UNIA, p 21. UNIA (*Interfederaal Gelijkekansencentrum*) (2018), Brussels' caravan policy is not very effective ([Brussels woonwagenbeleid zet weinig zoden aan de dijk](#)), 2 July 2018. UNIA (*Centre interfédéral pour l'égalité des chances*) (2018), Expulsion of Travellers: a humanitarian emergency ([Expulsion des gens du voyage: une urgence humanitaire](#)), 2 July 2018 [last accessed 5 October 2019].



doortrekkersterreinen),<sup>137</sup> which is insufficient to meet the demand. Some residential sites are overcrowded and the shortage of sites for those passing through results in tensions every year.<sup>138</sup>

On 18 January 2019, the Flemish government adopted the **Decree amending various provisions of the Decree of 7 June 2013 concerning the Flemish integration and habitation policy**.<sup>139</sup> Following the new Decree, the Flemish integration policy focused more on caravan residents and transit sites. Inhabitants of residential caravan sites, on the other hand, no longer were a specific target group of said policy. The competent Minister stated that residential caravan residents are sufficiently connected to society and no longer require a policy focus. Several organisations, including the Minorities Forum and UNIA argued that a specific focus on all caravan residents is still required in all policy areas, including integration.<sup>140</sup> They also worried that the knowledge and expertise on caravan residents built up by the Agency Integration and Habitation (*Agentschap Integratie en Inburgering*) would disappear instead of being reinforced in order to support local and other administrations when working with this target group.<sup>141</sup>

The Flemish Coalition Agreement 2019-2024<sup>142</sup> - which puts down the policy decisions for the legislature 2019-2024 – states that **caravan residents<sup>143</sup> will be taken out completely of the Flemish Integration Decree**.<sup>144</sup> The Minorities Forum (*Minderhedenforum*) was not consulted. The Agreement reads: “The Flemish integration policy focuses on the entire society, with particular attention to people of foreign origin. Caravan residents, the traveling labour force and foreign nationals without legal residence are no longer approached from the integration policy. We do not prejudice the basic rights of people without legal residence.”

Caravan residents are currently one of the target groups of the Decree. Article 3 states that “The Flemish integration policy focuses on the entire society and, as appropriate, pays special attention to the following special target groups: 1° Persons of foreign origin; 2° persons who are legally resident in Belgium and who live in a caravan as stated in Article 2, 33°, of the Decree of 15 July 1997 on the Flemish Housing Code,

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<sup>137</sup> Belgium, These numbers result from a 2017 monitoring, the results of which on the webpage [woonwagenterreinen monitoring](#) of Wonen in Vlaanderen [last accessed 5 October 2019].

<sup>138</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre inter fédéral pour l'égalité des chances*) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussel, UNIA, p 21 [last accessed 5 October 2019].

<sup>139</sup> Belgium, Flemish Government (*Vlaamse Overheid*) (2019). Decree amending various provisions of the Decree of 7 June 2013 on the Flemish integration and habitation policy ([Decreet tot wijziging van diverse bepalingen van het decreet van 7 juni 2013 betreffende het Vlaamse integratie- en inburgeringsbeleid](#)), 18 January 2019. Publication in the Belgium Official Gazette 11 February 2019 [last accessed 5 October 2019].

<sup>140</sup> Belgium, Janssens, K. (2019), Caravan residents again on the sidelines? ([Woonwagengewoners opnieuw aan de zijlijn?](#)), Sociaal.net, 26 November 2019 [last accessed 1 December 2019]. Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre inter fédéral pour l'égalité des chances*) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussel, UNIA, pp 21-22 [last accessed 5 October 2019].

<sup>141</sup> Belgium, Janssens, K. (2019), Caravan residents again on the sidelines? ([Woonwagengewoners opnieuw aan de zijlijn?](#)), Sociaal.net, 26 November 2019 [last accessed 1 December 2019]. Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre inter fédéral pour l'égalité des chances*) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussel, UNIA, pp 21-22 [last accessed 5 October 2019].

<sup>142</sup> Belgium, Flemish Government (*Vlaamse Overheid*) (2019), Flemish Coalition Agreement 2019-2024 ([Vlaams Regeerakkoord 2019-2024](#)), October 2019 [last accessed 1 December 2019].

<sup>143</sup> A caravan resident is defined as “someone who resides legally in Belgium and who lives in a caravan, of whose parents lived in a caravan.” In Belgium, there are three diverse subgroups of caravan resident in Flanders and Brussels who have as a common characteristic that they live in a caravan: the *Voyageurs*, the *Manouches*, and the *Roms*. Caravan dwellers differ from Roma who arrived more recently from Eastern-Europe but they share a dark history of persecution and being chased. Belgium, Janssens, K. (2019), Caravan residents again on the sidelines? ([Woonwagengewoners opnieuw aan de zijlijn?](#)), Sociaal.net, 26 November 2019 [last accessed 1 December 2019].

<sup>144</sup> Belgium, Flemish Government (*Vlaamse Overheid*) (2019). Decree concerning the Flemish integration and habitation policy ([Decreet betreffende het Vlaamse integratie- en inburgeringsbeleid](#)), 7 June 2013.

with the exception of persons who reside on a residential caravan site and residents of campsites or areas with weekend stays." The decree defines "residential caravan site" as a site that is intended and equipped for sedentary living in a caravan and on which a limited craft and/or commercial activity can take place in accordance with the applicable legislation (art. 2.22 °/1).

- Wallonia: Two new Decrees adopted in 2019 partly address UNIA's concerns regarding the housing of Travellers the Walloon Region by being a start concerning the recognition of mobile living and of the organisation of sites.<sup>145</sup> According to UNIA, the provisions are formulated too carefully.

On 2 May 2019, the **Decree concerning assistance to Travellers (*Gens du Voyage*) amending the Walloon Code of Social Action and Health** was adopted.<sup>146</sup> It entered into force on 1 August 2019. The Decree amends and strengthens the provisions under the Title relating to Help for Travellers, which was included in the Code more than 5 years ago. The title focuses on reception (the procedure formally organising the temporary stay of Travelers and allowing the search for concerted solutions to specific problems) and mediation (method of action seeking the intervention of an independent and impartial third party, which aims to find agreement between or reconcile persons or parties). It aims at helping Travelers, including promoting their integration, fighting the processes that cause poverty of Travelers, and supporting a concerted and quality reception of Travelers in Wallonia.

The 2019 Decree introduces a precise definition of the notions 'reception area' (land organised with at least access to drinking water, electricity and sanitary facilities, for short-term accommodation, family groups of at least 15 caravans and offering, at the very least, a reception during the entire period of temporary stay) and 'temporary area' (land owned by a public or private owner temporarily assigned during the year for the reception of *Gens du voyage*). Subsidies will be available to municipalities from 1 January 2020 for the acquisition, development and extension of areas for Travellers. The new Decree also reorganises the accreditation and subsidisation of the mediation body. Based on past experiences, UNIA argues that a more compelling – rather than an enabling – approach is needed that obliges municipalities to establish caravan stands.<sup>147</sup> Another option would be for the Walloon Region to set-up and manage sites. UNIA also points to the need to organise reception during the winter, rather than limiting it to the temporary stay.<sup>148</sup> Furthermore, rather than imposing unreasonable administrative burdens, the situation should be made easier for municipalities and owners of private sites who want to commit to Travellers.

On 2 May 2019, the Walloon government adopted the **Decree amending the Walloon Code of Housing and Sustainable Housing and of the Decree of 15 March 2018 on the rental agreement, with a view to the introduction, in the aforementioned code,**

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<sup>145</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussel, UNIA, p 22 [last accessed 5 October 2019].

<sup>146</sup> Belgium, Public Service of Wallonia (*Service public de Wallonie*) (2019), Decree on assistance to Travellers amending Part II, Free 1, Title VII, of the Walloon Code on Social Action and Health ([Décret relatif à l'aide aux Gens du voyage modifiant la Deuxième partie, Livre 1er, Titre VII, du Code wallon de l'Action sociale et de la Santé](#)), 2 May 2019. Publication in Belgian Official Gazette 1 August 2019 [last accessed 5 October 2019].

<sup>147</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussel, UNIA, p 22 [last accessed 5 October 2019].

<sup>148</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l'égalité des chances*) (2019), Annual Report 2018 - Restoring human rights ([Jaarverslag 2018 – Mensenrechten in ere herstellen](#)), Brussel, UNIA, p 22 [last accessed 5 October 2019].

**of the concept of micro-houses.**<sup>149</sup> It entered into force on 1 September 2019. UNIA had advised the Wallon Minister of Housing to include a reference to the wish of caravan residents to finally see their ancestral way of life recognised in line with the provisions of the Universal Declaration of Human Rights, the Charter of Fundamental Rights of the European Union and various other international and European treaties.<sup>150</sup> Furthermore, UNIA considers it to be problematic that the preamble of the Decree does not mention caravans or mobile homes that are used by Travellers.<sup>151</sup>

- On 7 May 2019, the **large-scale police operation ‘Strike’ took place in the fight against car scams, mainly targeting Roms.** It concerned the largest police operation of the past 20 years, in which 1200 police agents, 2 helicopters and drones were used. The police invaded various caravan plots. 90 caravans of families were seized, number plates were deregistered of those vehicles that were not seized and/or bank accounts were blocked without any explanation given. Many families were left homeless and were not offered an alternative.<sup>152</sup>

On 15 May 2019, **UNIA and the French-speaking Children’s Right Commissioner expressed their concern in an opinion piece** in the newspaper La Libre and emphasised the need for respect for human rights and for solutions from the government.<sup>153</sup>

On 11 July 2019, UNIA published a **report on the situation of caravan residents following operation Strike.**<sup>154</sup> The report provides an overview of a broad range of measures that have serious consequences for the entire families, including children, the elderly and the sick. On the one hand, the report is based on information provided by the federal prosecutor’s office. It concerns 200 seizures (including 90 caravans, 91 vehicles, 34 buildings and large amounts of cash) carried out on 7 May at 19 different locations and the arrest of 52 people, 24 of whom were placed under arrest warrant. On the other hand, the report is based on reports and testimonials made to UNIA as well as on visits and contacts. It concerns individual reports or direct testimonies of 19 persons people; visits by a UNIA employee to 5 different sites; information provided by 6 primary professionals (2 fieldworkers, 2 reference counters collaborators, 1 social worker and 1 doctor); 2 lawyers involved in several cases concerning seizures. Considered together, the sources and testimonials provided information concerning 16 sites, of which 11 are located in Flanders (of which 2 are close to Brussels), 3 in the Brussels-Capital Region and 2 in Wallonia.

UNIA expresses serious concern about the possible disproportionate nature of certain police and judicial actions, some of which are still ongoing or still have and impact and some aspects of which could be discriminatory and/or lead to inhuman and degrading treatment. Therefore,

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<sup>149</sup> Belgium, Public Service of Wallonia (*Service public de Wallonie*) (2019), Decree amending the Walloon Code on Housing and Sustainable Housing and the Decree of 15 March 2018 on residential leases in order to include the concept of light housing (*Décret modifiant le Code wallon du logement et de l’Habitat durable et le décret du 15 mars 2018 relatif au bail d’habitation en vue d’y insérer la notion d’habitation légère*), 2 May 2019. Publication in het Belgian Official Gazette 11 July 2019 [last accessed 5 October 2019].

<sup>150</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l’égalité des chances*) (2019), Annual Report 2018 - Restoring human rights (*Jaarverslag 2018 – Mensenrechten in ere herstellen*), Brussel, UNIA, p 22 [last accessed 5 October 2019].

<sup>151</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l’égalité des chances*) (2019) Annual Report 2018 - Restoring human rights (*Jaarverslag 2018 – Mensenrechten in ere herstellen*), Brussel, UNIA, p 22 [last accessed 5 October 2019].

<sup>152</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l’égalité des chances*) (2019), Seizure of Travellers’ caravans: a critical situation for families (*Ook mensenrechten in beslag genomen / Saisie des caravans des gens du voyage: une situation critique pour les familles*), 17 May 2019 [last accessed 5 October 2019]; Belgium, La Libre, Large police operation across Belgium: 1200 police officers deployed, 30 persons brought in for questioning (*Grosse opération de police à travers toute la Belgique: 1200 policiers déployés, 30 personnes interpellées*), 7 May 2019.

<sup>153</sup> C Belgium, harlier, P. And De Vos, B. (2019), Seizure of Travellers’ caravans: a critical situation for families (*Saisie des caravanes des gens du voyage: une situation critique pour les familles*), La Libre, 15 May 2018 [last accessed 5 October 2019].

<sup>154</sup> Belgium, UNIA (*Interfederaal Gelijkekansencentrum/Centre interfédéral pour l’égalité des chances*) (2019), Situation of travellers after the so-called “Strike” police operation on 7 May 2019 (*Situatie woonwageneigenaren in België na politieoperatie ‘Strike’ op 7 mei 2019 / Situation des gens du voyage après l’opération de police dite “strike” du 7 mai 2019*), UNIA, 11 July 2019 [last accessed 5 October 2019].

UNIA underlines the need for the Council of Europe, the United Nations Human Rights Rapporteur on Minorities and the European Commission to investigate whether excessive measures were used against caravan dwellers by the policy and the judiciary, in order to halt the actions or to adopt suitable measures to limit their harmful effect.

The Minorities Forum (Minderhedenforum) also published an **opinion piece** following the police operation, in which it underlined that **Roms families are also the victim of car scams**.<sup>155</sup> For years, negative and false prejudices have existed about Roms. A large-scale police operation such as the one that took place on 7 May 2019 in which everyone is invaded without knowledge of the target group, does not help to fight such prejudices. Furthermore, it negatively affects the already damaged relationship between Roma families and regular Belgian authorities, including the police and local authorities with whom many Roma already have a negative contact. In the past few years, the number of professionals who function as mediators and bridge figures has drastically decreased, thereby increasing the risk that this group is socially isolated and slips into poverty and become involved in illegal practices. The Minorities Forum urges policy makers to offer more social support to Roma and caravan dwellers who often live in a socially precarious situation and to invest in a sustainable relationship and policy.

Operation ‘Strike’ resulted in more precarious and vulnerable living conditions for many Roma.<sup>156</sup> The consequences of operation ‘Strike’ still continue. It is expected that many caravan residents who had bought their private site with a mortgage, will be forced to sell it.<sup>157</sup> The **UN Special Rapporteur on Minority Rights** sent a letter with questions concerning the operation, to which Belgium replied. Furthermore, the European Roma Rights Centre has submitted a collective complaint against Belgium with the European Committee of Social Rights that monitors compliance with the European Social Charter.<sup>158</sup>

## 2. Policy and legal measures and developments directly or indirectly addressing Roma/Travellers inclusion

- On 8 April 2019, the non-profit organisation Amaro, the non-profit organisation De Schoolbrug, Madam Fortuna and De Centrale organised a **party weekend on the occasion of International Roma Day**. On Saturday 6 April 400 people attended a party in Ghent,<sup>159</sup> and on Sunday 7 April workshops and performances were held in Antwerp.<sup>160</sup> Both events were open to the public and participation was free. The activities in Antwerp were attended by 150 people.<sup>161</sup> The events focused on Roma culture and were preceded by weekly workshops for youngsters and children through schools that worked towards the celebratory weekend. Artistic exhibitions were set up in three schools – two schools in special secondary education and one in an elementary school with a large Roma population – in preparation of the weekend, in order to include Roma more actively in the party and to put emphasis on their own input.<sup>162</sup> The preparations resulted in two performances at the party itself. Teachers clearly felt the impact of the trajects on the daily functioning of the youngsters and the children as they were more focused, more structured, more positive and had more self-confidence. No new exhibitions or

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<sup>155</sup> Belgium, Mawungu, L. (*Minderhedenforum*) (2019), Opinion piece "Rom families also suffer from car scam" (*Opiniestuk "Rom gezinnen ook dupe van autozwendel"*), Minderhedenforum, 14 May 2019 [last accessed 5 October 2019].

<sup>156</sup> Belgium, Email exchange with Minderhedenforum on 7 October 2019.

<sup>157</sup> Belgium, Email exchange with UNIA on 8 October 2019.

<sup>158</sup> Belgium, Email exchange with UNIA on 8 October 2019.

<sup>159</sup> Belgium, De Centrale (2019), [Ghent Gnawa Festival](#), De Centrale, 6 April 2019 [last accessed 5 October 2019]. Belgium, Email exchange with Madam Fortuna on 30 October 2019.

<sup>160</sup> Belgium, Het Oude Badhuis (2019), [Internationale Roma Dag](#), Het Oude Badhuis, 7 April 2019 [last accessed 5 October 2019].

<sup>161</sup> Belgium, Email exchange with Het Oude Badhuis on 4 October 2019 [last accessed 5 October 2019].

<sup>162</sup> Belgium, Email exchange with Minderhedenforum on 9 October 2019.

events are planned in Antwerp in anticipation of 8 April 2020 due to a lack of resources.<sup>163</sup> Planning for an event in Ghent on 4 April 2020 is underway, with musical contributions from Roma or organisations from Antwerp.<sup>164</sup>

- At the end of February 2019, the book **The Cog wheel method** (De tandwielmethodiek) was published.<sup>165</sup> The author, Janette Danyiova, is a 39 year old woman of Roma origin from Slovakia who has lived in Belgium for 23 years and has been working for years on the situation of Roma in Belgium and Europe. The book is based on the author's 15 years of practical experience and accumulated expertise and know-how from her professional career in the field of poverty and social exclusion. It focuses on the specific vulnerabilities and the social position of the Roma minority. It provides insight into the everyday difficulties of Roma of which others often remain unaware. The book uses an unique methodology called the Cog wheel method in order to provide tools to anyone wanting to understand and help the Roma community. The methodology starts from a recovery and power-oriented point of view and leaves room for the narrative person and his/her experience. In order to support social workers in various sectors with regard to intervision and supervision, the author also **set up the non-profit organisation SEER (Social Enhancement & Empowering of Roma)** that will organise trainings and workshops to apply the cog wheel method.<sup>166</sup>
- In 2019, the book '**A lifelong hunting. The place of caravan residents in Flanders**' (Een leven lang opgejaagd. De plek van woonwagenbewoners in Vlaanderen) was published.<sup>167</sup> The book was launched on 18 October 2019 in museum Kazerne Dossin in Mechelen. On the basis of unique practical experience and testimonials from caravan residents themselves, the book invalidates prejudices against caravan residents. It addresses who the caravan residents in Flanders and Brussels are, what the difference is between *Manoesj*, *Voyageur* and *Rom*, and how a sustainable policy benefits society. The author of the book is staff member Roma and Caravan residents at the non-profit organisation Minorities Forum ([Minderhedenforum](#)).
- On 8 October 2019, the Prevention Service and the Roma service of the municipality Anderlecht and the non-profit organisation [Foyer](#) organised a **colloquium on the situation of Syrian Doms in Brussels**.<sup>168</sup> The event aims at drawing a portrait of this community that established oneself in the Brussels-Capital Region since 2015 while fleeing the war. This group faces many difficulties in its contacts with social services and institutions in Brussels and they create challenges for a number of classical societal working methods. The colloquium addressed who the Dom are, their story, their relationship with regular/dominant communities, the difficulties they face in Belgium, which challenges their raise for regular services, and how to best guide them.
- On 14 October 2019, the European Social Fund project A-TIEM (Labour Team Intra-European Migration, ArbeidsTeam Intra-Europese Migratie) a **citywalk in Gent**, to show a different side

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<sup>163</sup> Belgium, Email exchange with De Schoolbrug on 14 October 2019.

<sup>164</sup> Belgium, Email exchange with Madam Fortuna on 12 December 2019.

<sup>165</sup> Belgium, Danyiova, J. (2019), The gear method. Getting started with Roma ([De tandwielmethodiek. Aan de slag met Roma](#)), Antwerp, Garant [last accessed 5 October 2019].

<sup>166</sup> Belgium, Torremans, G. (2019), If we don't do anything, we will soon have Roma-ghetto's (['Als we niets doen, hebben we binnenkort Roma-getto's'](#)), Sociaal.Net, 3 April 2019. Minority Forum ([Minderhedenforum](#)) (2019), Interview with Janette Danyiova (39yrs), of Roma origin from Slovakia ([Interview met Janette Danyiova \(39j\), van Roma afkomst uit Slowakije](#)), Minderhedenforum, 12 April 2019 [last accessed 5 October 2019].

<sup>167</sup> Belgium, Janssens K. (2019), [Een leven lang opgejaagd. De plek van woonwagenbewoners in Vlaanderen](#), Tiel, Lannoo [last accessed 5 October 2019].

<sup>168</sup> Belgium, Foyer (2019), Colloquium: The Syrian Doms ([Colloquium: De Syrische Doms](#)), Foyer, 8 October 2019 [last accessed 5 October 2019].



of the city.<sup>169</sup> The A-TIEM is a team of employment coaches from different organisation who collaborate closely in order to guide **vulnerable job-seekers from Middle- and Eastern-European origin, many of whom are Roma**, towards work or training. Because this group is usually portrayed in a context of issues, the A-TIEM wants to draw attention to the diversity within the groep of intra-European immigrants in Ghent, the challenges they face on the labour market, and the many possibilities and talents these people have. During the city walk, the coaches provided insight into how the A-TEAM tries to implement accessibility in practice, how they set up collaborations with employers and how a language offer can play a supportive role.

- On 4 November 2019, the Minorities Forum (*Minderhedenforum*) and UNIA organised an ‘**encounter day**’ in the Flemish Parliament **on the right to live on wheels** in order to give more visibility to the problems and challenges people who wish to live on wheels face.<sup>170</sup> The event included testimonials on the dire shortage of residential spaces for caravans in Belgium and addressed the risk of being driven away for caravan residents on private sites. Furthermore, buying a plot is nearly impossible in practice. The participants emphasised on the need for a stable housing situation in order to improve the situation in other areas too, including the ability of children to attend school. It is becoming increasingly more difficult for caravan residents to live in a caravan. Reasons include the reduced targeted focus in the policy, reduced expertise and knowledge on caravan residents and the cutting back of first line work and support.<sup>171</sup>
- In 2019, the **BE-Reyn network** (a Belgian network of Open Society Foundation that aims to improve the accessibility of Roma and caravan residents with young children to public facilities)<sup>172</sup> organised various intervision sessions on Roma.<sup>173</sup> Specifically in relation to caravan residents, the network is trying to set up social networks on transit sites, thereby promoting the inclusion of the target groups.
- On 8 November 2019, the Council of State rejected the appeal of the **RTBF** (*la Radio Télévision Belge Francophone*) against a sanction imposed on it by the Superior Audiovisual Council (*le Conseil Supérieur de l’Audiovisuel*) because a **presenter had made statements on the radio Vivacité Charleroi that incited hatred**.<sup>174</sup> The facts date back to 26 November 2016 when the presenter warned listeners to keep an eye on “the presence of insidious gypsies”, to make sure their doors are firmly closed and to take precautions in case they have “stealable stuff” in their house. Following many complaints, the Superior Audiovisual Council condemned the RTBF to send out a press statement in which it had to inform the public that it had broadcasted statements that incite hatred and discrimination, which is in violation of the Decree on audiovisual mediaservices. After publishing the statement, the RTBF took the case to the Council of State. The argument for the appeal was that the presenter had not “intended to discriminate”, thereby making the sanction disproportional with a view to freedom of expression. The Decree on Audiovisual Media services refers to “editorial liability” and – contrary to the Anti-Racism Law – does not require proof that the author of hate messages “had the intention to discrimination” in order to implicate the responsibility of the publisher. RTBF

<sup>169</sup> Belgium, Gent City (*Stad Gent*) (2019), The A-TEAM invites you for a city walk or bike ride through Ghent (*Het A-TEAM nodigt je uit voor een stadswandeling of fietstocht door Gent*), Stad Gent, 14 October 2019 [last accessed 5 October 2019].

<sup>170</sup> Belgium, Minorities Forum (*Minderhedenforum*) (2019), Encounter day ‘Right to live on wheels’ (*Trefdag ‘Recht op wonen op wielen’*), Minderhedenforum, 10 oktober 2019 [last accessed 27 November 2019]. Belgium, Minorities Forum (*Minderhedenforum*) (2019), Report encounter day: right to live on wheels (*Verslag trefdag: recht op wonen op wielen*), Minderhedenforum, 5 November 2019 [last accessed 27 November 2019].

<sup>171</sup> Belgium, Minorities Forum (*Minderhedenforum*) (2019), Report encounter day: right to live on wheels (*Verslag trefdag: recht op wonen op wielen*), Minderhedenforum, 5 November 2019 [last accessed 27 November 2019].

<sup>172</sup> Belgium, Be-REYN Platform for inclusion of Roma families (*Be-REYN Platform voor inclusie van Romafamilies*) [last accessed 27 November 2019].

<sup>173</sup> Belgium, Email exchange with Minderhedenforum on 7 October 2019.

<sup>174</sup> Belgium, *Council of State*, n° 246.047, 8 November 2019.

thus had an “objective liability” as a publisher who is subject to the Decree on Audiovisual Media services.

## Chapter 4. Asylum, visas, migration, borders and integration

### Unaccompanied children reaching the age of majority

Area of support	Description
<b>Residence permit</b> <i>Reception conditions Directive (article 6 and 7) and Qualification Directive (articles 24 and 31)</i>	<p><i>Please explain whether unaccompanied children (non-asylum seekers and asylum seekers) get temporary permits and if they expire when turning 18. Please elaborate on which type of permit is granted when they reach 18 years and under which conditions (e.g. being enrolled in education, or having an employment contract.)</i></p> <p>In Belgium, unaccompanied children who request asylum receive the same permit as all asylum seekers, which allows them to stay in the country until the end of their asylum procedure, regardless of whether they turn 18 in the meantime or not.<sup>175</sup> Those who at the end of the procedure are recognised as refugees receive a temporary permit (carte électronique A), which is valid for five years. After that period, it is possible to obtain a permanent permit (carte électronique B).<sup>176</sup> For those who receive subsidiary protection, they first receive a one year permit (which corresponds to carte électronique A). This permit can be renewed twice for two years, after which (in total 5 years of residence) it is possible to receive a permanent permit (carte électronique B).<sup>177</sup> The guardians of children who have their request for asylum denied receive an order to reconduct to the border (known as annex 38) – instead of an order to leave the</p>

<sup>175</sup> Belgium, Telephone interview with representative from Children Law Service (*Service Droit des Jeunes*) (13.9.2019) and with representative from the Flemish Foster Case service (*Pleegzorg Vlaanderen*) (11.9.2019). See also articles 74 and 75, Royal Decree of 8 October 1981 on access to the territory, residence, establishment and deportation of aliens ([arrêté royal du 8 octobre 1981 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers](#)). Publication in the Belgian Official Gazette on 27 October 1981 [last accessed 8 October 2019].

<sup>176</sup> Belgium, Article 49, Law of 15 December 1980 on the entry, temporary and permanent residence and removal of aliens ([Loi du 15 décembre 1980 portant sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers](#)). Publication in the Belgian Official Gazette on 31 December 1980 [last accessed 27 September 2019]. See also: Office of the Commissioner General for Refugees and Stateless Persons (*Commissariat général aux réfugiés et aux apatrides*), 'Recognised Refugee' ([Réfugié Reconnu](#)). Available at: [last accessed 13 September 2019]

<sup>177</sup> Belgium, Article 49/2, Law of 15 December 1980 on the entry, temporary and permanent residence and removal of aliens ([Loi du 15 décembre 1980 portant sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers](#)). Publication in the Belgian Official Gazette on 31 December 1980 [last accessed 27 September 2019]. See also: Office of the Commissioner General for Refugees and Stateless Persons (*Commissariat général aux réfugiés et aux apatrides*), Beneficiary of Subsidiary Protection ([Bénéficiaire de la Protection Subsidiare](#)) [last accessed 13 September 2019]

	<p>territory, as adults receive.<sup>178</sup> However, Belgium does not forcibly return unaccompanied children. They may voluntarily return, as long as their tutor and family agree to it<sup>179</sup> (see more on the return section below).</p> <p>Unaccompanied children (whether they apply for asylum or not) can also, through their guardian, request an authorisation to reside in the country on the basis of a particular residence procedure (art. 61/14 of the law of 15 December 1980 on access to the territory, stay and return of foreigners), which is decided via a durable solution assessment;<sup>180</sup> that is, the Immigration Office will assess the specific circumstances of the case to determine whether the best durable solution for the child would be to stay in Belgium, to be reunited with his/her parents where they reside legally or be returned to their country of origin (or to a third country).<sup>181</sup> If it is decided that the durable solution is not in Belgium, an order to be reconducted to the border (mentioned above) is issued. If it is decided that the durable solution is in Belgium, the child receives a temporary permit valid for a year (carte A). Such temporary permit can be renewed and, after three years, a permanent permit (carte B) can be obtained. If, however, the child turns 18 before a decision is reached, the process comes to end and the child is not granted any permit through that procedure, which can leave him/her in an irregular situation.<sup>182</sup></p> <p>Lastly, any foreigner in Belgium (not only children) can request a permit to stay in the country through the regularisation of stay procedure prescribed in Belgium’s immigration law (Art. 9bis of the Aliens Act). Such procedure allows foreign nationals to request to stay in the country when there are exceptional circumstances in place. What configures a special circumstance, however, is not defined in the law and there is no right to be granted such regularisation (it is a discretionary decision).</p>
<p><b>Guardianship (representative under Reception Conditions Directive Article 24.1)</b></p>	<p><i>Please elaborate on how the role of guardians is affected when the child reaches 18, and of any initiatives to expand the guardian’s support, for example transforming the guardian into a ‘mentor’ supporting the child until a certain age.</i></p>

<sup>178</sup> Belgium, Association for the Right of Foreigners (*Association pour le Droit des Étrangers*), Removal measures (*Mesures d’éloignement*) [last accessed 14 September 2019]

<sup>179</sup> Belgium, Platform minors in exile (*Plate-forme mineurs en exil*), Return (*Retour*). [last accessed 13 September 2019]

<sup>180</sup> Belgium, Federal Public Justice Service (Service public fédéral justice), ‘Durable solution’ (*Solution durable*) [last accessed 25 January 2019]

<sup>181</sup> Belgium, Immigration Office (*Office des Étrangers*), ‘Unaccompanied minors that do not request asylum’ (*Le MENA non demandeur d’asile*) [last accessed 13 September 2019]

<sup>182</sup> Belgium, Immigration Office (*Office des Étrangers*), ‘Unaccompanied minors that do not request asylum’ (*Le MENA non demandeur d’asile*), see section ‘After 18 years old’ (Après 18 ans?), [last accessed 13 September 2019]

	<p>According to Belgium law, the role of guardians (and, consequently, guardianship) ends when an unaccompanied child reaches the age of 18 (Art 24 par. 2 of title XIII, chapter 6 of the program-law of 24 December 2002). In practice, some guardians choose to continue to assist those under their care, but this is an individual decision of the parties concerned and not in any way an institutionalised practice.<sup>183</sup></p>
<p><b>Accommodation</b> <i>Reception Conditions Directive</i> <b>Article 24.2</b></p>	<p><i>Please explain what children reaching 18 years are entitled to in terms of accommodation, for example extension of foster care programmes until the age of 21, only transfer to an adult accommodation, or other accommodation support.</i></p> <p>Initially, all unaccompanied children are placed in one of Fedasil specialised centres for observation and orientation (OOC) for up to 30 days for identification and appointment of a tutor. After this initial month, those who are applying for international protection are placed in one of the reception centres of Fedasil or one of its partners, while those who do not ask for protection or who are considered especially vulnerable<sup>184</sup> are referred to either the French community or the Flemish community youth services to be placed in one of their centres. When it is deemed appropriate, the tutor of an unaccompanied child can also request that s/he be placed with a family member or a friend in the country.<sup>185</sup></p> <p><i>For those placed in federal centres (Fedasil and partners)</i></p> <p>Children who are 16 or older and are recognised as refugees can be referred to an individual reception facility (LOI/ILA). In principle, the stay in an individual reception facility (LOI/ILA) comes to an end when the child turns 18, but a request for a prolonged stay can be made. The acceptance or refusal of this prolongation will be based on a thorough assessment of all elements put forward in the request (e.g. level of autonomy of the person concerned, steps undertaken to find private accommodation on the rental market, etc.).<sup>186</sup> Those who reach 18 while their asylum procedure is still ongoing are moved from a Fedasil (or partner) youth reception centre to an adult one.<sup>187</sup> Those who reach 18 without a residence's permit (e.g. those rejected in the asylum procedure), in turn, must leave the reception centres.<sup>188</sup></p> <p><i>For those placed in community youth centres</i></p>

<sup>183</sup> Belgium, Telephone interview with representative from Children Law Service (*Service Droit des Jeunes*) (13.9.2019) and written communication from the Federal Public Justice Service (*Service public fédéral justice*) (18.9.2019).

<sup>184</sup> Belgium, Fedasil, Reception scheme of unaccompanied minors ('Trajet d'accueil des Mena'). Available at: <https://www.fedasil.be/fr/asile-en-belgique/mineurs/trajet-daccueil-des-mena> [last accessed 13.9.2019]

<sup>185</sup> Belgium, Federal Public Justice Service (*Service public fédéral justice*), Take charge of a foreign unaccompanied minor (*Prise en charge d'un mineur étranger non accompagné*) [last accessed 13.9.2019]

<sup>186</sup> Belgium, Written communication from Fedasil (9.9.2019).

<sup>187</sup> Belgium, Fedasil, Reception scheme of unaccompanied minors (*Trajet d'accueil des Mena*) [last accessed 13.9.2019]

<sup>188</sup> Belgium, Fedasil, Reception scheme of unaccompanied minors (*Trajet d'accueil des Mena*) [last accessed 13.9.2019]



	<p>The Flemish community and the French community have different systems regarding youth reception. Upon reaching 18, unaccompanied children in a reception facility managed by either the Flemish Community or the French Community may be transferred to a Fedasil (or partner) adult reception facility, as long as they are still waiting for a decision on their application for protection. For those not waiting for a decision regarding their application for protection, the procedure is different. Those in facilities managed by the Flemish Community may request to continue in the reception program of the Flemish Youth Care or to receive alternative forms of accompaniment after completing 18 years of age.<sup>189</sup> Approval of such extension of reception will be determined by the Flemish Youth Care on a case-by-case basis. Those placed in facilities managed by the French Community, however, have to leave the reception centre upon reaching 18, as there is no possibility of post-adulthood aid or accompaniment.<sup>190</sup></p> <p><i>For those in foster care</i></p> <p>As foster care services are also ran by the communities (Flemish and French), the situation is similar to those placed in community centres. In principle, therefore, foster care ends at age 18, but in the Flemish Community the foster family and the child can agree to extend foster care until the concerned individual reaches 25. When foster care is not continued, children turning 18 in the Flemish community can also request other forms of assistance, as the ones placed in community centres.<sup>191</sup></p>
<p><b>Return</b> <b><i>Return Directive, Article 10</i></b></p>	<p><i>Please explain whether there are any special measures to prepare unaccompanied children for a return procedure and whether young adults receive any form of free assistance during eventual return procedures</i></p> <p>As mentioned above, Belgium does not forcibly return unaccompanied children, but they can return voluntarily to their country of origin or country in which they have a right to reside.<sup>192</sup> Voluntary returns are carried out by Fedasil,<sup>193</sup> IOM<sup>194</sup> and Caritas.<sup>195</sup></p> <p>Fedasil has a voluntary return programme adapted for unaccompanied children and former unaccompanied children (until the age of 21).<sup>196</sup> In this regard, children placed in Fedasil youth reception centres are informed about the option of voluntary return by Fedasil while those hosted outside Fedasil’s structure are informed about it by their guardians.</p>

<sup>189</sup> Belgium, Telephone interview with representative from the Flemish Foster Case service (*Pleegzorg Vlaanderen*) (11.9.2019).

<sup>190</sup> Belgium, Written communication from Fedasil (9.9.2019).

<sup>191</sup> Belgium, Telephone interview with representative from the Flemish Foster Case service (*Pleegzorg Vlaanderen*) (11.9.2019).

<sup>192</sup> Belgium, Platform minors in exile (*Plate-forme mineurs en exil*), Return ([Retour](#)) [last accessed 13.9.2019]

<sup>193</sup> Belgium, Fedasil, Voluntary return ([Retour volontaire](#)) [last accessed 17.9.2019]

<sup>194</sup> Belgium, International Office for Migration (IOM), Assisted Voluntary Return and Reintegration ([Aide au retour volontaire et à la réintégration \(AVRR\)](#)) [last accessed 17.9.2019]

<sup>195</sup> Belgium, Caritas, For a dignified return to the country of origin ([Pour un retour digne dans le pays d'origine](#)) [last accessed 17.9.2019]

<sup>196</sup> Belgium, Written communication from Fedasil (18.9.2019).

Information about return is communicated in a child-friendly way and return is presented as the beginning of a new start in the home country, taking into account the individual circumstances of the child, such as his/her strengths and weaknesses and his family situation in the country of return. To ensure all those involved in the process are apt to provide such personalised and child-friendly approach, Fedasil provides training to social workers and legal representatives on how to engage with children and develops specific communication to this target group. Furthermore, four times a year Fedasil organises ‘regional meeting evenings’ with guardians all over the country to obtain feedback on the return procedure and discuss individual cases.

In the context of its adapted return programme for children, Fedasil has also developed the My Future project,<sup>197</sup> which aims at providing guidance, information and assistance for unaccompanied children re-settling in their country of origin. This program seeks to evaluate the child’s possibilities in the home country in relation to education, access to the labour market and family support. Furthermore, it provides in kind assistance upon return for up to a year, to support with housing, education and training, health care, income-generating activities etc. Such assistance is managed by IOM and Caritas local representations.

IOM also has special procedures in place to return unaccompanied children.<sup>198</sup> When IOM receives a request from a child, guardian or organisation to return an unaccompanied child, it first contacts the child’s guardian to explain the procedure. Should the child not have a guardian, IOM contacts the guardianship services in Belgium so that a guardian is appointed. After explaining the procedure to the child’s guardian, IOM makes a social report about the situation of the child in Belgium and conducts a family assessment about the family situation in the country of origin (this assessment is made by IOM’s office in the country of origin). The family assessment report is shared with the child’s guardian in Belgium so the child and the guardian can make a decision on return together.

Once a decision on return is made, IOM will contact the parents or guardian of the child in the country of origin to obtain authorisation for the child to fly and the commitment that the parents or guardian will take care of the child once s/he is returned. IOM will provide an escort to travel with children under 15 or have a member of its staff waiting for the child in the country of origin, if the child is 15 or older. IOM is fully responsible for the child until s/he is handed over to the parents or guardian in the country of origin. After return, IOM provides in kind reintegration support

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<sup>197</sup> Belgium, Fedasil, Reception scheme of unaccompanied minors ([Trajet d'accueil des Mena](#)) [last accessed 13.9.2019]

<sup>198</sup> Belgium, Telephone interview with representative from IOM (24.9.2019)

	for the child to have access to education and training and offers financial support for the family. There are also funds available for medical care, if needed.
<b>Others</b>	<i>e.g. special permissions to stay based on education or employment programme, etc.</i> The special permission to stay that can be granted exclusively to children is the durable solution procedure mentioned above in the first item on permits.

Apart from the issue of unaccompanied children, it is important to note that immigration played an important role in Belgian politics in 2019. Already on 19 December 2018, Belgium's then Prime Minister, Charles Michel, resigned from his position<sup>199</sup> due to tensions in the government over the support for the UN Global Compact for Safe, orderly and Regular Migration<sup>200</sup> (Migration Pact), which had already led the largest party in the government coalition, the N-VA (Nieuw-vlaamse Alliantie), which opposed the Migration Pact, to quit the government<sup>201</sup> on December 8, 2018. The Prime Minister's resignation was accepted by King Philippe on December 21 of the same year. The monarch requested, however, that Charles Michel stayed<sup>202</sup> as the leader of a caretaker government until elections were held in May 2019.

On May 26, 2019, Belgium held federal and regional elections, next to the European elections. The parties that were part of the previous government coalition lost seats in the government while the Flemish anti-immigration extreme right party Vlaams Belang had the largest increase in number of seats compared to the previous election at both the federal and Flemish level.<sup>203</sup> During the campaign period, Vlaams Belang shared anti-immigration posts in its Facebook page and individual members of the party also published anti-immigration content in their social media platforms.<sup>204</sup>

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<sup>199</sup> Discours Appel du Premier ministre aux bonnes volontés à la Chambre des Représentants, 18 December 2018, available at: <https://www.premier.be/fr/appel-du-premier-ministre-aux-bonnes-volontés-à-la-chambre-des-représentants> [last accessed 4 January 2019].

<sup>200</sup> United Nations General Assembly, Intergovernmental Conference to Adopt the Global Compact for Safe, Orderly and Regular Migration Marrakech, Morocco, 10 and 11 December 2018, UN/A/CONF.231/3, available at: <http://undocs.org/en/A/CONF.231/3> [last accessed 4 January 2019].

<sup>201</sup> Brussels Times, N-VA quits the government, Michel continues with minority, 9 December 2018, available at: <http://www.brusselstimes.com/belgium/politics/13404/n-va-quits-the-government-michel-continues-with-minority> [last accessed 4 January 2019]

<sup>202</sup> The Guardian, Belgian King asks Michel to stay on until may elections, 21 December 2018, available at: <https://www.theguardian.com/world/2018/dec/21/belgian-king-accepts-prime-minister-charles-michel-resignation-say-reports> [last accessed 4 January 2019].

<sup>203</sup> Le Monde, 'Elections européennes 2019 : la Belgique voit le triomphe de la droite flamande extrémiste.' Available at: [https://www.lemonde.fr/international/article/2019/05/27/europeennes-2019-la-belgique-voit-le-triomphe-de-la-droite-flamande-extremiste\\_5467969\\_3210.html](https://www.lemonde.fr/international/article/2019/05/27/europeennes-2019-la-belgique-voit-le-triomphe-de-la-droite-flamande-extremiste_5467969_3210.html) [last accessed 18 June 2019]

<sup>204</sup> European Union Agency for Human Rights, 'Migration: Key Fundamental Rights Concerns – Quarterly Bulletin 1.1.2019 to 31.3.2019.' Available at: [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2019-migration-bulletin-2\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2019-migration-bulletin-2_en.pdf) [last accessed 18 June 2019]

As no party holds the majority of seats and the outcome in Flanders and in Wallonia was very different,<sup>205</sup> the new federal government has not yet been formed.

Furthermore, an important legal development has been the approval of the law of 8 May 2019<sup>206</sup> modifying the law of 15 December 1980 on access to the territory, stay and return of foreigners.<sup>207</sup> The new law establishes that irregular migrants in Belgium who have requested asylum in another EU member state may be detained for up to 6 weeks while Belgian authorities decide on which member state is responsible to assess the asylum request according to the Dublin Regulation. Such asylum seekers might also be detained for up to 6 weeks while awaiting transfer to the competent member state and this period may be prolonged in case the individual concerned appeals, as the appeal will suspend the transfer and, therefore, the migrant may be kept in detention until a decision on the appeal is made.

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<sup>205</sup> While the extreme right increased its presence in Flanders, the socialists increased their number of seats in Wallonia. Source: IBZ, 'Résultats Officiels.' Available at: <https://elections2019.belgium.be/fr> [last accessed 28 June 2019]

<sup>206</sup> Projet De Loi modifiant la loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers. Available at: <http://www.dekamer.be/FLWB/PDF/54/3618/54K3618007.pdf> [last accessed 14 June 2019]

<sup>207</sup> Written communication with Immigration Office (14.06.2019)

## Chapter 5. Information society, data protection

### 1. Activities developed and launched by national data protection supervisory authorities (SAs) to implement and enforce the GDPR

As a direct consequence of the GDPR, the Data Protection Authority was established with the Act of 3 December 2017 and has replaced the Commission for the protection of privacy as of 25 May 2018.<sup>208</sup> Its rules of procedure were approved in December 2018<sup>209</sup> and the members of its Executive Committee were appointed by the Belgian Parliament in March 2019 and assumed their position in the following month.<sup>210</sup>

Since its establishment, the Authority has been very active and in 2019 it published multiple opinions regarding compliance of a great variety of legislative initiatives in Belgium with the GDPR.<sup>211</sup> Apart from the opinions, the Authority's Litigation Chamber also issued decisions on different subjects throughout the year.<sup>212</sup> In fact, on 28 May 2019, the Authority applied its first financial sanction, a fine of 2000 euros to a mayor for abusive use of personal data during the electoral campaign.<sup>213</sup> More recently, in September 2019, the Authority fined a merchant for making ID card reading mandatory for clients wanting to register for a fidelity program. The fine imposed was of 10000 euros.<sup>214</sup>

Furthermore, on 16 January 2019, the Authority adopted a list of categories of data processing that require the conduction of a data protection impact assessment (in accordance with article 35.4 of the GDPR),<sup>215</sup> and on 6 February 2019 the Authority published a recommendation calling on public authorities to not require the collection of personal information from users who wish to access public information (e.g. official sources of national legislation).<sup>216</sup> For the future, the

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<sup>208</sup> Belgium, Data Protection Authority (*Autorité de protection des données/ Gegevensbeschermingsautoriteit*) (2019), '[More information about the Authority.](#)' [last accessed 26 September 2019]

<sup>209</sup> Belgium, Data Protection Authority (*Autorité de protection des données/ Gegevensbeschermingsautoriteit*) (2019), '[Reference texts on data protection.](#)' [last accessed 26 September 2019]

<sup>210</sup> Belgium, Data Protection Authority (*Autorité de protection des données/ Gegevensbeschermingsautoriteit*) (2019), '[A new start for the data protection authority \(Un nouveau départ pour l'Autorité de protection des données !\)](#)' [last accessed 26 September 2019]

<sup>211</sup> Belgium, Data Protection Authority (*Autorité de protection des données/ Gegevensbeschermingsautoriteit*) (2019), '[Opinions \(Avis\)](#)' [last accessed 26 September 2019]

<sup>212</sup> Belgium, Data Protection Authority (*Autorité de protection des données/ Gegevensbeschermingsautoriteit*) (2019), '[Decisions of the Litigation Chamber \(Décisions de la Chambre Contentieuse\)](#)' [last accessed 26 September 2019]

<sup>213</sup> Belgium, Data Protection Authority (*Autorité de protection des données/ Gegevensbeschermingsautoriteit*) (2019), '[The data protection authority announces its first sanction related to an election campaign \(L'Autorité de protection des données prononce une sanction dans le cadre d'une campagne électorale\)](#)'. [last accessed 26 September 2019]

<sup>214</sup> Belgium, Data Protection Authority (*Autorité de protection des données/ Gegevensbeschermingsautoriteit*) (2019), '[The data protection authority sanctions a businessman for disproportionate use of the eID for the creation of a loyalty card \(L'Autorité de protection des données sanctionne un commerçant pour l'utilisation disproportionnée de l'eID pour la création d'une carte de fidélité.\)](#)' [last accessed 26 September 2019]

<sup>215</sup> Belgium, Data Protection Authority (*Autorité de protection des données/ Gegevensbeschermingsautoriteit*) (2019), '[Decision of the Secretary General no 01/2019 of 16 January 2019 \(Décision du Secrétariat Général n° 01/2019 du 16 janvier 2019\)](#)' [last accessed 26 September 2019]

<sup>216</sup> Belgium, Data Protection Authority (*Autorité de protection des données/ Gegevensbeschermingsautoriteit*) (2019), '[Recommendation no 01/2019 of 6 February 2019 \(Recommandation no 01/2019 du 6 février 2019\)](#)' [last accessed 16.9.2019]



Authority informed that it is working with the European Data Protection Board to approve codes of conduct and accreditation criteria at EU level by the end of the year.<sup>217</sup>

Regarding its interaction with civil society, a representative from the from the Authority informed that the Belgian DPA currently does not have any particular ongoing projects with civil society organisations as primary stakeholders.<sup>218</sup> Recently the Authority published its strategic plan 2019-2025 for public consultation in which the Belgian DPA identified five key sectors of primary focus: telecom, education, SME’s, public sector and direct marketing.<sup>219</sup> Nevertheless, the Authority believes civil society organisations can benefit from some of its projects. For example, the project BOOST for 2020 is primarily aimed at SME’s, but some of the materials that it will produce could also benefit to civil society organisations.<sup>220</sup>

## 2. Artificial intelligence and big data

MS	Actor *	Type*	Description	Are Ethical concerns mentioned ? (yes/no)	Are Human Rights issues mentioned?(yes/no)	Reference
BE	DPA	Report	The Belgium DPA’s predecessor, the commission for the protection of private life, published a report on big data and its data protection implications in 2017.	No	Yes (data protection)	Belgium, Data Protection Authority (Commission de la protection de la vie privée (CPVP)), ‘ <a href="#">Rapport Big Data.</a> ’ [last accessed 16.9.2019]
BE	Other	Report	Different experts from academia and the private sector came together by request of the Minister of Digital Agenda to form AI 4 Belgium. AI 4 Belgium is an initiative that aims to foster the development of	Yes	No	Belgium, AI4Belgium, ‘ <a href="#">AI4Belgium.</a> ’ [last accessed 16.9.2019]

<sup>217</sup> Belgium, Telephone interview with representative from the Data Protection Authority (*Autorité de protection des données/ Gegevensbeschermingsautoriteit*) (25.9.2019)

<sup>218</sup> Belgium, written exchange with representative from Data Protection Authority (*Autorité de protection des données/ Gegevensbeschermingsautoriteit*) (6.1.2020)

<sup>219</sup> Belgium, Data Protection Authority (*Autorité de protection des données/ Gegevensbeschermingsautoriteit*) Public Consultation: Strategic Plan 2019-2025 ( [Consultation publique : plan stratégique 2019-2025 / Openbare raadpleging: Strategisch plan 2019-2025](#)) [last accessed 7 January 2020].

<sup>220</sup> Belgium, Data Protection Authority (*Autorité de protection des données/ Gegevensbeschermingsautoriteit*) The Authority launches its "Boost" project for SMEs in early 2020 (*L’Autorité lance début 2020 son projet « Boost » pour les PME*) [last accessed 7 January 2020].

			AI in Belgium and in their first report, presented in March 2019, they provided recommendations to the government regarding the development of an AI strategy.			
BE	Independent State Institution	Other project	The Digital Agency (Agence du Numérique) - Wallonia's public service body responsible for monitoring technological innovation and habits relating to digital technology, advising the Walloon Government and its departments on this area, and leading or coordinating operational or communication measures to support Wallonia's digital transformation - started a project in April 2019 called DigitalWallonia4.ai that aims at creating a network to support the development of AI in Wallonia.	Yes	No	Belgium, Digital Wallonia, ' <a href="#">DigitalWallonia4.ai : l'intelligence artificielle au service des citoyens et des entreprises en Wallonie.</a> ' [last accessed 16.9.2019]
BE	Government /Parliamentary	Report	In view of the fast development of AI applications, the Belgium Senate published a report in March 2019 touching upon what it considers to be the three main questions surrounding the topic, namely, the legal deficit (how is AI regulated?), the ethics deficit (which society and values do we want?) and the democratic deficit (how to ensure citizens understand technologies?).	Yes	Yes	Belgium, Senate of Belgium (Sénat de Belgique), ' <a href="#">Rapport d'information relatif à la nécessaire collaboration entre l'État fédéral et les entités fédérées en ce qui concerne les retombées, les opportunités, les potentialités et les risques de la « société intelligente » numérique.</a> ' [last accessed 16.9.2019]
BE	Other	Other project	In 2019, Benelux launched a study on the impact of AI on cross-border employment.	No	No	Belgium, Benelux, ' <a href="#">Le Benelux étudie l'impact de l'intelligence artificielle sur l'emploi transfrontalier.</a> ' [last accessed 16.9.2019]
BE	Other	Other project	The Free University of Brussels (ULB) and Kantify developed the first model to predict atrial fibrillation, the second largest heart disease in the world.	No	No	Belgium, L'Echo, ' <a href="#">Une première mondiale belge pour prévenir les incidents cardiaques</a> ' [last accessed 3.1.2020]

### **3. Data retention**

Following the enactment of the 2016 Act concerning the collection and retention of data in the electronic communications sector, the only legislative development related to data retention in Belgium has been enactment of the law of 25 December 2016 transposing the EU Passenger Name Record (PNR) Directive. In 2018, however, different actors, including the French- and German-speaking Bars in Belgium (Ordre des barreaux francophones et Germanophone) requested the annulment of the Law of 29 May 2016 on the collection and retention of data in the electronic communications sector to Belgium's Constitutional Court. Before making a decision, the Court referred the case to the Court of Justice of the European Union (CJEU [case C-520/18](#)) to inquire about the said law's compatibility with the EU legal framework. A decision from the CJEU is still pending. In 2019, there were no changes in legislation related to retention periods.

## Chapter 6. Rights of the child

### 1. Procedural safeguards for children who are suspects in criminal proceedings

<b>Legislative changes</b>	<p>Directive 2016/800 was duly transposed in Belgium in accordance with the transposition deadline. A total of 83 measures account for the domestic transposition of the Directive. In 2019, three such legislative measures are of relevance to the transposition of the Directive.</p> <ul style="list-style-type: none"><li>• <b>Decree of 15 February 2019 on juvenile delinquance</b> (<i>Decreet betreffende het jeugddelinquentierecht</i>)<sup>221</sup>. A request for the partial annulment of the Decree was received by the Constitutional Court on 28 October 2019 and is currently pending (case listing number 7268).<sup>222</sup></li><li>• <b>Decree of 14 March 2019 relating to the management of juvenile offenders</b> (<i>Décret du 14 mars 2019 relatif à la prise en charge en centre communautaire des jeunes ayant fait l'objet d'un dessaisissement</i>)<sup>223</sup></li><li>• <b>Decree of 5 April 2019 of the Flemish Government on the establishment of community institutions and on the implementation of various provisions of the decree on juvenile delinquency law</b> (<i>Besluit van de Vlaamse Regering tot inrichting van de gemeenschapsinstellingen en tot uitvoering van diverse bepalingen van het decreet betreffende het jeugddelinquentierecht</i>)<sup>224</sup> outlines further information on the establishment of three centres for juvenile offenders including the maximum capacity, and the education and training that will be provided to offenders.</li></ul> <p>The above regional legislative measures have been taken in 2019 with a view to regulating the internal legal status of young people detained in community centres, i.e. their legal status (rights and obligations) during the deprivation of liberty within the centre, and to establish the resulting operating principles for the community administration responsible for the management of the centres.</p> <p>Other legislative measures that have been taken in 2019 including the following:</p>
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<sup>221</sup> Flemish Parliament (*Vlaamse Overheid*) (2019), [Decree of 15 February 2019 on juvenile delinquance \(\*Decreet betreffende het jeugddelinquentierecht\*\)](#). Publication in the Belgian Official Gazette on 26 April 2019 [last accessed 23 September 2019].

<sup>222</sup> Constitutional Court (*Cour Constitutionnelle/ Grondwettelijk Hof*) (2019), Opinion prescribed by article 74 of the special law of 6 January 1989 (*Bericht voorgeschreven bij artikel 74 van de bijzondere wet van 6 januari 1989/ Avis prescrit par l'article 74 de la loi spéciale du 6 janvier 1989*). Publication in the Belgian Official Gazette on 27 November 2019 [last accessed 30 November 2019].

<sup>223</sup> Parliament of the Federation Wallonia-Brussels (*Parlement van de Federatie Wallonië-Brussel/ Parlement de la Fédération Wallonie-Bruxelles*) (2019), [Decree of 14 March 2019 on the management of juvenile offenders \(\*Décret du 14 mars 2019 relatif à la prise en charge en centre communautaire des jeunes ayant fait l'objet d'un dessaisissement\*\)](#), Publication in the Belgian Official Gazette on 23 April 2019. [last accessed 23 September 2019]; see also Parliament of the Federation Wallonia-Brussels (*Parlement van de Federatie Wallonië-Brussel/ Parlement de la Fédération Wallonie-Bruxelles*) (2019), [Report of the Commission presented to the Committee of youth, youth support and Centres for law, sport and the promotion of Brussels \(\*Rapport de commission présenté au nom de la commission de la Jeunesse, de l'Aide à la jeunesse, des Maisons de justice, des Sports et de la Promotion de Bruxelles\*\)](#), 19 February 2019 [last accessed 23 September 2019].

<sup>224</sup> Flemish Parliament (*Vlaamse Overheid*) (2019), [Decree of 5 April 2019 of the Flemish Government on the establishment of community institutions and on the implementation of various provisions of the decree on juvenile delinquency law \(\*Besluit van de Vlaamse Regering tot inrichting van de gemeenschapsinstellingen en tot uitvoering van diverse bepalingen van het decreet betreffende het jeugddelinquentierecht\*\)](#). Publication in the Belgian Official Gazette on 3 July 2019 [last accessed 23 September 2019].

	<p>Articles 88 &amp; 90 of the <b>Act laying down various provisions in criminal matters and in matters of religion, and amending the Act of 28 May 2002 on euthanasia and the Social Criminal Code</b> (<i>Loi portant des dispositions diverses en matière pénale et en matière de cultes, et modifiant la loi du 28 mai 2002 relative à l'euthanasie et le Code pénal social</i>) amended Articles 78 &amp; 92 of the Judicial Code (<i>Code Judiciaire</i>) regarding the composition of the judicial bench when passing judgement on children who have been the subject of a deprivation decision. In accordance with the amendment, the judicial bench shall consist of two youth judges and one criminal judge.<sup>225</sup></p> <p>In Wallonia, the introduction of the <b>Decree of the Government of the French Community on public youth protection institutions</b> (<i>Arrêté du Gouvernement de la Communauté française relatif aux institutions publiques de protection de la jeunesse</i>) establishes the types and capacities of care in public institutions (Title 1) and the general regulations of public institutions (Title 2).<sup>226</sup></p> <p>In Flanders, three Decrees were introduced in 2019.</p> <ul style="list-style-type: none"> <li>- The first <b>Decree of 5 April 2019 of the Flemish Government on the accreditation requirements and subsidy standards for youth care structures</b> (<i>Besluit van de Vlaamse Regering betreffende de erkenningsvoorwaarden en de subsidiënormen voor voorzieningen in de jeugdhulp</i>), refers to the conditions for approval (Chapter 2), Quality policy (Chapter 3), subsidy of structures (Chapter 4), accreditation procedure and control of compliance with accreditation conditions (Chapter 5).<sup>227</sup></li> <li>- The second is the <b>Decree of 7 June 2019 of the Flemish Government that amended two previous instruments, namely the Royal Decree of 12 November 2009 establishing a closed federal centre for minors who have committed an offence defined as such and the Decree of the Flemish Government of 5 April 2019 establishing community institutions and implementing various provisions of the Decree on juvenile delinquency law, as regards the organisation of Flemish detention centres</b> (<i>Besluit van de Vlaamse Regering tot wijziging van het koninklijk besluit van 12 november 2009 tot oprichting van een gesloten federaal centrum voor minderjarigen die een als misdrijf omschreven feit hebben gepleegd en het besluit van de Vlaamse Regering van 5 april 2019 tot inrichting van de</i></li> </ul>
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<sup>225</sup> Belgium, (2019), [Act of 5 May 2019 laying down various provisions in criminal matters and in matters of religion, and amending the Act of 28 May 2002 on euthanasia and the Social Criminal Code \(Loi du 5 mai 2019 portant des dispositions diverses en matière pénale et en matière de cultes, et modifiant la loi du 28 mai 2002 relative à l'euthanasie et le Code pénal social\)](#). Publication in the Belgian Official Gazette on 24 May 2019 [last accessed 23 September 2019]; Alié, M., Guillain, C., de Brouwer, A., Tatti, D., Vansillette, F. et Ribant, D., « Chronique de législation pénale 2019/1 », *Rev. dr. pén.*, 2019/9, p. 1033-1119, p. 1035.

<sup>226</sup> Belgium, Government of the French Community (*Gouvernement de la Communauté française*) (2019), Decree of 3 July 2019 of the Government of the French Community on public youth protection institutions (*Arrêté du 3 juillet 2019 du Gouvernement de la Communauté française relatif aux institutions publiques de protection de la jeunesse*). Publication in the Belgian Official Gazette on 24 July 2019 [last accessed 23 September 2019]

<sup>227</sup> Belgium, Flemish Government (*Vlaamse Regering*), [Decision of 5 april 2019 the Flemish Government on the conditions for recognition and the subsidy standards for facilities in youth aid \(Besluit van 5 april 2019 van de Vlaamse Regering betreffende de erkenningsvoorwaarden en de subsidiënormen voor voorzieningen in de jeugdhulp\)](#). Publication in the Belgian Official Gazette on 12 July 2019 [last accessed 23 September 2019]



	<p><i>gemeenschapsinstellingen en tot uitvoering van diverse bepalingen van het decreet betreffende het jeugddelinquentierecht, wat betreft de organisatie van het Vlaams detentiecentrum).</i> <sup>228</sup> Chapter 1 of the Decree of 7 June 2019 amends the total capacity of a detention centre in Tongres and updates the cumulative conditions that must be fulfilled for admission of juvenile offenders. Chapter 2 of the Decree of 7 June 2019 updates the provision of centres and the role of the minister to determine the sections, organisation and maximum capacity of the Flemish detention centre.</p> <p>- The third is the <b>Decree of 24 September 2019 amending the law of 8 April 1965 on the protection of minors, taking charge of minors who have committed an offence defined as a crime and compensating for the damage caused by this offence, and the decree of 15 February 2019 on the juvenile delinquency law, as regards the transitional provisions</b> (<i>Decreet houdende wijziging van de wet van 8 april 1965 betreffende de jeugdbescherming, het ten laste nemen van minderjarigen die een als misdrijf omschreven feit hebben gepleegd en het herstel van de door dit feit veroorzaakte schade en het decreet van 15 februari 2019 betreffende het jeugddelinquentierecht, wat de overgangsbepalingen betreft</i>).<sup>229</sup> The Decree makes amendments regarding a number of transitional measures, including <i>inter alia</i> the right to legal assistance of children who are older than 12 years old (article 5), the possibility for the judge, under certain conditions, to make an order for a child to be held for 2 months in a closed educational custody facility organised by the competent authorities (article 6) and the procedure for the youth court, under certain conditions, to dismiss a case by means of a reasoned decision and refer it to the Public Prosecutor's Office for prosecution before - if the person concerned is suspected of a misdemeanour or a criminal offence - a special chamber within the Youth Court which applies criminal law and procedure under ordinary criminal law (article 7).</p> <p>In the Brussels Capital Region, Article 89 of the Regulation of 16 May 2019 on the Assistance and Protection of Young People (Ordonnance du 16 mai 2019 relative à l'aide et à la protection de la jeunesse) outlines the conditions in which</p>
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<sup>228</sup> Belgium, Flemish Government (*Vlaamse Regering*) (2019), [Decree of 7 June 2019 of the Flemish Government amended two previous instruments, namely the Royal Decree of 12 November 2009 establishing a closed federal centre for minors who have committed an offence defined as such and the Decree of the Flemish Government of 5 April 2019 establishing community institutions and implementing various provisions of the Decree on juvenile delinquency law, as regards the organisation of Flemish detention centres \(Besluit van de Vlaamse Regering tot wijziging van het koninklijk besluit van 12 november 2009 tot oprichting van een gesloten federaal centrum voor minderjarigen die een als misdrijf omschreven feit hebben gepleegd en het besluit van de Vlaamse Regering van 5 april 2019 tot inrichting van de gemeenschapsinstellingen en tot uitvoering van diverse bepalingen van het decreet betreffende het jeugddelinquentierecht, wat betreft de organisatie van het Vlaams detentiecentrum\)](#), Publication in the Belgian Official Gazette on 10 July 2019 [last accessed 23 September 2019]

<sup>229</sup> Belgium, Flemish Government (*Vlaamse Regering*) (2019), [Decree of 24 September 2019 amending the law of 8 April 1965 on the protection of minors, taking charge of minors who have committed an offence defined as a crime and compensating for the damage caused by this offence, and the decree of 15 February 2019 on the juvenile delinquency law, as regards the transitional provisions \(Decreet houdende wijziging van de wet van 8 april 1965 betreffende de jeugdbescherming, het ten laste nemen van minderjarigen die een als misdrijf omschreven feit hebben gepleegd en het herstel van de door dit feit veroorzaakte schade en het decreet van 15 februari 2019 betreffende het jeugddelinquentierecht, wat de overgangsbepalingen betreft\)](#). Publication in the Belgian Official Gazette on 1 October 2019 [last accessed 30 November 2019].

	<p>a Youth Court may decline jurisdiction and refer the case of a child (who was more than 16 years of age at the time of offence) to the public prosecution.<sup>230</sup></p> <p>In the Wallonia-Brussels Federation, legislative measures have begun to be implemented during the reporting period following the entry into force on 1 January 2019 of the Decree of 18 January 2018 on the code of prevention, youth support and youth protection (<i>Décret portant le code de la prévention, de l'Aide à la jeunesse et de la protection de la Jeunesse</i>).<sup>231</sup> In particular, in relation to the procedural safeguards for children who are suspects in criminal proceedings, the new code provides for the following measures relating to children who have been prosecuted for an act qualifying as an offence [fait qualifié infraction]. In particular, the priority has been given to a restorative approach that seeks to offer a number of alternatives, with detention being a last resort; a minimum age of 14 years old for a child to be placed in Public Institutions for the Youth Protection [Institutions publiques de protection de la jeunesse (IPPJ)]; a restriction from placement in IPPJ for children with mental difficulties; reinforcement of conditions for detention. In addition, two new institutions have been mandated with monitoring roles: a Monitoring Committee presided by the Delegate General of Children's Rights [La Commission de surveillance] and an independent external review body for decisions of the IPPJ Management to be reviewed at the request of the children.<sup>232</sup></p>
<p><b>Policy developments</b></p>	<p>In 2018, a new circular from the College of the Attorney General took into account the new Directive 2016/800. The Circular on the organisation of access to a lawyer for children and persons suspected of having committed an act qualified as an offence before the age of 18 [<i>Circulaire relative à l'organisation du droit d'accès à un avocat – situation des mineurs d'âge et des personnes suspectées d'avoir commis un fait qualifié infraction avant l'âge de dix-huit ans</i>] outlines the rights to information, assistance and consultation of child suspects in criminal proceedings. In addition, the Circular transposes the amendments from the Directive.<sup>233</sup></p> <p>The civil society organisation Youth and the Law [Jeunesse et Droit] organises training for professionals in September 2019 a training on the theme of Minors in criminal law [<i>le mineur dans le droit pénal</i>]. In collaboration with “Défense des droits internationaux” a one-day training on Restorative justice in favour of minors [<i>La justice restauratrice en faveur des mineurs</i>] in May 2019.<sup>234</sup></p>

<sup>230</sup> Belgium, Joint Community Commission of Brussels Capital (2019), [Ordinance of 16 May 2019 on the Assistance and Protection of Young People \(Ordonnance du 16 mai 2019 relative à l'aide et à la protection de la jeunesse\)](#). Publication in the Belgian Official Gazette on 10 July 2019 [last accessed 5 May 2019]

<sup>231</sup> Belgium, Parliament of the Federation Wallonia-Brussels (*Parlement de la Fédération Wallonie-Bruxelles*) (2018), [Decree of 18 January 2018 on the Code of Prevention, Youth Assistance and Youth Protection, after several months of examination of the text within the Community Council for Youth Assistance and the Youth Assistance Committee of the Parliament of the French Community \(Décret du 18 janvier 2018 portant le code de la prévention, de l'aide à la jeunesse et de la protection de la jeunesse, après un examen du texte de plusieurs mois au sein du conseil communautaire de l'aide à la jeunesse et en commission de l'Aide à la jeunesse du Parlement de la Communauté française\)](#). Publication in the Belgian Official Gazette on 3 April 2018. [last accessed 23 September 2019]; *Chronique de législation pénale 2018: Jeunesse*, Rev. dr. pén. crim. 2019 - n° 3, pp. 238-249.

<sup>232</sup> Belgium, Repér' - Le journal de l'Aide à la jeunesse (October 2018), [Les mesures de protection des jeunes poursuivis du chef d'un fait qualifié infraction](#), [last accessed 23 September 2019]

<sup>233</sup> Belgium, Philips, C., 'L'audition des mineurs balisée par une nouvelle Circulaire' *Bulletin Juridique & Social* (2018) 617, p.2.

<sup>234</sup> Belgium, Youth and the Law (*Jeunesse et Droit*), [Training \(Formation\)](#) [last accessed 23 April 2020].

<p><b>Other measures or initiatives</b></p>	<p>During the legislative scrutiny of the abovementioned legislative measures, a group of academic and policy experts convened to discuss the implications of the proposed legal reform. The result of these discussions were presented in a report that provides conclusions and recommendations for the reform of the law that regulates the handling of juvenile offenders.<sup>235</sup></p>
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## 2. Legal and policy measures or initiatives developed about child internet safety

The regulation of audiovisual services in Belgium is a community matter as part of the cultural competences of the regions.<sup>236</sup> No legislative measures have been developed in 2019 on the matter of child internet safety and no concrete legislative changes have been made as part of the transposition of the Directive (EU) 2018/1808 Audiovisual Media Services into national law.

In the French community, the Audiovisual Council (*Conseil supérieur de l'audiovisuel (CSA)*)<sup>237</sup> is working on the transposition of the Directive via the Advisory Committee (*Collège d'avis*) who will in 2020 provide an opinion to the government on how best the Directive should be transposed in the Federation of Wallonia and Brussels.<sup>238</sup> In 2018, there was one complaint handled by the Licensing and Supervision Board (*Collège d'autorisation et de contrôle*) regarding the lack of parental control on a webtv platform.<sup>239</sup>

In the Flemish community, the Flemish Media Regulator (*Vlaamse Regulator voor de Media (VRM)*)<sup>240</sup> has not taken any legal measures to transpose the Directive.<sup>241</sup> The Flemish Media Regulator (VRM) has a chamber for impartiality and the protection of children that is competent for dealing with complaints concerning programmes that incite hatred, issues relating to editorial independence or impartiality, the child protection from harmful content. The Chamber is composed of nine members, including the chairperson, of whom four are professional journalists. The chamber for impartiality and the protection of children is extended with two experts with at least five years of professional experience in the fields of child psychology, child psychiatry or education and two experts, on the basis of their involvement in the interests of families and children.<sup>242</sup>

The General Delegate for the Rights of the Child (*Délégué général aux droits de l'enfant*) has organised two participative seminars in 2019 related to online safety. The first took place in the French Speaking Community in April 2019, over a period of 5 days for participants aged

<sup>235</sup> Belgium, Asselman H., (2018), [Vers une approche de la délinquance juvénile à Bruxelles recommandations pour la réforme du droit bruxellois relative as la délinquances des mineurs](#) [last accessed 23 September 2019]

<sup>236</sup> Belgium, [Article 127 of the Constitution](#) and [Article 4, 6° of the special law of institutional reform of 8 August 1980 \(Loi spéciale de réformes institutionnelles du 8 août 1980\)](#) [last accessed 23 September 2019]

<sup>237</sup> Belgium, Article 133, [Coordinated decree of 26 March 2009 of the French Community of 26 March 2009 on audiovisual media services \(Décret coordonné du 26 mars 2009 de la Communauté française du 26 mars 2009 sur les services de médias audiovisuels\)](#) [last accessed 23 September 2019]

<sup>238</sup> Belgium, Written correspondence with CSA, 12 September 2019 and 1 Decemebr 2019 from Conseillère Protection des mineurs, dignité humaine, déontologie journalistique, droit du public à l'information, information politique en période électorale [Following correspondence with CSA on 1 December 2019, the opinion of the college is not yet ready so cannot be included in the reporting period].

<sup>239</sup> Belgium, Audiovisual Council (*Conseil Supérieur Audiovisuel*) (2018), [Licensing and Supervision Board, RTBF Decision: protection of minors on the Auvio platform 8 March 2018 \(Collège d'autorisation et de contrôle, Décision RTBF : protection des mineurs sur la plateforme Auvio 8 mars 2018\)](#), [last accessed 25 September 2019]

<sup>240</sup> Belgium, Flemish Parliament (Vlaamse Regering), Article 215, [Decree of the Flemish Parliament of 27 March 2009 on radio and television broadcasting Decreet van 27 maart 2009 betreffende radio-omroep en televisie](#) [last accessed 23 September 2019]

<sup>241</sup> Belgium, Written correspondence with VRM, 25 September 2019.

<sup>242</sup> Belgium, Article 215 and Article 216, [Decree of the Flemish Parliament of 27 March 2009 on radio and television broadcasting Decreet van 27 maart 2009 betreffende radio-omroep en televisie](#) [last accessed 23 September 2019]

between 13-20. The training seminars is part of an education project “Parlons Jeunes!”, the seminars entitled “Parlons connecté-e-s” focused upon the rights of the child in the digital environment, including topics such as cyber-harassment, deepfakes, personal data protection and the right to be forgotten.<sup>243</sup> The second training took place on 25 June 2019.

In June 2019, the General Delegate for the Rights of the Child and the Flemish Children's Rights Commissioner hosted a two-day conference of 37 participants aged between 11 and 18 from 18 Council of Europe countries or regions for the ENYA Forum. The topic of discussion focused upon their rights in the digital environment. The forum gave the participants the opportunity to determine the topics/themes that they consider to be prioritised, including issues such as social media networks; protection of personal data; inequality, exclusion and discrimination, sexuality; emancipation; leisure; citizenship; and democratic values <sup>244</sup>. The General Delegate for the Rights of the Child and the Flemish Children's Rights Commissioner drafted a report to provide an overview of the input from the children and young people at the forum, the recommendations from the participants emphasised the need for a focus on privacy, education, improved support services when dealing with the risks and challenges posed by sexting and online bullying, accessibility and opportunity to engage with digital environment.<sup>245</sup>

The Flemish League of Families (*Gezinsbond*) has set up a training programme directed at parents aimed to develop their knowledge and skillset on new media that their children daily use. The aim is to increase their understanding of and response to opportunities and risks of online activities to better inform their children. The program consists of tools, the website [www.veilionline.be](http://www.veilionline.be) (safely online) with accessible information on the topic and of several interactive in-class trainings. These trainings were developed by the Flemish League of Families in collaboration with partners, such as Child Focus and universities in Flanders, schools and local organizations to reach a broad public. These trainings, available since 2008, have been updated in 2017 to respond to the latest societal and digital developments. The success of the project confirms that safety online is a topic that really lives among parents, to better understand the world their children live in and to better protect them from the risks involved. Since September 2017 the training programme went from 3 modules (safe online, cyberbullying and games) to 5 new and interactive modules: internet & privacy, gaming, social media, cyberbullying, online relations & sexuality. These new modules were developed in collaboration with universities and with feedback from focus groups consisting of parents and professionals, including parents from 'disadvantaged' backgrounds (poverty). The new modules are now more interactive (quiz, simulations, interactive game, testimonials, video's, ...). These interactive modules were updated according to the latest studies and developments in September 2018 and September 2019. The modules are available online and the trainings are either free of charge or at very low admissions fees. Organisations working with disadvantaged people and schools for children with special educational needs and disabilities can book these trainings free of charge for their members/parents<sup>246</sup> Some data:

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<sup>243</sup> Belgium, Written correspondence with Délegué Général aux droits de l'enfant, 18 September 2019; See also, Bruxelles-J, [Free training: Let's talk about young people, let's talk about being connected 21 March 2019 \(Formation gratuite: Parlons jeunes, parlons connecté.es! 21 Mars 2019\)](#) [last accessed 25 September 2019]

<sup>244</sup> Belgium, General Delegate for the Rights of the Child (*Délegué Général aux droits de l'enfant*) (2019), [General Delegate for the Rights of the Child, Press Release 25 June 2019, The Digital Environment and rights of the child \(Délegué général aux droits de l'enfant, Communiqué de presse du 25 juin 2019, environnement numérique et droits de l'enfant\)](#), [last accessed 25 September 2019]; Written correspondence with General Delegate for the Rights of the Child (*Délegué Général aux droits de l'enfant*), 18 September 2019.

<sup>245</sup> Belgium, European Network of Ombudspersons for Children (2019), [ENYA Recommendations: Children's rights in the digital environment \(September 2019\)](#); Belgium European Network of Ombudspersons for Children (2019), [ENYA Activity Report 2019: "Let's talk young, let's talk about children's rights in the digital environment" \(September 2019\)](#); Belgium, Written correspondence with Délegué Général aux droits de l'enfant, 1 December 2019.

<sup>246</sup> Belgium, Written correspondence with Flemish League of Families (*Gezinsbond*), 19 September 2019.

- 200 trainings with 4.380 participants were given in 2018;
- 35.400 website visitors in 2018;
- 1 out of 5 the trainings in 2018 and 1 out of 4 trainings in 2019 are for organizations representing disadvantaged parents and/or by schools for children with special needs and disabilities.
- 20 trainers have been trained up till now in train-the-trainer-sessions;
- Already 135 trainings in 2019 and new registrations on a daily basis;
- Results of scientific impact measurement.<sup>247</sup>

In the French Speaking Community, the Pact of Excellence in Education (*Pacte pour un Enseignement d'excellence*) placed an emphasis on cyberharrassment. In 2019, a number of participatory events have taken place to discuss and tackle cyberharrassment. In March 2019, a one-day exchange of practices on the prevention of violence and (cyber-)harrassment at school was held in Verviers. The report of the exchange of practices highlights several available tools that can assist in combating cyber harrassment:

- Short education films (*Loupiote abs!*) developed as an aid for teachers when informing pupils about online hate and cyberharrassment<sup>248</sup>
- *Webetic* (*La Ligue des familles* and *Childfocus*) is a tool for parents to facilitate their discussion with children about how to use the internet.<sup>249</sup>
- *Cyberhelp* (*Athénée Royal Mons*) seeks to prevent and raise awareness of cyberharassment. It is a smartphone application that allows pupils to report situations of cyberharassment and provides support and assistance. An anonymous team of digital referees receive a copy of reported messages. Initially, a conciliatory approach is adopted with no punishment, but if the problem persists then the harasser will be brought in front of a discipline board where punishment can be delivered.<sup>250</sup>

Three agoras (citizen's meetings) of the Pact took place on a Saturday morning between February and April 2019 (Evere, 16 February - Liège, 16 March - Mons, 27 April). Aimed mainly at parents, they invited citizens to explore a specific theme of the Pact: (cyber)harrassment. The meetings emphasised the role of educational institutions in assisting with prevention of (cyber)harrassment and focusing upon the wellbeing of pupils requiring an emphasis on the role of teachers in identifying tensions and signaling problems. The tools that are available to assist with the prevention of (cyber)harrassment are useful but can be more effective if employed on a small scale rather than with large media awareness raising campaigns.<sup>251</sup>

*Childfocus*, *UNIA* and the Belgian Network for Gender Studies organised a one day conference in January 2020, entitled “Betternet lab moving away from sluts & macho’s online: Debunking myths and online gender stereotypical behavior”. The event sought to give guidance on how to deal with gender stereotyped behaviour among young people online. It targeted a wide range of professionals who come into contact with young people in one way or another (social workers,

<sup>247</sup> Belgium, Written correspondence with Flemish League of Families (*Gezinsbond*), 19 September 2019.

<sup>248</sup> Belgium, Pact for Excellence in Education (*Pacte pour un Enseignement d'excellence*), [Forum for the exchange of practices – how to prevent violence and cyberharrassment in schools \(Report\)](#), 20 May 2019, p.5, [last accessed 26 September 2019]

<sup>249</sup> Belgium, Child Focus, [Webetic](#) [last accessed 26 September 2019]; Pact for Excellence in Education (*Pacte pour un Enseignement d'excellence*), [Forum for the exchange of practices – how to prevent violence and cyberharrassment in schools \(Report\)](#), 20 May 2019, p.5, [last accessed 26 September 2019]

<sup>250</sup> Belgium, Pact for Excellence in Education (*Pacte pour un Enseignement d'excellence*), [Forum for the exchange of practices – how to prevent violence and cyberharrassment in schools \(Report\)](#), 20 May 2019, p.8, [last accessed 26 September 2019]

<sup>251</sup> Belgium, Pact for Excellence in Education (*Pacte pour un Enseignement d'excellence*), [Report of Agoras 2019 of 16/02 \(Evere\), 16/03 \(Liège\) and 27/04 \(Mons\): Prevention of violence and \(cyber\)harrassment, 21 March 2019](#), [last accessed 26 September 2019]



teachers, NGOs, etc.) and it led to concrete recommendations to (Belgian and European) politicians and policy makers.<sup>252</sup>

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<sup>252</sup> Belgium, UNIA, ChildFocus & Belgian Network for Gender Studies (Belgisch Netwerk voor Genderstudies / Réseau Belge des Études de Genre), [Betternet lab moving away from sluts & macho's online: Debunking myths and online gender stereotypical behavior](#) [last accessed 30 November 2019].

# Chapter 7. Access to justice including crime victims

## 1. Victims' Rights Directive

The main legislative evolution regarding the victims' rights concerns the financial assistance and the compensation to victims of terrorism. It follows the work of the investigatory commission, created within the Belgian Parliament, which conducted an examination of the circumstances that led to the terrorist attacks of 22 March 2016. The commission had recommended the correction of a gap in the compensation schemes available to victims of terrorist acts. Unlike countries having an unfortunate experience of terrorist acts on their ground, like Spain, the United Kingdom or France, there was not in Belgium a centralised system for providing compensation to victims of terrorism. In a nutshell, the victims of such acts were obliged to conduct themselves the tasks of contacting the different organisms and operators in charge of providing them financial assistance and compensation. According to the final report of the parliamentary investigative commission,<sup>253</sup> victims were indeed required to contact the Commission for financial assistance to victims of intentional acts of violence, as well as the diverse insurance companies, and the services set up by other levels of governance.<sup>254</sup>

At the beginning of 2019, four new laws that relate to assistance of victims of crime were adopted to correct the gaps identified by the parliamentary commission:

- Law of 15 January 2019 amending the Law of 1 August 1985 on tax and other measures with regard to assistance to victims of terrorism<sup>255</sup>
- Law of 15 January 2019 amending the Law of 1 August 1985 imposing tax and other measures with regard to occasional rescuers and victims in unresolved cases<sup>256</sup>
- Law of 3 February 2019 amending the Law of 1 August 1985 on tax and other measures, as regards the powers of the Commission for financial assistance to victims of intentional acts of violence and occasional rescuers for victims of terrorism<sup>257</sup>

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<sup>253</sup> Belgium, House of Representatives (*Chambre des Représentants*) (2017), [Parliamentary inquiry to examine the circumstances leading to the terrorist attacks of 22 March 2016 at Brussels National Airport and Maelbeek metro station in Brussels, including the development and management of the fight against radicalism and the terrorist threat Doc. 54, 1752/007 \(Enquête parlementaire chargée d'examiner les circonstances qui ont conduit aux attentats terroristes du 22 mars 2016 dans l'aéroport de Bruxelles National et dans la station de métro Maelbeek à Bruxelles, y compris l'évolution et la gestion de la lutte contre le radicalisme et la menace terroriste, Doc. 54, 1752/007\)](#) [last accessed 3 October 2019].

<sup>254</sup> Belgium, In Belgium, the competence to assist victims of crime is a competence shared between different actors at federal level, but also shared between the federal level and lower level of governance (such as the Communities).

<sup>255</sup> Belgium, [Law of 15 January 2019 amending the Law of 1 August 1985 on tax and other measures with regard to assistance to victims of terrorism \(Loi du 15 janvier 2019 modifiant la loi du 1er août 1985 portant des mesures fiscales et autres en ce qui concerne l'aide aux victimes du terrorisme\)](#) Publication in the Belgian Official Gazette on 8 February 2019 [last accessed 3 October 2019]

<sup>256</sup> Belgium, [Law of 15 January 2019 amending the Law of 1 August 1985 imposing tax and other measures with regard to occasional rescuers and victims in unresolved cases \(Loi du 15 janvier 2019 modifiant la loi du 1er août 1985 portant des mesures fiscales et autres en ce qui concerne les sauveteurs occasionnels et les victimes dans des affaires non élucidées\)](#) Publication in the Belgian Official Gazette on 8 February 2019 [last accessed 3 October 2019]

<sup>257</sup> Belgium, [Law of 3 February 2019 amending the Law of 1 August 1985 on tax and other measures, as regards the powers of the Commission for financial assistance to victims of intentional acts of violence and occasional rescuers for victims of terrorism \(Loi du 3 février 2019 modifiant la loi du 1er août 1985 portant des mesures fiscales et autres, en ce qui concerne les compétences de la commission pour l'aide financière aux victimes d'actes intentionnels de violence et aux sauveteurs occasionnels pour les victimes de terrorisme\)](#) Publication in the Belgian Official Gazette on 8 February 2019 [last accessed 3 October 2019]

- Law of 3 February 2019 amending the Law of 1 August 1985 on tax and other measures, as regards the competences of the Commission for financial assistance to victims of intentional acts of violence and occasional rescuers with regard to the assistance to victims in unresolved cases and clarifying its investigative powers<sup>258</sup>

These laws introduce measures concerning victims of terrorism, following the recommendation of the parliamentary investigation (this is especially the case for the measures on the provision of emergency assistance, and the status of non-resident victims), but they also in some occasion address the situation of victims of crimes of intentional violence. The main innovations are the following:

- The maximum amount for emergency aid for terrorist acts increases significantly, from 30,000 euros to 125,000 euros for urgent costs. This cap is immediately applicable, even for ongoing cases.
- Victims no longer have to wait for the intervention of insurance companies to receive the payment of these urgent costs. Two new injury items are created, one for legal fees (the maximum amount is for the moment fixed at 12000 euros, but it may be later amended by royal decree) and one for travel and living expenses (these fees are particularly relevant for indirect victims of terrorist acts residing abroad). A transitional regime has been developed for this purpose. As of 8 February 2019, victims of terrorism can lodge claims, within 3 years, to obtain compensation for these injury items. Occasional rescuers can benefit from the same regime.
- The financial assistance granted by the Commission for financial assistance to victims of intentional acts of violence does not replace the compensation to which victims of terrorism are entitled through their insurance, but it assists them during the period between terrorist act and the payment paid by the insurance. This Commission also intervenes in the costs that the victim cannot impute to anybody.
- Non-residents (victims who have neither Belgian nationality nor their usual place of residence in Belgium) will be awarded the "National Solidarity Statute" for which the Ministers of Public Health and Pensions still elaborate the necessary Royal Decrees .
- Victims involved in long-term criminal investigations ("cold-cases") will also be entitled to a higher intervention. Assistance of up to € 125,000 can be granted in investigations lasting at least 10 years and for which the motives of the perpetrators have not yet been clarified. This aid may for example be used for lawyers' fees, linked to the very long duration of the procedure or for psychological support since the facts could not be clarified.

In addition structural changes are made within the Commission for financial assistance to victims of intentional acts of violence, with the creation of a specific division in charge of

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<sup>258</sup> Belgium, [Law of 3 February 2019 amending the Law of 1 August 1985 on tax and other measures, as regards the competences of the Commission for financial assistance to victims of intentional acts of violence and occasional rescuers with regard to the assistance to victims in unresolved cases and clarifying its investigative powers \(Loi du 3 février 2019 modifiant la loi du 1er août 1985 portant des mesures fiscales et autres, en ce qui concerne les compétences de la commission pour l'aide financière aux victimes d'actes intentionnels de violence et aux sauveteurs occasionnels en ce qui concerne l'aide aux victimes dans des affaires non élucidées et précisant son pouvoir d'enquête\)](#) Publication in the Belgian Official Gazette on 3 February 2019 [last accessed 3 October 2019]

terrorist acts. These measures shall help to speed up the compensation of victims of crime, and are in line with the priorities identified by Mrs. J. Milquet in her report on “Strengthening victims’ rights : from compensation to reparation”. These arrangements are specific to victims of terrorism, yet there is a possibility that in the long term they could be used and extended to all victims of crime.<sup>259</sup>

Some changes occurred concerning the norms applicable to victims of crime. The following changes can be highlighted:

- A revision of the Code of Criminal Procedure (*Code d’instruction criminelle*), which modified the article 91*bis*. This provision provides that every minor or vulnerable adult can be accompanied by the person of his/her choice when he/she is auditioned and it is to be read together with Article 92 providing that their audition is recorded. These measures are key to limit secondary victimisation by forcing the victim to repeat their statements, and it is provided for in Articles 20 c) (accompaniment of victims), 23 (3) (victims with specific protection needs) and 24 (1) a) of the Directive 2012/29/EU. It was initially only envisaged for minors, but an evaluation of the practice revealed that it was often used in cases in which the victim was particularly vulnerable or seriously traumatised. The Law of 5 May 2019<sup>260</sup> inserted a new indent in that provision, extending its scope of application. It now foresees the possibility to apply it to “vulnerable adults”, understood as every person in an apparent situation of vulnerability by reason of its age, pregnancy, disease, mental or physical defience or infirmity<sup>261</sup>.
- A revision of the Code of Criminal Procedure (*Code d’instruction criminelle*), which modified several provisions on the access to the file. The Law of 5 May 2019<sup>262</sup> provided for modifications in various provisions regulating access to the file at various stages of the proceedings<sup>263</sup>. Although these modifications are primarily aiming at ensuring the rights of defence in favour of the suspects and accused persons, and their lawyers, they also have an incidence on the rights of victims. As a general provision, Article 21*bis* provided for the possibility for a person directly interested<sup>264</sup> to request the access the file at any time, and the law of 5 May 2019 introduced the possibility for the persons requesting access and their lawyer to obtain on-the-spot a free copy of the file by

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<sup>259</sup> Interview with the SPF Justice

<sup>260</sup> Belgium, Act laying down various provisions in criminal matters and in matters of religion, and amending the Act of 28 May 2002 on euthanasia and the Social Criminal Code (*Wet houdende diverse bepalingen in strafzaken en inzake eredienssen, en tot wijziging van de wet van 28 mei 2002 betreffende de euthanasie en van het Sociaal Strafwetboek / Loi portant des dispositions diverses en matière pénale et en matière de cultes, et modifiant la loi du 28 mai 2002 relative à l’euthanasie et le Code pénal social*), 5 May 2019. Publication in Belgian Official Gazette 24 May 2019 [last accessed 1 December 2019].

<sup>261</sup> In French the text reads as follows: “toute personne dont la situation vulnérable en raison de son âge, d’un état de grossesse, d’une maladie ou d’une déficience ou infirmité physique et mentale est apparente. ».

<sup>262</sup> Belgium, Act laying down various provisions on the information of the Justice, the modernisation of the status of consular judges and the bank of notarial acts (*Wet houdende diverse bepalingen inzake informatisering van Justitie, modernisering van het statuut van rechters in ondernemingszaken en inzake de notariële aktebank / Loi portant dispositions diverses en matière d’information de la Justice, de modernisation du statut des juges consulaires et relativement à la banque des actes notariés*), 5 May 2019. Publication in Belgian Official Gazette 19 June 2019 [last accessed 6 January 2020].

<sup>263</sup> Namely Article 21*bis* §6, Article 61*ter* §4, Article 127 §2, Article 216*bis*, Article 216*ter*, Article 464/1 §5 8<sup>th</sup> indent, Article 464/36 §5 3<sup>rd</sup> indent, and Article 464/38 §3 3<sup>rd</sup> indent.

<sup>264</sup> This includes among others the *partie* and the person who has made a declaration of injured party. For more details on these status see <http://questions-justice.be/spip.php?article339> last accessed 6 January 2020].

themselves and through their own means (unless the Public Prosecutor forbids it on the basis of a motivated decision, or if this copy represents a danger for persons or seriously harms their private life). Similar modifications have been introduced in other provisions, such as in Articles 216*bis* and 216*ter* relating to the closure of public action through a transaction.<sup>265</sup> Whereas the law already provided that the the victim and its lawyer have the right to acquaint themselves with the filesur place, the novelty is that they can obtain on-the-spot a free copy of the file by themselves and through their own means (see Article 216*bis* §1 and §2 and Article 216*ter* §1 and §6).

- The Law of 5 May 2019<sup>266</sup> provides for the establishment of databases related to the information of the Justice, and some provisions concern the victims of crime, in order to ensure their correct information and involvement. The first database, named Sidis Suite, contains the data necessary for the adequate exercise of the legal missions of the penitentiary administration, including the execution of sentences, the duration of the detention and the temporary release. Article 5 §5 provides that will be included in the database the identification data, the contact details of the victim or its representative, and the data relevant for the execution of the missions of the penitentiary administration. The second database contains information about persons who have been the object of a criminal judgment, a decision of youth protection or internment. Victims' personal data may also be processed (Article 11). Finally a third database, named '*Dossier Judiciaire Electronique Intégré de Suivi*', includes the data necessary for adequate follow up of the execution of judgments imposing sentences and measures. Victims' personal data may also be processed (Article 17 §2 – identification data, contact details of the victim or its representative and any relevant data). The services providing assistance to victims have a right to read the data stored and a right to write in the file, albeit these rights are strictly conditioned (Articles 19 and 20).

## 2. Violence against women

There has not been recent legislative developments in this field of law. In accordance with the Istanbul Convention, the Belgian government submitted its report to the Group of Experts on Action against Violence against Women and Domestic Violence (the GREVIO) on 18 February 2019. The report of 122 pages<sup>267</sup> contains a description of the measures taken within the country to implement the Convention, and its submission also led to the publication of alternative reports,<sup>268</sup> notably one

<sup>265</sup> The victim and its lawyer had already the right to acquaint themselves with the files and they can now obtain on-the-spot a free copy of the file by themselves and through their own means (see Article 216*bis* §1 and §2 and Article 216*ter* §1 and §6).

<sup>266</sup> Belgium, Act laying down various provisions on the information of the Justice, the modernisation of the status of consular judges and the bank of notarial acts (*Wet houdende diverse bepalingen inzake informatisering van Justitie, modernisering van het statuut van rechters in ondernemingszaken en inzake de notariële aktebank / Loi portant dispositions diverses en matière d'information de la Justice, de modernisation du statut des juges consulaires et relativement à la banque des actes notariés*), 5 May 2019. Publication in Belgian Official Gazette 19 June 2019 [last accessed 6 January 2020].

<sup>267</sup> Belgium, Council of Europe, GREVIO, [Rapport soumis par la Belgique donnant effet aux dispositions de la Convention du Conseil de l'Europe sur la prévention et la lutte contre la violence à l'égard des femmes et la violence domestique conformément à l'article 1, paragraphe 68 \(Rapport de référence\)](#) [last accessed on 6 October 2019].

<sup>268</sup> Belgium, Coalition Together against Violences (*Coalition « Ensemble contre les violences »*) (2019), [Alternative Report: Evaluation of the implementation of the Council of Europe on the preventing and combatting violence against women and domestic violence by Belgium \(Rapport alternatif, Évaluation de la mise en œuvre de la Convention du Conseil de l'Europe sur la prévention et la lutte contre la violence à l'égard des femmes et la violence domestique par la Belgique\)](#), February 2019 [last accessed 6 October 2019]; CAW Brussel (2019), [Assessment of the implementation in Belgium of article 59 of the Istanbul Convention](#) [last accessed



authored by a coalition of almost 50 NGOs.<sup>269</sup> In the latter, the Belgian legislation is considered as “sparse, not very clear and not always implemented”, and one recommendation is to elaborate an umbrella law on gender-based violence that encompasses the entirety of violence against women, in public space as well as in the private sphere.<sup>270</sup>

A number of initiatives have nevertheless been undertaken to improve the response to violence against women. The following paragraphs do not pretend to exhaustiveness and merely pinpoint representative examples.

- In March 2019, the Federal State decided to further develop the Centres de prise en charge des violences sexuelles (CPVS).<sup>271</sup> It has been decided to allocate more funds to finance permanently those opened since November 2017 in Gent, Brussels and Liège, and to open three new centres in Leuven, Charleroi and Antwerpen. The work of these centres has been monitored, and it has received a strong support from the victims who used them. It was also noticed that the possibility to make a complaint in the Centre, and not at the police station, has encouraged more victims to take that step. 68% of the victims received in such centres made a complaint.

This development echoes with the setting up and the continuous support of “Family Justice Centres” in Flanders. The objective of these centres is to provide assistance in one single place to families confronted with intra-family violence. Various experts can intervene (prosecutor, police, social assistance (CPAS), psycho-social assistance, child protection services, doctors and psychologist), and one ‘case manager’ ensures the coordination among various organisations. Beyond violence, the service provided to the families also include assistance for other systemic problems, and on their protection. Such Family Justice Centres exist in Antwerpen, Turnhout, Mechelen and Limbourg. There are ongoing discussion to develop this kind of multidisciplinary collaboration on the region of Brussels.

In terms of funding, the initial budget provided for the establishment of the three pilot-centres was of 3.763.000 €<sup>272</sup>. In March 2019, the Federal Ministers in charge of Equality of Chances and Budget announced that additional funding of 6 millions will be allocated

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6 October 2019] ; GAMS-INTACT-End FGM European Network, [Joint Shadow Report – BELGIUM](#) [last accessed 6 October 2019].

<sup>269</sup> Belgium, Coalition Together against Violences (*Coalition « Ensemble contre les violences »*) (2019), [Alternative Report: Evaluation of the implementation of the Council of Europe on the preventing and combatting violence against women and domestic violence by Belgium \(Rapport alternatif, Évaluation de la mise en œuvre de la Convention du Conseil de l'Europe sur la prévention et la lutte contre la violence à l'égard des femmes et la violence domestique par la Belgique\)](#), February 2019, [last accessed 6 October 2019]

<sup>270</sup> Belgium, Coalition Together against Violences (*Coalition « Ensemble contre les violences »*) (2019), [Alternative Report: Evaluation of the implementation of the Council of Europe on the preventing and combatting violence against women and domestic violence by Belgium \(Rapport alternatif, Évaluation de la mise en œuvre de la Convention du Conseil de l'Europe sur la prévention et la lutte contre la violence à l'égard des femmes et la violence domestique par la Belgique\)](#), February 2019, p. 5 and 7 (recommendation 8) [last accessed 6 October 2019].

<sup>271</sup> Belgium, These centres are located close to hospitals, but with a separate entrance, and they are opened 24 hours a day, 7 days a week. They are composed of mutli-disciplinary teams, including doctors/nurses; psychologists and police.

<sup>272</sup> Belgium, Council of Europe, GREVIO, [Rapport soumis par la Belgique donnant effet aux dispositions de la Convention du Conseil de l'Europe sur la prévention et la lutte contre la violence à l'égard des femmes et la violence domestique conformément à l'article 1, paragraphe 68 \(Rapport de](#), p. 8 [last accessed on 6 January 2020].

(4,5 millions of euros, completed by a subsidy from the National Lottery of 1,5 millions euros)<sup>273</sup>.

- In May 2019, the Institute for the Equality between Men and Women has elaborated together the *ordre des Médecins (with a national competence)*, and the Professor Tom Goffin (University of Gent) a new tool for medical practitioners, entitled *Code de Signalement des violences sexuelles*.<sup>274</sup> It aims at guiding in a schematic way a practitioner who identifies during an medical exam signs of sexual violence, and it is rather short (one page). It pursues a two-fold objective: 1) ensuring that victims can receive assistance in conditions in line with deontologic obligations, and 2) reassure the practitioners regarding the communication of such violences to competent authorities and its conformity with their deontologic obligations.<sup>275</sup> This code applies to all medical practitioners in Belgium, and is available in French and Dutch. It has been developed with the idea to build upon it in order to develop a manual on the issue, and to integrate such information in trainings for medical practitioners. There has not been yet an evaluation of its use, or its impact.
- On 29 May 2019, a new circular has been adopted: it aims at introducing an alert harassment in the framework of violences between ex-partners.<sup>276</sup> This alert has been introduced in the application-112 (emergency number) and it allows a victim to press a portable button, connected to a smartphone by bluetooth, when there is a situation of immediate danger. When the alert is activated, it is indicated as such, and a police patrol comes systematically to the position of the victim. The novelty of this circular is that it allows the victim to contact the police via her/his smartphone. There was already an alert mechanism existing in Gent but the victim could only contact the police via a landline.<sup>277</sup> After the intervention of the police, the service in charge of victims' assistance contacts the victim. The project thus includes a multidisciplinary coordination to bring an end to the harassment, guarantee the safety of the victim and assist all the parties involved (including the author/harasser and the child(ren)). This circular is for the moment only implemented as a pilot project launched in Gent in September 2019 (for a period of one year). It shall later be evaluated and eventually be implemented in other areas.
- In June 2019, an awareness tool to fight against violence between partners was launched on the initiative of the Institute for the Equality of Women and Men and in collaboration with non-profit organizations: Ella and the Federation of Moroccan and World Democratic

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<sup>273</sup> [‘Correctement prises en charge, 70% des victimes de viol déposent plainte’](#), La Libre, 19 March 2019 [last accessed on 6 January 2020].

<sup>274</sup> Belgium, Institute for the equality of men and women (*Institut voor de gelijkheid van vrouwen en mannen/ Institut pour l'égalité des femmes et des hommes*) (2019), [Doctors are better supported in the fight against sexual violence \(Press Release, 20 May 2019\) \(Des médecins mieux soutenus dans la lutte contre les violences sexuelles \(Communiqué de presse, 20 mai 2019\)\)](#) [last accessed on 3 October 2019].

<sup>275</sup> Belgium, This is particularly important to favour the implementation of the Article 458bis of the Belgian Criminal Code, which provides that any person who is bound by professional secrecy and knows about a possible offence (including violence against the persons (Article 398 Criminal Code) and sexual mutilations (Article 409 Criminal Code).

<sup>276</sup> Belgium, Service Public Federal Public Justice and Service Public Federal of the Interior (*Service Public Federal Justice et Service Public Federal Interieur*), [Ministerial Circular Relating to the the harassment alarm in the context of the violence between former partners of 29 May 2019 \(Circulaire ministérielle relative à l'alarme harcèlement dans le cadre de la violence entre ex-partenaires du 29 mai 2019\)](#), [last accessed on 2 December 2019].

<sup>277</sup> Belgium, Belgian House of Representatives (*Chambre des représentants de Belgique/ Belgische kamer van volksvertegenwoordigers*), (2019) Full session report ([Compte rendu intégral - séance plénière/ Integraal verslag - plenumvergadering, 17-10-2019](#)) para 5.02, p. 15-16, CRIV 55 PLEN 009 [last accessed on 2 December 2019]; Belgium, Sudinfo (2019), [The Police launch a mobile alarm for victims of harassment to discretely report to the police \(La Police lance une alarme mobile pour les victimes harcèlement de prévenir discrètement la police\)](#), published 23 May 2019 [last accessed 2 December 2019].

Organizations (FMDO). This tool is intended for victims of violence between partners, women but also men. It consists in a helpline that persons can call to discuss their situation, and obtain information about the different types of help and assistance they may be able to access. This helpline is managed by approximately 45 women who volunteered to become listening ears. It is available in the three national languages, as well as in different languages spoken by the many communities living in Belgium, such as: English, Spanish, Italian, Portuguese, Armenian, Turkish, Chinese, Arabic, Serbo-Croatian, Polish, Russian, Romanian, Lingala, Swahili, Hindi, Albanian, Bulgarian, Persian, Berber and Somali. Such a large linguistic offer aims at informing and educating potential victims about their rights and at encouraging them to talk to someone in a very accessible way. The persons in charge of listening to victims come from different linguistic communities and are often themselves immigrants, speaking at least one national language and another foreign language. They can also, if necessary, direct them to additional assistance. These persons received a training with different professionals in order to be able to listen and share adequate information with those calling in. In addition, the awareness tool also includes a website administered by Ella ASBL in the different languages with detailed information on partner violence. A pen with a sliding banner will also be provided, containing text that encourages the target group to contact the listeners and which will be distributed to raise awareness of the website.<sup>278</sup>

A Belgian NGO Gamms (Group for the Abolition of Female Genital Mutilation) is part of an EU-funded project ACCESS, which aims at facilitating access to prevention, protection and support for migrant women in Europe who are confronted with gender-based violence. It shares information via a website, available in several languages (English, French, Dutch, Spanish and Arabic), and allows the identification of specialised organisations. It will in the future allow a possibility to access a chat to obtain information.<sup>279</sup>

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<sup>278</sup> Belgium, Institute for the equality of men and women (*Institut voor de gelijkheid van vrouwen en mannen/ Institut pour l'égalité des femmes et des hommes*) (2019), [A multi-lingual tool to combat domestic violence \(Press Release, 18 June 2019\) \(Un outil multilingue pour lutter contre la violence conjugale \(Communiqué de presse, 18 juin 2019\)\)](#) [last accessed on 3 October 2019]

<sup>279</sup> Belgium, Gamms (Group for the Abolition of Female Genital Mutilation) (2019), [ACCESS](#) [last accessed on 2 December 2019].

# Chapter 8. Developments in the implementation of the Convention on the Rights of Persons with Disabilities

## 1. CRPD policy & legal developments

In February 2019, the **UN Committee on the rights of the child published its report on Belgium**. 55 recommendations were made regarding children's rights.<sup>280</sup> A specific emphasis was placed on children with disabilities.<sup>281</sup> In light of the focus on children with disabilities, UNIA called for a number of urgent actions to be taken on this matter to improve the situation of children with disabilities in Belgium:

- **Inclusive education** – the UN Committee emphasised the importance of inclusive education. The discrimination of children with disabilities in education remains problematic. In the French speaking community, there has been an increase in the number of children in specialised education. The UN committee explicitly requested that education be inclusive for all children.
- **Desinstitutionalisation** - the UN Committee is also concerned by the fact that children with disabilities are oriented towards other institutions. The main reason for this is the lack of support for parents and families. The UN Committee therefore also regrets that the funding that follows the person has not yet been set up for children. The Committee expressly requests the state to establish the budget for personal assistance for children and to address waiting lists. The state must also ensure that the amounts allocated are adapted to the needs of the child.
- **Data collection** - the UN committee requests that Belgium works towards quality and rapidly accessible healthcare and better data collection on children with disabilities in order to improve policies.<sup>282</sup>

In the **new Regional Policy Statement of the Wallonia-Brussels Federation 2019–2024** (Déclaration de politique de la Fédération Wallonie-Bruxelles 2019-2024), an emphasis was placed on the further implementation of the Pact of Excellence in Education, reinforcing the inclusivity of education with the need to close the gap between regular and special education.<sup>283</sup> In addition, the Regional Policy Statement of the Wallonia-Brussels Federation seeks to advocate for the establishment of an inter-ministerial conference on the issue of rights of people with disabilities.<sup>284</sup>

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<sup>280</sup> Belgium, UN Committee on the rights of the child, [Concluding observations on the combined fifth and sixth periodic reports of Belgium \(CRC/C/BEL/CO/5-6\)](#), 28 February 2019 [last accessed 29 September 2019]

<sup>281</sup> Belgium, UNIA, [The UN Committee on the rights of the child demands urgent attention from Belgium for children with disabilities \(Le Comité ONU des droits de l'enfant demande une attention urgente de la Belgique pour les enfants en situation de handicap\)](#) [last accessed 29 September 2019]

<sup>282</sup> Belgium, UNIA, [The UN Committee on the rights of the child demands urgent attention from Belgium for children with disabilities \(Le Comité ONU des droits de l'enfant demande une attention urgente de la Belgique pour les enfants en situation de handicap\)](#) [last accessed 29 September 2019]

<sup>283</sup> Belgium, Wallonia- Brussels Federation (*Fédération Wallonie-Bruxelles*) (2019), [Regional Policy Statement of the Wallonia-Brussels Federation \(Déclaration de politique de la Fédération Wallonie-Bruxelles 2019-2024\)](#), p. 12 [last accessed 29 September 2019]

<sup>284</sup> Belgium, Wallonia- Brussels Federation (*Fédération Wallonie-Bruxelles*) (2019), [Regional Policy Statement of the Wallonia-Brussels Federation \(Déclaration de politique de la Fédération Wallonie-Bruxelles 2019-2024\)](#), p. 38 [last accessed 29 September 2019]

In Wallonia, now in its third year of implementation, **the Pact of Excellence in Education** (*Pacte pour un Enseignement d'excellence*) has a **number of targets related to inclusive education** that are relevant to the reporting period: Strengthening inclusive school and breaking down barriers in special education; Drafting of the reference framework for pre-school education; Strengthening the educational approach to guidance; Entry into force of the first Target Agreements (*Contrats D'objectifs*) [institutions must pursue a number of specific objectives, agreed as priorities with regard to their initial situation and resources, and with regard to the thirteen strategies that are essential to the deployment of the Pact of Excellence in institutions];<sup>285</sup> Reform of the recruitment and selection process for directors; Extension of the number of days of continuing training; Progressive transformation of PMS (psycho-medico-social) Centres over 4 years; Expected start of new initial teacher training.<sup>286</sup> In 2019, three agoras (citizen's meetings) of the Pact took place on a Saturday morning between February and April 2019 (Evere, 16 February - Liège, 16 March - Mons, 27 April). Aimed mainly at parents, they invited citizens to explore a specific theme of the Pact: reasonable adjustments. These meetings led to the following observations:

- The Decree on reasonable adjustments is not sufficiently known, information should be provided to parents upon enrolment. The Decree was passed in 2018, but entered into force for the school year of 2018-2019.<sup>287</sup>
- The procedure for requesting reasonable adjustments is too cumbersome, a simplified procedure should be created for basic, uncontested requests and a consultation or appeal procedure should be provided only for specific or more complex cases.
- The lack of understanding of the new technological tools means that they are not being used. It is necessary to clarify the distinction between approved software that provide assistance for disabilities and unapproved fraudulent sites.
- Many parents feel lost when it comes to the procedure where their child has been diagnosed with an educational difficulty, information needs to be provided in a clear and accessible manner.<sup>288</sup>

In Wallonia, the **new Regional Policy Statement of Wallonia 2019-2024 focuses upon the inclusions of persons with disabilities throughout their lives**. In particular, the objectives of promoting the greatest possible autonomy for people with disabilities (choice of lifestyle, place of residence), supporting their professional integration (support, training, adaptation of the working environment) and adopting a plan for making buildings and facilities open to the public accessible.<sup>289</sup>

In Flanders, the first meeting of the **newly established Flemish Advisory Council** (NOOZO - Vlaamse adviesraad handicap) took place in July 2019. The Advisory Council was established in 2018 and was established to give advice to the Flemish Government on all topics that are

<sup>285</sup> Belgium, Pact for Excellence in Education (*Pacte pour un Enseignement d'excellence*) (2017), [Opinion n°3 on the Pact for Excellence in Education \(L'Avis n°3 relatif au Pacte pour un Enseignement d'excellence\)](#), p. 7 [last accessed 30 November 2019].

<sup>286</sup> Belgium, Pact for Excellence in Education (*Pacte pour un Enseignement d'excellence*) (2019), [Implementation Calendar \(Calendrier de mise en oeuvre\)](#) [last accessed 29 September 2019]

<sup>287</sup> Belgium (2019) [Decree on reception, support and assistance maintenance in ordinary basic education and secondary education for students with special needs \(Décret relatif à l'accueil, à l'accompagnement et au maintien dans l'enseignement ordinaire fondamental et secondaire des élèves présentant des besoins spécifiques\)](#) [last accessed 28 September 2019]

<sup>288</sup> Belgium, Pact for Excellence in Education (*Pacte pour un Enseignement d'excellence*) (2019), [Report of Agoras 2019 of 16/02 \(Evere\), 16/3 \(Liège\) and 27/04 \(Mons\): Reasonable adjustments, 21 May 2019](#) [last accessed 29 September 2019]

<sup>289</sup> Belgium, Government of the French Community (*Gouvernement de la Communauté française*) (2019), [Regional Policy Statement of Wallonia 2019-2024 \(Déclaration de politique régionale pour la Wallonie 2019-2024\)](#), pp. 93-95 [last accessed 29 September 2019]



important in the lives of people with disabilities. The Council currently runs as a pilot and will need to be formally operationalised in a Decree in 2020.<sup>290</sup>

The Flemish Agency for Persons with Disabilities is undertaking an **evaluation of the Personal Budgets System**.<sup>291</sup> In September 2019, a conference was hosted to discuss and present the interim results of the evaluation process.<sup>292</sup>

In the Brussels-Capital region, the **new Government Agreement of 2019-2024** places an emphasis on accessibility of support services to allow for independent living; information on accessible buildings; bonus for employers of persons with disabilities.<sup>293</sup>

## 2. CRPD monitoring at national level

In April 2019, within the framework of the 2<sup>nd</sup> and 3<sup>rd</sup> Review of Belgium, the UN Committee on the Rights of Persons with Disabilities sent the list of issues to the Belgian state.<sup>294</sup> The list includes a number of issues that were identified by civil society organisations – led by Belgian Disability Forum asbl (BDF) in their submission to the Committee of an Alternative report (February 2019).<sup>295</sup> Members of the Committee also met with civil society organisations in March 2019 to discuss ongoing issues of concern in Belgium.<sup>296</sup> BDF highlights the following issues that have been raised by the Committee, that corresponds to their submissions: collaboration between different regions to ensure equality of access to right and services; the role of communities in developing plans and strategies and the participation of representative organisations; implementation of legislation and measures taken in case of non-compliance with legal framework; decision making and allocation of funds for personal assistance and independent living; the provision of official information in accessible formats; support to parents of children with disabilities; programmes that aim to increase the employment of persons with disabilities in public and private sector; measures on the inclusion of persons with disabilities in the strategies and plans aimed at tackling poverty and social protection; measures on the collection, analysis and dissemination of data on the rights of persons with disabilities.<sup>297</sup>

Belgium did not make any changes to the structures for the implementation and monitoring of the CRPD in 2019.

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<sup>290</sup> Belgium, [NOOZO -Flemish Disability Council \(NOOZO -Vlaamse adviesraad handicap\)](#) [last accessed 27.9.19]

<sup>291</sup> Belgium, Flemish Agency for Persons with Disabilities ([Vlaams Agentschap voor personen met een handicap](#)), [Evaluation of the personal financing \(Evaluatie Persoonsvolgende Financiering\)](#) [last accessed 29 September 2019]

<sup>292</sup> Belgium, Flemish Agency for Persons with Disabilities ([Vlaams Agentschap voor personen met een handicap](#)), [Conference Evaluation of the personal financing: interim results' \(Congres: Evaluatie van de persoonsvolgende financiering: tussentijdse resultaten\)](#) [last accessed 29 September 2019]

<sup>293</sup> Belgium, [Joint General Policy Statement of the Government of the Brussels-Capital Region and the United College of the Joint Community Commission \(Gemeenschappelijke Algemene Beleidsverklaring van de Brusselse Hoofdstedelijke Regering en het Verenigd College van de Gemeenschappelijke Gemeenschapscommissie\) 2019-2024](#) [last accessed 1 October 2019].

<sup>294</sup> Belgium, UN CRPD Committee (2019), [List of issues prior to reporting \(CRPD/C/BEL/QPR/2-3\)](#), 30 April 2019 [last accessed 26 Septemebr 2019]

<sup>295</sup> Belgium, Belgium Disability Forum (2019), [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](#), February 2019 [last accessed 26 September 2019]

<sup>296</sup> Belgium, Belgium Disability Forum (2019), [BDF heard by the UN Committee \(Le BDF entendu par le Comité ONU\)](#) March 2019 [last accessed 26 September 2019]

<sup>297</sup> Belgium, Belgium Disability Forum (2019), [UN Recommendations 2019 \(Recommandations ONU 2019\)](#) [last accessed 26 September 2019].

Table: Structures set up for the implementation and monitoring of the CRPD

<b>EUMS</b>	<b>Focal points within government for matters relating to the implementation of the CRPD – Article 33 (1)</b>	<b>Coordination mechanism – Article 33 (1)</b>	<b>Framework to promote, protect and monitor implementation of the CRPD – Article 33 (2)</b>
<b>BE</b>	Federal Public Service Social Security ( <i>Federale Overheidsdienst/Service public fédérale sécurité sociale</i> ) Directorate-General for Strategy and Research; the 7 communities and regions designated their own sub-focal points.		<a href="#">Interfederal Centre for Equal Opportunities (Unia)</a> ( <i>Interfederaal Gelijkekansencentrum/ Centre interfédéral pour l'égalité des chances</i> )

## Annex 1 – Promising Practices

Thematic area	<p><b>EQUALITY AND NON-DISCRIMINATION</b></p> <p>Please provide one example of a rights awareness campaign held in your country in 2019 relevant to equality and non-discrimination, preferably one conducted by a national equality body. Where no such campaign was held, please provide an example of a promising practice implemented in 2019 in your country (this could include innovative initiatives at local level) to combat discrimination on any one of the following grounds: religion or belief, disability, age, sexual orientation, gender identity or sex characteristics. Where relevant, always highlight any relevance or reference to multiple discrimination.</p>
Title (original language)	Assistentiehonden welkom! / Bienvenue au chiens d'assistance!
Title (EN)	Assistance dogs welcome!
Organisation (original language)	Brusselse Staatssecretaris voor Gelijke Kansen and equal.brussels
Organisation (EN)	Brussels State Secretary for Equal Opportunities and equal.brussels (Brussels Regional Public Service)
Government / Civil society	Government
Funding body	Government
Reference (incl. url, where available)	<p><a href="https://www.unia.be/nl/sensibilisering-en-preventie/campagnes/assistentiehonden-welkom">https://www.unia.be/nl/sensibilisering-en-preventie/campagnes/assistentiehonden-welkom</a> (NL)</p> <p><a href="https://www.unia.be/fr/sensibilisation-et-prevention/campagnes/campagne-de-promotion-en-faveur-de-laces-des-chiens-d-assistances-aux-lieux">/https://www.unia.be/fr/sensibilisation-et-prevention/campagnes/campagne-de-promotion-en-faveur-de-laces-des-chiens-d-assistances-aux-lieux</a> (FR) / <a href="http://equal.brussels/equal.brussels-lance-sa-nouvelle-campagne-pour-les-chiens-d-accompagnement">http://equal.brussels/equal.brussels-lance-sa-nouvelle-campagne-pour-les-chiens-d-accompagnement</a> (FR)</p>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	December 2018 – ongoing
Type of initiative	Awareness-raising campaign
Main target group	General public and business owners (supermarkets, taxis, restaurants, ...)
Indicate level of implementation: Local/Regional/National	Regional (Brussels-Capital Region)
Brief description (max. 1000 chars)	The awareness-raising campaign aims at improving the access of assistance dogs to public spaces and businesses such as supermarkets, taxis and restaurants. UNIA supports the campaign and helped to bring various partners together in order to work on the content of the campaign. UNIA was also present at the launch of the campaign and helped to spread it on its social media. The campaign was considered necessary, because during the period 2011-2017, UNIA received no less than 292 reports – of which 70 in Brussels – of possible discrimination of assistance dogs. On the one hand, the campaign consists of a video about the important role assistance dogs play for their boss. On the other hand, stickers were handed out to be put on the doors of public places.
Highlight any element of the actions that is transferable (max. 500 chars)	The materials of this campaign – the video and the stickers – can be easily transferred to other situations and adapted (language, legislation etc) in order to be used in other countries.
Give reasons why you consider the practice as	The campaign was put in place because, despite there being a legal obligation in place to allow people with assistance dogs in shops, cafes and restaurants, persons with an assistance dog often face barriers because of

sustainable (as opposed to ‘one off activities’)	their dogs. Not everyone is aware of the existence of the legal obligation to allow people with assistance dogs to enter their business. The dogs are often considered dirty and a nuisance. As a result, instead of expanding the autonomy and world of their owners, the assistance dogs often limit their freedom and take away a part of their autonomy. Making people aware of the importance of assistance dogs for people with disabilities, is not something that can be achieved overnight. The video, especially in combination with a sticker that business can put on their door/window, contributes to ensuring that assistance dogs are seen as a part of the person with disabilities. The provision of stickers is a low-threshold initiative that allows business owners – old ones, as well as new ones – to make their businesses more inclusive. The campaign follows the signing of a charter by the Brussels State Secretary for Equal Opportunities and the trade federation Comeos and other organisations such as the taxi federation Febet. The charter aims at ensuring that persons with a disability and their assistance dogs are not denied access anywhere. The parties involved in signing the charter (the Brussels State Secretary, the trade federation and the taxi federation) and the parties supporting the campaign (UNIA) ensure a wide reach of the campaign.
Give reasons why you consider the practice as having concrete measurable impact	Participating businesses and public spaces become open to people with an assistance dog, thereby ensure that they can enjoy the full extent of the autonomy and freedom gained from having an assistance dog. Accessibility and inclusion of everyone, including people with disabilities, is something from which everyone and society as a whole benefits.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	The awareness-raising video is 39 seconds long, easy to understand and informative. The concept of the stickers is also very simple. Both materials can be easily copied and adapted (depending on the language of the country and the legislation in place) to other countries where people with assistance dogs are often refused access to public spaces and businesses such as supermarkets, bars, restaurants and taxis.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	Brussels State Secretary for Equal Opportunities and equal.brussels (Brussels Regional Public Service) are the authors of this campaign. The Belgian equality body UNIA supported them from the beginning in order to promote the relevance of the project and to ensure that the campaign is in line with the UN Convention and responds to situations of discrimination on the ground. The Belgian Association Dogs Federation (BADF) was also closely consulted.
Explain, if applicable, how the practice provides for review and assessment.	An evaluation meeting was held on 9 May 2019 to evaluate the campaign. The meeting resulted in an inventory of the situation and an overview of the different action points. A meeting with UNIA and Federal Agency for the Safety of the Food Chain ( <i>Federaal Agentschap voor de veiligheid van de voedselketen / Agence fédérale pour la sécurité de la chaîne alimentaire</i> ) must be organised in the first quarter of 2020 in order to put into place an action plan based on the evaluation. <sup>298</sup>

<sup>298</sup> Belgium, Email exchange with Regional Public Service equal.brussels, 2 December 2019.

Thematic area	<b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b> Please provide one example of a promising practice to address discriminatory ethnic profiling within law enforcement agencies and other relevant national authorities. Where no such practice exists, please provide one example of a promising practice related to combating racism, xenophobia and related intolerances.
Title (original language)	#GeefMe1Minuut (Dutch) / #DonneMoi1Minute (French)
Title (EN)	#GiveMe1Minute
Organisation (original language)	UNIA
Organisation (EN)	UNIA
Government / Civil society	Independent public institution
Funding body	Federal government, Regions, Communities
Reference (incl. url, where available)	<a href="https://www.unia.be/nl/sensibilisering-en-preventie/campagnes/wedstrijd-geefme1minuut-maak-een-campagne-tegen-racisme">https://www.unia.be/nl/sensibilisering-en-preventie/campagnes/wedstrijd-geefme1minuut-maak-een-campagne-tegen-racisme</a> (Dutch) / <a href="https://www.unia.be/fr/sensibilisation-et-prevention/campagnes/concours-donnemoi1minute-realisez-une-campagne-contre-le-racisme">https://www.unia.be/fr/sensibilisation-et-prevention/campagnes/concours-donnemoi1minute-realisez-une-campagne-contre-le-racisme</a> (French)
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	7 September 2019 to 18 December 2019. The awards show is scheduled to take place on 12 February 2020.
Type of initiative	Campaign against racism
Main target group	Teachers and students in highschool.
Indicate level of implementation: Local/Regional/National	National level
Brief description (max. 1000 chars)	The campaign is set-up within UNIA's competence to inform the public and to raise awareness about diversity and discrimination. Teachers and pupils in secondary school education can participate in the #GiveMe1Minute competition by making an awareness-raising video to fight racism. The video, which can be no longer than 1 minute, should aim at sensitising viewers about the issue of racism in Belgian society and at convincing them to defeat racism. To inspire those wanting to participate in the competition and to help teachers bring up the theme in class, UNIA has made available a <a href="#">library of pedagogical tools</a> . The competition is open to all classes of Belgian secondary education. The winners of the competition get 3000 euro. The money can be used at the discretion of the winning schools, but it has to concern the set-up or extension of a project that focuses on diversity, human rights or the fight against racism.
Highlight any element of the actions that is transferable (max. 500 chars)	It's a relatively easy set-up. The organising body needs to create a webpage and make a flyer to promote the campaign, draft a participation form and competition rules. It is then up to the participants to do the rest. There is a low threshold for participation, thereby ensuring that nobody is excluded.

	One does not need expensive material to put together a 1 minute video. It is something that can be made with a cell phone with video function.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	This is the second edition of the campaign. In 2018, the competition took place for the first time. Given that the initial competition was a huge success with <a href="#">119 videos</a> from all over the country, it was announced in January 2019 at the award show that there would be a second edition. As such, it is no longer a one-off activity, but it is in the process of becoming an annual, sustainable practice. Each year, the composition of classes changes and new pupils start secondary school. This campaign is an original way to raise awareness among teenagers who might not necessarily know about (the extent of) racism and the impact it has in Belgian society. It forces participants to discuss the issues at hand and to think about possible ways to tackle racism. As such, the process of working on a video is as important as the final result.
Give reasons why you consider the practice as having concrete measurable impact	The winning schools have to use the prize money to set-up or further develop projects with a specific focus on diversity, human rights or the fight against racism. The success and impact of such projects can be measured and assessed. The projects organised by the winning schools of the 2018 editions were announced on 21 March 2019, the International Day Against Racism. It is too early to assess their concrete measurable impact.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	The campaign as a whole can be transferred to other Member States. Bodies well-placed to organise such a campaign, including national equality bodies and/or civil society organisations, are present in every Member State, as are secondary schools with teachers and pupils who can participate in the competition.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	UNIA is the organiser of the competition. The jury is composed of professional and independent individuals, including representatives of the audiovisual sector and of UNIA.
Explain, if applicable, how the practice provides for review and assessment.	N/A

Thematic area	<b>ROMA INTEGRATION</b> Please provide one example of promising practice in relation to addressing a Roma/Travellers segregation at either national, regional or local. These could be (not limited to) in the area of segregation in education, residential segregation, segregation in healthcare services or in employment.
Title (original language)	Opleiding Diversiteit
Title (EN)	Diversity training
Organisation (original language)	Lokale Politie Antwerpen
Organisation (EN)	Antwerp Local Police
Government / Civil society	Government



Funding body	Government
Reference (incl. url, where available)	Not available
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	Ongoing (has existed for many years and continues)
Type of initiative	Training
Main target group	All personnel of the local police in Antwerp, irrespective of their function or their rank.
Indicate level of implementation: Local/Regional/National	Local
Brief description (max. 1000 chars)	The local police of Antwerp provides mandatory training on diversity. All personnel, irrespective of their rank or function, have to participate in the training. The programme includes specific training on Roma, which has been provided for over ten years already by an expert with longstanding experience working on and with Roma.
Highlight any element of the actions that is transferable (max. 500 chars)	As far as known, the local police of Antwerp is the only one that includes training on Roma. The police in other regions request a training from time to time, but there are no structural collaborations. The training can be easily transferred to other places in Belgium. The module could be adapted based on the specificities of each region, but the basic idea of including a specific training on Roma in the broader diversity training given to police corps could remain the same.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The training has already existed for more than 10 years and continues today. The Roma expert who provides the training in Antwerp gives 9 training per year, each time for a group of about 15 people working for the Antwerp local police.
Give reasons why you consider the practice as having concrete measurable impact	Following each training, the individual participants provide a short evaluation, which is transferred to the Roma expert. Those evaluations clearly show that the training is very much appreciated by the people attending the training. By providing police personnel with accurate information about the situation of Roma in Belgium, including their history, it raises awareness and helps them to respond appropriately when facing this population group in a professional context.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	Absolutely. The idea of a specific training on Roma to police is transferrable to other settings and/or Member States, provided that it is held within a positive framework – such as a Diversity training – and breaks down instead of reinforcing stereotypes, stigmas and discrimination. Closely involving Roma (experts) in deciding on the content and the structure of the training as well as in the actual organisation and implementation of the training is paramount to ensure that the training promotes Roma inclusion.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	The Roma expert provides the trainings. The evaluations provided by participants following the training are communicated to the expert afterwards, allowing that expert to make adjustments to the training if and where needed.
Explain, if applicable, how the practice provides for review and assessment.	Following each training, participants are asked to evaluate the training.

Thematic area	<b>ASYLUM, VISAS, MIGRATION BORDERS AND INTEGRATION</b> Please provide a promising practice on the support provided to unaccompanied children when reaching majority.
Title or short description of promising practice in original language and in English	Voortgezette hulp (continued assistance).
Organisation (Government / Civil society) in charge of promising practise (original language/English)	Pleegzorg Vlaanderen (Foster care Flanders)
Funding body	Government
Reference (incl. url, where available)	Pleegzorg Vlaanderen, 'Wanneer een pleegkind 18 jaar wordt.' Available at: <a href="https://www.pleegzorgvlaanderen.be/ik-ben/pleeggezin/wanneer-een-pleegkind-18-jaar-wordt">https://www.pleegzorgvlaanderen.be/ik-ben/pleeggezin/wanneer-een-pleegkind-18-jaar-wordt</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	Start date: 1 March 2014 (ongoing)
Main target group	Young adults between the ages of 18 and 21.
Brief description (around 1000 characters)	The continued assistance program allows young adults who reach the age of 18 in Flanders to request to continue in foster \ care until the age of 21 (for young adults with disabilities, foster care can extend beyond the age of 21). If this extension is approved, the foster family will continue to receive support to host the young adult and the young adult him/herself can also request a study allowance if s/he wishes to study. Furthermore, young adults in Flanders who do not wish to remain in foster care upon reaching 18 can apply for a living wage.
Indicate level of implementation: Local/Regional/National	Regional (Flanders)
Indicate success factors – why has the practice effectively promoted integration?	While no specific studies have been found, the practice is one of the few that provides continued assistance for those who reach majority and was mentioned by most stakeholders that were contacted in the context of the annual report.
If the initial funding of the initiative ended, how has the initiative been continued/followed-up?	N/A
Explain, if applicable, how the practice is being reviewed and assessed.	N/A
Does the initiative apply to both asylum seekers and protection status holders – and/or support the transition from one to the other?	Y
Does the initiative specifically support persons in need of international protection	N (continued assistance applies to all children in Flanders)

as they turn 18? If so, which type of support is provided?	
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Thematic area	<b>INFORMATION SOCIETY, DATA PROTECTION</b> Please provide one example of a promising practice in relation to one of the topic addressed in this Chapter
	No promising practice has been identified for this thematic area.

Thematic area	<b>RIGHTS OF THE CHILD</b> Please provide one example of a promising practice in relation to one of the topic ad-dressed in this Chapter.
Title (original language)	Alternative Ways to Address Youth (AWAY)
Title (EN)	Alternative Ways to Address Youth (AWAY)
Organisation (original language)	Defense des enfants international – Belgique
Organisation (EN)	Defence for Children International – Belgium
Government / Civil society	Civil society
Funding body	EU
Reference (incl. url, where available)	<a href="https://www.dei-belgique.be/index.php/projets/acheves/alternative-ways-to-address-youth.html">https://www.dei-belgique.be/index.php/projets/acheves/alternative-ways-to-address-youth.html</a> <a href="https://justice.childhub.org/en/away">https://justice.childhub.org/en/away</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	The project began in January 2017 and lasted for two years. The current present practice considers the subsequent implementation and dissemination of the findings in 2019.
Type of initiative	Awareness campaign
Main target group	Professionals (social workers, juvenile judges and lawyers)
Indicate level of implementation: Local/Regional/National	Regional
Brief description (max. 1000 chars)	The AWAY project sought to seek alternative methods of restorative justice for minors suspected or accused of having committed an offence. Following the research conducted as part of the AWAY project, the findings seek to introduce a restorative approach in parallel with the judicial process. Restorative methods in youth justice were introduced in Belgium in the 1950s, but the Belgian national report of the AWAY project places an emphasis on the need to encourage the use of mediation and Restorative Group Consultation (CRG).  Following the conclusion of the AWAY project, Defence for Children International – Belgium in collaboration with Service for Restorative and Educational Actions (Service d'actions restauratrices et éducatives –

	SAREs) <sup>299</sup> launched an awareness campaign in Belgium to inform professionals about restorative justice, offers possible restorers in Belgium and their functioning. The campaigns tools includes an explanatory leaflet, a poster, an online training program and a video. <sup>300</sup>
Highlight any element of the actions that is transferable (max. 500 chars)	The online training porgamme is coordainted by the coordinator of the AWAY Project – Terres des Homme Regional Office in Budapest. The online training is available not only to professionals in Belgium, but also to professionals in other Member States. The training is available in 9 different languages. <sup>301</sup>
Give reasons why you consider the practice as sustainable (as opposed to ‘one off activities’)	The collaboration of Defense for Children International –Belgium with the Service for Restorative and Educational Action ensures that the information about restorative methods is embedded in service delivery.
Give reasons why you consider the practice as having concrete measurable impact	Contractor requested information from organisation of the number of times the online training had been accessed from Belgian practitioners, however this information is unavailable. The impact of the promising practice is nevertheless evident from the continued availability of the online training programme despite the cessation of the funding for the AWAY project. Similarly, the online video has been well-received across Europe – unfortunately figures per country are not available. <sup>302</sup>
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	The emergence of this campaign following a European funded project with partners from other Member States. The availability of the online training programme to professionals in other Member states (see above).
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	Information not available.
Explain, if applicable, how the practice provides for review and assessment.	Information not available.

<sup>299</sup> Belgium, Brussels-Wallonia Federation, Service for Restorative and Educational Actions (Service d’actions restauratrices et educatives – SAREs), available at: <http://www.caaj.cfwb.be/index.php?id=presentationsare> [last accessed 1 October 2019].

<sup>300</sup> Belgium, Jutice Child Hub, Protection system and restorative justice in Belgium, available at: <https://justice.childhub.org/en/child-protection-multimedia-resources/protection-system-and-restorative-justice-belgium-away-project> [last accessed 1 October 2019].

<sup>301</sup> Child Hub Academy, available at: <https://childhub.org/en/child-protection-professional?chusso=true> [last accessed 1 October 2019].

<sup>302</sup> Belgium, Justice Child Hub, [EUROPEAN UNION] 900,000 PEOPLE REACHED WITH VIDEO ON RESTORATIVE PRACTICES IN BELGIUM, 20 December 2018, available at: <https://justice.childhub.org/en/child-protection-news/european-union-900000-people-reached-video-restorative-practices-belgium> [last accessed 1 October 2019].

Thematic area	<b>ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS</b> Please provide one example of a promising practice in relation to one of the topic ad-dressed in this Chapter
Title (original language)	Campagne SAFestival
Title (EN)	Campaign SAFestival
Organisation (original language)	Plan International
Organisation (EN)	Plan International
Government / Civil society	Civil society
Funding body	Mixed (EU funds, Belgian Federal funds and private support) <a href="https://www.planinternational.be/fr/rapport-annuel-2018/financements-publics">https://www.planinternational.be/fr/rapport-annuel-2018/financements-publics</a>
Reference (incl. url, where available)	<a href="https://www.planinternational.be/fr/en-securite-pendant-les-festivals-dete">https://www.planinternational.be/fr/en-securite-pendant-les-festivals-dete</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	Spring 2018 - ongoing
Type of initiative	Sensibilisation about sexual harassment during music festivals
Main target group	Participants to music festivals
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	The action of Plan International in this field started in spring 2018 with the organisation of a survey among young persons (16 – 24 years old) attending music festivals, followed by a more open online consultation and discussions in festivals. After this first step, and the presentation of recommendations to the organisers of such events, Plan International has undertaken further actions during the summer, including the training of the volunteers assisting the organisation of festivals, campaigns during the events and/ or setting up specific places where persons can obtain advices and assistance. Similar initiatives have also been taken and implemented by other civil society organisations, such as the Red Cross. In one festival (esperanzah!) a chat bot has been set up to allow victims and witnesses to obtain information confidentially ( <a href="https://www.plansacha.be/">https://www.plansacha.be/</a> ). In 2019, an annual budget of 250.000 euros has been allocated to the initiative by the former Walloon Ministry of Women’s Rights and Equality of Opportunities, allowing for the development of a Plan SACHA (or Safe Attitude contre le Harcèlement et les Agressions en milieu festif) and its implementation over the summer. As a result, in addition of the 2019 edition of the festival Esperanzah!, the Plan SACHA has been implemented

	in other festivals, such as les Solidarités, Jyva'zik and les 24h vélos in Louvain-la-Neuve. <sup>303</sup>
Highlight any element of the actions that is transferable (max. 500 chars)	The practice is transferable since occurrences of sexual violence against women often take place in the context of music festival, and similar initiatives have already been conducted in other European countries (such as Spain, where the music festival SONAR has carried a sensibilisation campaign on the matter).
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	It is a sustainable practice because these events often take place on an annual basis, and the same team is in charge of organising them. The promising practice can be included in the recurring organisational tasks related to each music festival, and does not necessarily require an important funding to be conducted (budget for a campaign, assistance and animation of the stand can be carried by trained volunteers).
Give reasons why you consider the practice as having concrete measurable impact	The impact is not easy to measure, as it constitutes mostly a prevention measure. However an measurable element can be identified: the increase in the number of complaints for acts of sexual violence by victims. This year, during one festival (the Dour Festival), which hosted a specific cell of psycho-social assistance, 3 complaints for rape were brought before the police.
Give reasons why you consider the practice as transferable to other settings and/or Member States?	This practice can be transferred to other festive events, or any event gathering large groups of persons, as well as other Member States in which such large-scale musical events are organised.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	The practice is a grass-root one, initiated and carried out by civil society organisations, and the stakeholders are involved in its setting up. The initial survey and research carried out by Plan International allowed to collect feedback and suggestions from the main target group, namely young persons attending such events.
Explain, if applicable, how the practice provides for review and assessment.	N/A.

Thematic area	<p><b>DEVELOPMENTS IN THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD)</b></p> <p>Please provide one promising practice example of projects or programmes implementing the CRPD or furthering the rights of persons with disabilities.</p>
	No promising practice has been identified for this thematic area.

<sup>303</sup> Belgium, Plan International, Francophone Festivals put in place concrete measures against sexual harassment (*Les festivals francophones mettent en place des mesures concrètes contre le harcèlement sexiste*), 3 July 2019 [last accessed 6 January 2020].



## Annex 2 – Case law

Thematic area	<p><b>EQUALITY AND NON-DISCRIMINATION</b></p> <p>Please provide one high court decision addressing discrimination on any one of the following grounds: gender identity, religion or belief, disability, age, or sexual orientation. Where relevant, always highlight any relevance or reference to multiple discrimination in the case you report</p>
Decision date	26 September 2019
Reference details	Belgium, Constitutional Court ( <a href="#">Grondwettelijk Hof</a> ), judgement number 122/2019, 26 September 2019
Key facts of the case (max. 500 chars)	<p>The applicants criticise the difference in treatment between, on the one hand, men who have had sexual contacts with other men and in particular male homosexuals or bisexuals, who are excluded from blood donation for a period of 12 months after the last sexual contact with another man, and, on the other hand, the rest of the population. The difference was introduced by articles 8 and 9 of <a href="#">Law of 11 August 2017 containing various health provisions</a>. Before the amendment to the annex of the <a href="#">Law of 5 July 1994 on blood and blood derivatives of human origin</a> (the annex contains the criteria for the exclusion of prospective donors from allogeneic donations of blood and blood components) by the contested article 8, men who had had sexual contact with another man and persons whose male sexual partner had had sexual contact with another man, were permanently excluded from blood donation. Article 9 changes the criterion for temporary exclusion of blood donation for “persons who, due to their behaviour or activity, are at risk of contracting a blood-borne infectious disease”.</p>
Main reasoning/argumentation (max. 500 chars)	<p>The non-profit organisations “Arc-enCiel Wallonie” and “Maison Arc-en-Ciel de Liège-Alliège” submitted an appeal to annul articles 8 and 9 of the <a href="#">Law of 11 August 2017 containing various health provisions</a>. The statutory objective of these organisations is promoting equal opportunities and well-being of lesbians, gays, bisexuals and transgender people, combating discrimination and homophobia and promoting equal rights to those individuals. Their plea is based on the infringement of articles 10 and 11 of the Belgian Constitution, whether or not read in conjunction with article 14 of the European Convention on Human Rights, with articles 20 and 21 of the Charter of Fundamental Rights of the European Union and with Commission Directive 2004/33/EC of 22 March 2004 implementing Directive 2002/98/EC of the European Parliament and of the Council as regards certain technical requirements for blood and blood components.</p> <p>The applicants claim that the different in treatment created by the contested provisions is unjustified. Moreover, they criticise that the equal treatment, without reasonable justification, of all men who have (had) sexual relations with other men (referred to as MSM), without making a distinction according to whether or not they have exhibited sexual risk behaviour. The difference in treatment created between MSM and the rest of the population by temporarily excluding MSM from blood donation, is also argued to be disproportionate. Furthermore, the duration of MSM exclusion from blood donation is considered to be excessive.</p>

<p>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</p>	<p>The Constitutional Court explains that the principle of equality and non-discrimination does not preclude the introduction of a difference in treatment between categories of persons, to the extent that the difference is based on an objective criterion and is reasonably justified. It continues that such principle also precludes the treatment of categories of persons who are in essentially different situations with regard to the contest measures without reasonable justification. The Court states that the existence of such accountability must be assessed taking into account the purpose and effects of the contested measure and the nature of the relevant principles; the principle of equality and non-discrimination has been infringed when it is established that there is no reasonable relationship of proportionality between the means used and the objective pursued.</p> <p>In this case, a two-fold criterion is used to make the distinction, namely (1) it is based on the sex of the aspiring blood donor or his sexual partner because only men, and not women, who have had sexual contact with a man are targeted; (2) it is based on a certain type of sexual contact, namely that a man who has had at least one sexual contact with another man in the past twelve months.</p> <p>The Court finds the double criterion of distinction to be objective and the government's overlapping objectives to be legitimate. The contested criteria for temporary exclusion of MSM from blood donation are also found to be proportionate to the objective to secure the safety of the transfusion chain. The period of the exclusion of MSM from blood donation is not considered excessive.</p> <p>Problems arise, however, regarding the techniques that make it possible to reduce the pathogens in the blood. Whereas the technique of retention of virus-inactivated plasma is proposed as a scientifically valid option in the parliamentary preparation of the law, the latter does not explain why this technique was not taken into account, while it involves less burden to secure a high level of safety in the transfusion chain compared to the exclusion of MSM for a 12-month period since the last sexual contact between men.</p> <p>The Court disagrees with the Council of Ministers' statement that the quarantine technique limits the availability of plasma stocks and entails a loss of the collected plasma if the donor does not make a second donation. Furthermore, it argues that the Council of Minister fails to show that a specific chain for placing the plasma donation in quarantine cannot be introduced alongside the existing chain of the donation of virus-inactivated plasma. The introduction of such a specific chain does not entail any difference in treatment between the plasma donors at the time of the donation, since the plasma is collected in the same way for all donors. Only the collected plasma is, after the donation, subjected to special treatment according to the donor. The admission of MSM, or new donors (estimated at 4000), to the donation of plasma that is secured by placing it in quarantine, results in principle even in an increase in plasma stocks. The Constitutional Court concludes that the legislator failed to reasonably justify that the two exclusion criteria and their respective exclusion periods also apply to the donation of plasma that is secured by placing it in quarantine.</p>
<p>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</p>	<p>The Constitutional Court annuls article 8 of the Law of 11 August 2018, insofar as it excludes "men who had sexual contact with other men" during a period of "12 months after the last sexual contact with another man" and the prospective donor whose "male partner (...) (has) had sexual contact with another man" during a period of "12 months after the end of the situation" from the donation of "fresh frozen plasma" taken by the apheresis (this is the technique whereby only the requested blood components are taken from the donor. The other blood components are immediately returned to him) and protected by placing it in quarantine.</p>

	<p>The annulment does not have as a consequence that, for those two categories, the twelve month temporary exclusion criteria for plasma donation that is not secured by quarantining it and for the donation of other blood components disappears.</p> <p>The effects of the annulled provision are maintained (until the entry into force of a law allowing the two aforementioned categories of prospective donors to donate “fresh frozen plasma” collected by the apheresis and then placed in quarantine, where appropriate, after treatment with virus inactivation, and at least up to two years after the publication of this judgment in the Belgian Official Gazette.</p>
<p>Key quotation in original language and translated into English with reference details (max. 500 chars)</p>	<p>Original: “B.18.7. Rekening houdend met het voormelde arrest Léger van het Hof van Justitie en in het licht van het in B.18.1 geciteerde advies van de Hoge Gezondheidsraad, volgt daaruit dat de wetgever niet voldoende heeft verantwoord dat hij, voor « vers ingevroren plasma » dat door aferese werd afgenomen bij MSM en bij de seksuele partner van een MSM, het criterium van uitsluiting gedurende een periode van twaalf maanden sedert het laatste seksuele contact tussen mannen in aanmerking heeft genomen, door voor die twee categorieën van personen niet te kiezen voor de techniek waarbij dat product in quarantaine wordt geplaatst.</p> <p>Het is dus niet redelijk verantwoord dat de twee uitsluitingscriteria en de respectieve uitsluitingsperiodes ervan eveneens van toepassing zijn op de donatie van plasma dat is beveiligd door het in quarantaine te plaatsen.</p> <p>Bijgevolg schendt het bestreden artikel 8 de in het middel bedoelde bepalingen, in zoverre het de « mannen die seksueel contact hadden met een andere man » en de personen wier « mannelijke seksuele partner seksueel contact had met een andere man », gedurende een periode van twaalf maanden sedert het laatste seksuele contact tussen mannen, uitsluit van de donatie van plasma dat in quarantaine is geplaatst.”</p> <p>English translation: “B.18.7. Taking into account the aforementioned judgment Léger of the Court of Justice and in the light of the opinion of the Supreme Health Council cited in B.18.1, it follows that the legislator has not sufficiently justified that for “fresh frozen plasma” that was collected from MSM and from the sexual partner of an MSM, the criterion of exclusion over a period of 12 months since the last sexual contact between men was taken into account, by not opting for the technique that places that product in quarantine.</p> <p>It is therefore not reasonably justified that the two exclusion criteria and their respective exclusion periods also apply to the donation of plasma that is secured by placing it in quarantine.</p> <p>Consequently, the contested article 8 infringes the provisions referred to in the plea, in so far as it excludes “men who had sexual contact with another men’ and persons whose “male sexual partner had sexual contact with another man” from donating plasma that is placed in quarantine for a period of six months since the last sexual contact between men.”</p>

Thematic area	<p><b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE.</b></p> <p>Please provide the most relevant high court decision concerning the application of either the Racial Equality Directive, the Framework Decision on racism and xenophobia, or relevant to addressing racism, xenophobia and other forms of intolerance more generally.</p>
Decision date	12 March 2019
Reference details	Belgium, <a href="#">Court of Assizes</a> , 12 March 2019
Key facts of the case (max. 500 chars)	On Saturday 24 May 2014, a man entered the Jewish Museum in Brussels and started shooting. The shooter was well prepared and armed. Four people were killed. Mehdi Nemmouche, a French citizen of Algerian origin, was apprehended in France a week after the attack. He had a Kalashnikov wrapped in a sheet with IS slogans on it, ammunition, a blue vest, a Nike cap, Asics shoes, a laptop, a camera, a revolver and a dark suit. Both weapons were used in the attack and had his DNA and fingerprints on them. The shoe train on the door of the Jewish Museum matched the suspect's shoes. On 29 July 2014, he was extradited to Belgium. Nacer Bendrer, a French citizen, was apprehended in France in December 2014 and extradited to Belgium and arrested for complicity in murder in a terrorist context in February 2015.
Main reasoning/argumentation (max. 500 chars)	The attack not only targeted the Jewish community, but also the foundations of our society, our democracy and our values. Not only during the entire investigation but also during the trial, the main suspect (Nemmouche) only demonstrated his disdain for the Belgian legal system, of which he tried to pretend to be a victim. His attitudes represents a danger to the Muslim community too. When determining the punishment, the terrible violence used to kill four people in cold blood with a clear anti-Semitic nature, the defendant's provocative and manipulative attitude, the absence of any sympathy for the victims, and the fact that he does not question himself in any way.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The Court considered it to be an attack on the Jewish community as well as on the fundamentals of our society. The Court did not consider there to be extenuating circumstances for Nemmouche. While acknowledging his difficult youth, it does not constitute a reason for the crime committed. For Bendrer, the Court took into account his difficult upbringing and the fact that he never committed serious crimes before. Even so, he played an important role in the attack, as he did not hesitate to deliver heavy guns, knowing Nemmouche had radicalised and his plans for the guns. On the other hand, he was not present during the attack, did not radicalise further, showed empathy and compassion for the victims and is surrounded by his family and partner, thereby limiting the risk of recidivism.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The jury found both defendants guilty of quadruple murder with a terrorist character and of forbidden possession of weapons of a terrorist nature. Mehdi Nemmouche was sentenced to life imprisonment. Nacer Bendrer was sentenced to 15 years in prison as an accomplice. The defendants were also sentenced to respectively 15 (Nemmouche) and 5 (Bendrer) years of placement under the criminal enforcement court.
Key quotation in original language and translated into English with reference details (max. 500 chars)	<p>Original : Par la nature de son acte, x X a porté atteinte aux fondements même de notre société que constituent plus particulièrement la liberté et l'égalité. En commettant un attentat terroriste dans un lieu symbolique de la communauté juive, x X s'est attaqué non seulement à celle-ci mais a dénié ainsi le droit fondamental consacré par notre société qui garantit à chaque individu la liberté de vivre selon ses convictions ainsi que l'assurance pour chacun de vivre celles-ci dans les mêmes conditions.</p> <p>English translation: By the nature of his act, x X has undermined the very foundations of our society, which is more particularly freedom and equality. By</p>

	committing a terrorist attack in a symbolic place of the Jewish community, x X attacked not only this one but denied the fundamental right enshrined in our society which guarantees to each individual the freedom to live according to his convictions as well as the assurance for everyone to live on the same conditions.
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Thematic area	<p><b>ROMA INTEGRATION</b></p> <p>Please provide the most relevant high court decision addressing violations of fundamental rights of Roma in the context of education, employment, health, housing, etc. In particular, focus on cases where discrimination or segregation (not limited to segregation in education or housing) are addressed.</p>
Decision date	7 October 2019
Reference details	Belgium, <a href="#">Criminal Court of Ghent</a> 7 October 2019
Key facts of the case (max. 500 chars)	In November 2017, a group of football supporters raiding a squat inhabited by Roma, including young children, with sticks and Bengal fire. Among other things, they were accused of threats, vandalism and incitement to hatred or violence through a WhatsApp group.
Main reasoning/argumentation (max. 500 chars)	The case doesn't concern discrimination as such, but racism as an aggravating circumstance. More specifically, it concerns the fact that one of the motives for the crimes was hatred for, disrespecting of, or hostility towards, a person because of their so-called race or colour (articles 532bis, 534quater of the <a href="#">Criminal Code</a> )
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	When considering whether the facts were committed under the aggravating circumstance as a so-called hate crime, the Court first pointed out that it concerns a personal aggravating circumstance that applies as soon as the hatred, the disrespect for, or the hostility towards a person because of one (or more) of the discrimination grounds included in the law formed one of the motives for committing a the crime. That negative discriminatory feeling does not have to be the only or the main driver for committing the crime. The crime must also be committed because the victim specifically belongs to one of those categories (ethnic minorities, people with disabilities, older people, etc.). The motive must be actually present and this must be sufficient from the entire criminal investigation and it must also be examined individually for each accused person. The court finds that on the WhatsApp group of which the first defendant was a part, many messages unmistakably express disrespect for Roma within the group of perpetrators that executed the attack.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The Court ruled that latent racism was one of the perpetrators' motives. Disrespect for the Roma community was ruled to be an aggravating circumstance in relation to the so-called hate crime committed by twelve defendants. It also found that a number of them incited hate through messages. One of the main perpetrators was sentenced to a work sentence of 100 hours. Nine of the fifteen accused were sentenced to an autonomous probation sentence of one year. A visit to the <a href="#">Kazerne Dossin</a> was included as one of the conditions imposed by the Court. Another accused was sentenced to six months in prison and two others were acquitted. The victims received 500 euros in compensation.
Key quotation in original language and translated into English with reference details (max. 500 chars)	Original: 1.A.a. "Ongeacht het gegeven dat het feit dat het kraken op zich een meer prominente drijfveer kan geweest zijn, staat vast dat uit de specifieke gezegdes in deze whatsappconversaties blijkt dat de feiten ook zijn ingegeven omdat er bij de uiteindelijke plegers een duidelijk en door de groep gedragen misprijzen bestond jegens de krakers omwille van hun afkomst, meer bepaald hun Roma-zijn. De laatdunkende connotatie in combinatie met de concrete

	<p>afspraken voor de aanval maken duidelijk dat deze drijfveer wel degelijk heeft meegespeeld.</p> <p>Dat de eerste beklaagde, X. K., in een andere conversatie met de zevende beklaagde, S. K., van zichzelf stelt dat hij geen racist is, doet geen afbreuk aan de hierboven gedane vaststelling dat het Roma-zijn van de krakers onmiskenbaar mee een rol heeft gespeeld bij de totstandkoming van het misdrijf.</p> <p>De verzwarende omstandigheid dat de Roma-afkomst één van de drijfveren geweest is bij het plegen van de feiten, voorwerp van de tenlastelegging A, zoals geherkwalificeerd, staat vast in hoofde van de eerste beklaagde.”</p> <p>English translation: “Regardless of the fact that the squatting itself may have been a more prominent motive, it is clear that the specific messages in these WhatsApp conversations show that the facts were also motivated by the fact that there was a clear and supported by the group disrespect among the ultimate perpetrators towards the squatters because of their origin, in particular their being Roma. The condescending connotation in combination with the concrete agreements for the attack made it clear that this motive has indeed played a role. The fact that the first defendant, X.K., in another conversation with the seventh defendant, S.K., states that he is not a racist, does not alter the above finding that the squatters being Roma has undeniably played a role in the realisation of the crime.</p> <p>The aggravating circumstance that the Roma origin has been one of the motives for committing the fact, object of the indictment A, as reclassified, is certain in case of the first defendant.”</p>
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Thematic area	<p><b>INFORMATION SOCIETY, DATA PROTECTION</b></p> <p>Please provide the most relevant high court decision in relation to one of the topic addressed in this Chapter</p>
Decision date	8 May 2019
Reference details	<p>The case was sent to the Court of Justice of the European Union (CJEU) under no. C-645/19.</p> <p>Reported by the Data Protection Authority of Belgium. Available at: <a href="https://www.dataprotectionauthority.be/news/court-appeal-brussels-refers-facebook-case-court-justice-european-union">https://www.dataprotectionauthority.be/news/court-appeal-brussels-refers-facebook-case-court-justice-european-union</a></p>
Key facts of the case (max. 500 chars)	<p>Belgium’s Privacy Commission opened a case against Facebook in 2015, claiming that the company did not comply with Belgium’s privacy legislation. In 2018, the Court of First Instance ruled in favour of the Privacy Commission. Facebook appealed that judgment. As the successor of the Privacy Commission, the Belgian Data Protection Authority replaced the Commission on the case. In March 2019, the Authority pleaded before the Court of Appeals of Brussels, which, in May then decided to refer the case to the CJEU.</p>
Main reasoning/argumentation (max. 500 chars)	<p>With the entrance into force of the GDPR, the Court of Appeals of Brussels decided to refer the Data Protection Authority’s case against Facebook to the CJEU to inquire whether the Authority has the possibility to pursue a case against Facebook in accordance with European law.</p>
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	<p>Upon decision of the CJEU, this case will clarify when national data protection authorities are able to bring cases against companies established in other member states under the GDPR.</p>
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	<p>Outcome still pending.</p>
Key quotation in original language and	<p>“The GDPR provides for a new cooperation mechanism between European data protection authorities, in particular a one-stop shop. The question therefore</p>



translated into English with reference details (max. 500 chars)	arises as to whether this administrative mechanism also affects the possibility of initiating proceedings before a court. The Court of Appeal in Brussels therefore asks the Court of Justice of the European Union to clarify this issue.”
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Thematic area	<b>RIGHTS OF THE CHILD</b> Please provide the most relevant high court decision in relation to one of the topic addressed in this Chapter.
Decision date	24 October 2019
Reference details	Belgium, <a href="#">Court of Cassation</a> , 24 October 2019
Key facts of the case (max. 500 chars)	<p>The Youth Court of Appeal in Mons and Antwerp decided to dismiss two cases pursuant to Article 57bis of the Act of 8 April 1965 on the protection of juveniles, the care of juveniles who have committed an act classified as an offence and compensation for the damage caused thereby (la loi du 8 avril 1965 relative à la protection de la jeunesse, à la prise en charge des mineurs ayant commis un fait qualifié infraction et à la réparation du dommage causé par ce fait). The aforementioned article 57bis permits, under certain conditions, where the person who committed an offence was sixteen years of age or older at the time of that act and the youth court considers a custody, preservation or education measure to be inadequate, it may, by decision giving reasons, dismiss the case and refer it back to the prosecutor.</p> <p>The applicants lodged an appeal in the Court of Cassation on the basis that the new Article 20 of the Act of 14 February 2014 relating to procedure before the Court of Cassation in criminal matters (loi du 14 février 2014 relative à la procédure devant la Cour de Cassation en matière pénale) which replaced Article 420 (outlining the right to appeal only when a definitive judgement has been made) of the Code of Criminal Instruction, and failed to include the exception of relating to decisions under Article 57bis.</p> <p>The Court of Cassation ruled at the end of 2018 that the contested decisions were not subject to immediate appeal to the Supreme Court. However, before deciding on the admissibility of appeals in cassation, it submitted two preliminary questions that related to the possibility of appeal for juvenile offenders under Article 20 of the Act of 14 February 2014 on proceedings before the Court of Cassation in criminal matters, and whether or not it violates Article 10 (equality before the law) and Article 11 (non-discrimination) of the Constitution.</p>
Main reasoning/argumentation (max. 500 chars)	For the Council of Ministers, the measure was deemed to be proportionate, balancing between defence rights and the need to guarantee good administration of justice. The Court, however, held that the restriction of the right to appeal against the decision to dismiss was disproportionate and failed to take into account that special measures for children would not be applicable and the child would then be subject to ordinary jurisdiction.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The right to appeal to the Court of Cassation is not an absolute right, some exceptions do exist. However, as in the present case in the matter of preventative detention of juvenile offenders, certain categories should not be excluded.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	<p>The court held that the questions referred for a preliminary ruling were answered in the affirmative. Article 420 of the Criminal Instruction Code, as replaced by article 20 of the law of 14 February 2014, violates article 10 and 11 of the constitution as it does not foresee the possibility of introducing an immediate right to appeal to the Court of Cassation against a decision to dismiss. [para B.11]</p> <p>The Court, pending intervention by the legislature, declared admissible the immediate appeal in cassation against the decision to dismiss [para B.12]</p>

<p>Key quotation in original language and translated into English with reference details (max. 500 chars)</p>	<p>English translation: [...] the impossibility of bringing an immediate appeal in cassation against the decision to dismiss restricts the rights of the minor concerned disproportionately. Indeed, such a decision has the consequence that the special measures provided for in respect of minors are no longer applicable and that the minor concerned becomes subject to ordinary jurisdiction.</p> <p>The possibility of lodging an appeal in cassation after the final decision on the merits is not sufficient in this case because, in most cases, the minor will then have reached majority. The effectiveness of an appeal in cassation in matters of dismissal presupposes that the judgment of the Court of Cassation is delivered quickly.</p> <p>Original: [...], l'impossibilité d'introduire un pourvoi en cassation immédiat contre la décision de dessaisissement restreint les droits du mineur concerné de manière disproportionnée. En effet, une telle décision a pour conséquence que les mesures particulières prévues à l'égard des mineurs ne sont plus applicables et que le mineur concerné devient justiciable de la juridiction ordinaire.</p> <p>La possibilité d'introduire un pourvoi en cassation après la décision définitive au fond ne saurait suffire dans ce cas parce que, la plupart du temps, le mineur aura alors atteint la majorité. L'efficacité d'un pourvoi en cassation en matière de dessaisissement suppose que l'arrêt de la Cour de cassation soit rendu rapidement.</p>
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<p>Thematic area</p>	<p><b>ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS</b></p> <p>Please provide the most relevant high court decisions in relation to one of the topic addressed in this Chapter..</p>
<p>Decision date</p>	<p>14 February 2019</p>
<p>Reference details</p>	<p>Judgment n°23/2019, numéro de rôle 6763 Available at: <a href="https://www.const-court.be/public/f/2019/2019-023f.pdf">https://www.const-court.be/public/f/2019/2019-023f.pdf</a></p>
<p>Key facts of the case (max. 500 chars)</p>	<p>The case concerns a person who worked in a school, in which a man killed several persons, including children. She has seen the victims and helped to evacuate children. As a civil party in the criminal proceedings against that man, she was awarded damages. However when she turned to the Commission for financial assistance to victims of intentional acts of violence, she was denied assistance on the ground that as an occasional rescuer her action was barred.</p>
<p>Main reasoning/argumentation (max. 500 chars)</p>	<p>The law made a distinction between direct victims, for which the time period to bring their claim before the Commission runs for three years from the final decision by a criminal court, and occasional rescuers. For them, the time period starts to run from the moment the act of violence is committed. The question of law was as to whether such distinction was constitutional.</p>
<p>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</p>	<p>The Constitutional Court declares such distinction and difference of treatment unconstitutional, on the ground that although it is based on a objective criteria, namely the quality of the person asking for assistance, the possibility for both categories of persons to claim assistance opens only after a final judgement is rendered on the intentional act of violence. The justification advanced by the Council of Ministers, according to which the difference is based on the circumstance that while direct victims have to wait until the existence of a final criminal judgment on the facts, occasional rescuers can ask for assistance from the moment of the act of violence is committed, is not relevant, and does not reflect the intention of the legislator.</p>
<p>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</p>	<p>While awaiting a legislative amendment, the Constitutional Court declares that the legal solution is sufficiently clear to allow the law to be applied in accordance with the Constitution. It means in practice that for the person who sought to obtain financial assistance from that Commission, the time -period to introduce</p>

	her demand started to run not on 23 January 2009 (day of the act of violence), but on 30 september 2013 (day of the final judgment). Her demand before the Commission, brought on 16 June 2016, shall thus be deemed receivable.
Key quotation in original language and translated into English with reference details (max. 500 chars)	<p>Original : B.10.4. Dans ces circonstances, il n'est pas raisonnablement justifié que le délai dont il (le sauveteur occasionnel) dispose pour introduire une demande d'aide auprès de la Commission, lorsqu'il s'avère qu'il ne pourra pas obtenir une réparation suffisante de la part de la personne civilement responsable, commence à courir le jour de l'acte de violence et non à la date de la décision de justice passée en force de chose jugée concernant son action civile, comme tel est le cas pour la victime directe dans les hypothèses visées à l'article 31bis, § 1er, 4°, alinéa 4, de la loi du 1er août 1985.</p> <p>English translation : B.10.4. In these circumstances, there is no reasonable justification for the time limit within which he (the occasional rescuer) has to submit an application for aid to the Commission, when it appears that he will not be able to obtain sufficient compensation from the person liable in law, begins to run on the day of the act of violence and not on the date of the final court decision concerning his civil action, as is the case for the direct victim in the cases referred to in Article 31bis, § 1, 4°, paragraph 4, of the Law of 1 August 1985.</p> <p>Translated with <a href="http://www.DeepL.com/Translator">www.DeepL.com/Translator</a> (free version)</p>

Thematic area	<p><b>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD)</b></p> <p>Please provide the most relevant high court decision making reference to the CRPD or employing the CRPD in their reasoning.</p>
Decision date	1 February 2019
Reference details	Belgium, Labour Court, Gent, 1 February 2019
Key facts of the case (max. 500 chars)	A man with a health problem started vocational training in a bookstore wherein the training would lead to an open-ended contract of employment. However, the employer stopped the training before the end because the work had become too heavy for the worker's state of health. The worker did not receive any incapacity benefit because his health insurance company did not recognise him as unfit for work.
Main reasoning/argumentation (max. 500 chars)	In order to be eligible for compensation, the law requires that work be stopped because of the onset or aggravation of a disorder or injury. The health insurance company considered that this was not the case. The worker already had health problems before starting his training, so he would never have worked like any other person.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The meaning of disability under the UNCRPD, the eligibility for compensation for a disability that has been created in the workplace, the right for reasonable adjustments in the workplace.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The court noted that the worker had successfully completed his vocational training for three months. In addition, it notes that the worker was entitled to reasonable adjustments on the basis of anti-discrimination legislation. In his judgment, it is also a question of taking into account all possible reasonable adjustments that could be implemented. According to the expert, the worker's health problems have indeed worsened since he was hired.

Key quotation in original language and translated into English with reference details (max. 500 chars)	<p>Original: De heer X X heeft dus door de gezondheidsproblemen waarmee hij reeds lange tijd te kampen heeft, een handicap zoals bedoeld in het Verdrag van de Verenigde Naties van 13 december 2006 inzake de rechten van personen met een handicap, nl. een langdurige fysieke, mentale, verstandelijke of zintuigelijke beperking die de getroffen persoon in wisselwerking met diverse drempels kan beletten volledig, daadwerkelijk en op voet van gelijkheid met anderen te participeren in de samenleving</p> <p>English translation: Mr X X therefore has a disability within the meaning of the United Nations Convention on the Rights of Persons with Disabilities of 13 December 2006, as a result of the long-standing health problems he has been facing: a long-term physical, mental, mental or sensory impairment which, in interaction with various barriers, may prevent the affected person from participating fully, effectively and on an equal footing with others in society.</p>
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Thematic area	<p><b>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD)</b></p> <p>Please provide the most relevant high court decision making reference to the CRPD or employing the CRPD in their reasoning.</p>
Decision date	24 September 2019
Reference details	Belgium, <a href="#">Labour Court, Liège</a> , 24 September 2019
Key facts of the case (max. 500 chars)	Ms H. works in a sedentary position within a public institution and has a disability. After an absence due to illness, she asked her employer for an adapted position, not involving too much travel, and a part-time medical position, based on occupational health recommendations. This request for adjustment was refused by her employer, who asked her to resign or return full-time to a medically inappropriate position. A few days later, on March 14, 2016, she was dismissed.
Main reasoning/argumentation (max. 500 chars)	According to UNIA, who was a civil party in the case, the refusal to make reasonable adjustments was considered to be a form of discrimination contrary to Walloon Decree of 6 November 2008 relating to the fight against certain forms of discrimination that transposes Directive 2000/78 that it implements and the United Nations Convention on the Rights of Persons with disabilities.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The meaning of disability, the right for person with disabilities to claim reasonable workplace adjustments and the right to claim compensation for discriminatory dismissal based on disability.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The Tribunal considers that this is a case of discriminatory dismissal and a denial of reasonable adjustments. The Tribunal ordered compensation for 44067,30 Euros.
Key quotation in original language and translated into English with reference details (max. 500 chars)	<p>Original: Sur la base de son handicap, Madame H. a donc été traitée de manière moins favorable qu'une autre personne ne l'est, ne l'a été ou ne le serait dans une situation comparable et cette distinction de traitement n'est pas justifiée par l'A. par une exigence professionnelle essentielle et déterminante.</p> <p>Cette distinction constitue une discrimination.</p>

	<p>En l'espèce, il existe une relation évidente entre le licenciement discriminatoire fondé sur le handicap et le refus d'aménagement raisonnable opposé par l'A.. Ainsi, le refus de l'A. de mettre en place des aménagements raisonnables, son insistance pour que la fonction soit prestée à temps plein et sans poste sédentaire, ne justifient pas légalement la décision de licenciement.</p> <p>English translation: On the basis of her disability, Ms H. has therefore been treated less favourably than another person is, has been or would be treated in a comparable situation and this distinction in treatment is not justified by the [name of employer] by an essential and determining professional requirement.</p> <p>This distinction constitutes discrimination.</p> <p>In this case, there is a clear relationship between the discriminatory dismissal on the basis of disability and the denial of reasonable accommodation by the [name of employer]. Thus, the [name of employers]'s refusal to provide reasonable accommodation, his insistence that the function be performed on a full-time basis and without a sedentary position, do not legally justify the decision to dismiss.</p>
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