

# **Franet National contribution to the Fundamental Rights Report 2021**

**Belgium**

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## Contents

Franet country study: policy and legal highlights 2020 .....	4
Chapter 1. Equality and non-discrimination.....	5
Chapter 2. Racism, xenophobia and related intolerance .....	21
Chapter 3. Roma equality and inclusion .....	32
Chapter 4. Asylum, visas, migration, borders and integration .....	43
Chapter 5. Information society, privacy and data protection .....	49
Chapter 6. Rights of the child .....	59
Chapter 7. Access to justice including crime victims .....	69
Chapter 8. Developments in the implementation of the Convention on the Rights of Persons with Disabilities.....	87

## Policy and legal highlights 2020

Franet country study: policy and legal highlights 2020	
<b>Issues in the fundamental rights institutional landscape</b>	<b>Appointment of members of the Federal Institute for the Protection of Human Rights:</b> After adopting the <a href="#">Law</a> establishing a Federal Institute for the Protection and Promotion of Human Rights in 2019, the <a href="#">federal Parliament appointed</a> the last of the board members of the new institute on 16 July 2020. During its first session on 2 September, <a href="#">the new board elected</a> a president and vice-president among its members, as well as an executive secretariat.
<b>EU Charter of Fundamental Rights</b>	<b>Constitutional court partially annuls act infringing professional secrecy of lawyers:</b> In <a href="#">case 114/2020</a> , the constitutional court assessed whether provisions of the Act of 18 September 2017 relating to the Prevention of Money Laundering and Terrorist Financing and Limitation of the Use of Cash violated lawyer's professional secrecy, concluding that several provisions of the Act are contrary to the professional secrecy of lawyers, as an essential part of the right to privacy and the right to a fair trial. The Act is therefore partially annulled.
<b>Equality and non-discrimination</b>	<b>New Federal Government promises to fight discrimination:</b> On 30 September 2020, a new <a href="#">Federal Government Agreement</a> was adopted, which states that 'the government is committed to combating all forms of discrimination, including that against women.'
<b>Racism, xenophobia &amp; Roma integration</b>	<b>Action Plan against Racism:</b> The federal and regional governments reached an agreement on the <a href="#">establishment of National Action Plan against Racism</a> . One of its main transversal measures is to tackle cyber hate. <b>Police operation against Romani Travellers leads to measure against Belgium:</b> On 14 May 2020, the European Committee of Social Rights of the Council of Europe unanimously voted to <a href="#">issue an interim measure against Belgium</a> , concerning Romani Travellers who were targeted by the large-scale police operation "Strike" that took place on 7 May 2019.
<b>Asylum &amp; migration</b>	<b>Extension of stay due to COVID-19:</b> Due to the COVID-19 pandemic, third country nationals who were not able to leave Belgium were allowed to <a href="#">prolong their stay</a> in the country. Extensions varied depending on the category of third country national.
<b>Data protection and digital society</b>	<b>600.000 euros fine applied by Data Protection Authority:</b> In 2020, the Data Protection Authority applied its <a href="#">highest fine thus far</a> (600.000 euros), sanctioning Google Belgium for not respecting the right to be forgotten. <b>COVID-19 tracing efforts:</b> Multiple efforts were taken to develop and deploy <a href="#">tracing mechanisms</a> to prevent the spread of the new coronavirus. Both manual and digital methods are used in Belgium.

<b>Rights of the child</b>	<b>Effects of the pandemic on children:</b> the results of a <a href="#">large survey</a> conducted amongst children in Flanders to get a better insight into the experiences and needs of children during the new coronavirus crisis emphasised the fragile situation of children growing up in vulnerable circumstances and the issue of the protection of children against (interfamilial) violence, as well as drastic restrictions on the right to social contacts and to play.
<b>Access to justice, including victims of crime</b>	<b>Changes in criminal law due to COVID-19:</b> <a href="#">Royal Decree No. 3</a> of 9 April 2020 laid down various provisions relating to criminal procedure and the enforcement of penalties to combat the spread of COVID-19, including provisions aiming at reducing prison overcrowding by suspending the execution of prison sentences. Such temporary suspension is conditional and the protection of victims must be taken into account.
<b>Convention on the Rights of Persons with Disability</b>	<b>Challenges of COVID-19 for persons with disabilities:</b> The results of a public <a href="#">online consultation</a> to determine the impact of the COVID-19 pandemic and the accompanying measures on the lives of persons with disabilities show that persons with disabilities often feel abandoned. For instance, the lockdown measures have meant that many have not been able to receive care at home and protective clothing were not adapted for people with hearing or visual impairments.

## Chapter 1. Equality and non-discrimination

### 1. Legal and policy developments or measures relevant to fostering equality and combating discrimination against older people and against LGBTI people.

#### a. Cross-cutting Developments

On 6 March 2020, the UN Committee on Economic, Social and Cultural Rights (CESCR) adopted its **Concluding Observations** on Belgium's fifth periodic report. Although the Committee noted that a federal human rights institution was established in 2019, it expressed concern that the institution currently has a mandate only at the federal level, that it lacks competence to receive individual complaints and that it has not entered into a cooperation agreement with the existing national human rights institutions, such as Unia. The Committee also expressed concern about the lack of implementation of recommendations adopted

after the evaluation of the federal non-discrimination legislation, and by the lack of a complaint mechanism for language discrimination.<sup>1</sup>

After adopting the Law establishing a **Federal Institute for the Protection and Promotion of Human Rights** in 2019,<sup>2</sup> the federal Parliament appointed the last of the board members of the new institute on 16 July 2020.<sup>3</sup> During its first session on 2 September, the new board elected a president and vice-president among its members, as well as an executive secretariat.<sup>4</sup>

On 30 September 2020, a new Federal Government Agreement was adopted, which states that 'the government is committed to combating all forms of discrimination, including that against women.' As regards employment, particular attention will be paid to increase diversity and tackle all forms of discrimination, including by introducing academic monitoring of diversity and discrimination at sector level. In addition, the application of existing discrimination tests will be improved. The social inspectorate must be able to carry out discrimination tests on the basis of either a substantiated complaint, data mining or an objective indication. The written and prior agreement of the labour inspector or public prosecutor will be retained. At the same time, there must never be incitement. The government will take measures to make employers aware of the importance of non-discrimination throughout their careers, from recruitment to the end of their careers. Particular attention will be paid to the activity and employment rate of older workers.<sup>5</sup>

For the first time, a company was convicted of **multiple discrimination** in employment. The case concerned a deaf woman who was pregnant when applying for a job with a pharmaceutical company. The court found three different accounts of discriminations (one based on disability and two based on gender) and

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<sup>1</sup> Belgium, UN Committee on Economic, Social and Cultural Rights, [Concluding Observations on the fifth periodic report of Belgium](#), 26 March 2020 [Last accessed 6 October 2020].

<sup>2</sup> Belgium, Law establishing a Federal Institute for the protection and promotion of 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 27 September 2020].

<sup>3</sup> Belgium, Chamber of Representatives, Integral Report: Plenary meeting ([Integraal Verslag: Plenumvergadering](#)), 16 July 2020 [Last accessed 27 September 2020].

<sup>4</sup> Belgium, Het Laatste Nieuws (2020), (New federal human rights institute FIRM finally has a president and vice-president' (['Nieuw federaal mensenrechteninstituut FIRM heeft eindelijk voorzitter en vicevoorzitter'](#)), Het Laatste Nieuws, 3 September 2020 [Last accessed 27 September 2020].

<sup>5</sup> Belgium, Magonette, P. and De Croo, A., '[Verslag van de formateurs](#)', Brussels, 30 September 2020 [Last accessed 30 September 2020].

confirmed that in case of multiple discrimination, the damages should be cumulated.<sup>6</sup>

### COVID-19 related developments

On 13 October, Avocats Sans Frontières (ASF) published a report on the **indirect discriminatory impact of Belgian COVID-19 related emergency policies** on certain groups of the population, particularly those in vulnerable situations. The analysis, carried out within the framework of the project 'COVID-19 Monitoring and Rule of Law', is based on observation activities and a series of interviews with social workers, mediation and surveillance bodies active in Belgium in June and July 2020. The results show that immigrants, prisoners, homeless people, female victims of violence, the elderly and persons with disabilities, economically vulnerable persons, and those living in poor neighbourhoods suffered more than others from the emergency measures. This is partly due to a uniform response to the crisis, which only exacerbates pre-existing socio-economical inequalities. It is also imputable to differences in the enforcement of the measures, which are more severe on certain social groups.<sup>7</sup>

On 12 November 2020, Unia (the Interfederal Centre for Equal Opportunities) published a report on the **impact of COVID-19 related measures on human rights**. The report focuses on specific groups that were particularly affected by the pandemic, including children and youth, older persons, persons with disabilities, persons in residential care institutions, detainees and health care workers (see infra on the rights of older persons). The report is based on individual complaints received by Unia between 1 February and 19 August 2020, and information from civil society. During this period, 1846 individual complaints were filed with a link to COVID-19 (compared to 4433 complaints not related to COVID-19). Complaints concern either the impact of the COVID-19 measures or the general social climate created by the measures themselves or by the discourse on the epidemic and the measures.<sup>8</sup>

The Flemish and Walloon Human Rights League publicly raised questions and expressed their concern about the **proportionality** of the Governments' **COVID-**

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<sup>6</sup> Belgium, Unia (2020), 'A judge confirms accumulation of damages and interests in case of multiple discrimination' (['Un juge confirme le cumul de dommages et intérêts en cas de discrimination multiple'](#)), 16 November 2020 [last accessed 23 November 2020].

<sup>7</sup> Belgium, Avocats sans Frontières (2020), '[The health crisis in Belgium: A breeding ground for indirect discrimination?](#)', 13 October 2020 [last accessed 22 November 2020].

<sup>8</sup> Belgium, Unia (2020), Covid-19: Putting human rights to the test ([Covid-19: les droits humains à l'épreuve](#)), 12 November 2020 [last accessed 22 November 2020].

**19 related measures** and respect for human rights.<sup>9</sup> For instance, the latter criticised the adoption of measures on the organisation of justice, considered to be either impracticable or disproportionately slowing the course of justice. Both human rights organisations also repeatedly expressed their concern about contact tracing through call centres or apps and recalled the importance of respecting the right to privacy.<sup>10</sup> Unia confirmed the need for proportionality of COVID-19 measures and respect for human rights. It noted that its two main concerns are the numerous derogations from fundamental rights in recent months during the (partial) lockdown, and the lack of clarity surrounding measures that have been imposed or changed. It referred in particular to the entire province of Antwerp being subjected to a curfew and certain municipalities banning all demonstrations.<sup>11</sup>

## b. Older Persons

On 22 June 2020, Unia published its annual statistics report.<sup>12</sup> In 2019, the NHRI opened **143 cases<sup>13</sup> on age discrimination**. Slightly less than half of the cases relate to employment (46.9%), followed by goods and services (38.5%). In the area of employment, the recruitment process causes the most problems (58.2%). These problems are greatest for the 45-54 age group, followed by the 55-64 age group (19.4%). In the area of goods and services, most reports come from persons under 25 years of age or from persons aged 65 years and older. Older

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<sup>9</sup> Belgium, Ligue des Droits Humains (2020), 'This democracy is ours and must remain ours' (['Cette démocratie est la nôtre et doit le rester'](#)), 15 April 2020 [last accessed 27 September 2020]; Liga voor Mensenrechten, 'Fundamental rights are especially important in times of crisis' (['Zeker in tijden van crisis zijn grondrechten belangrijk'](#)), 17 August 2020 [last accessed 27 September 2020].

<sup>10</sup> Belgium, Liga voor Mensenrechten (2020), 'If we want citizens to trust contact tracing, privacy will have to be respected' (['Als we willen dat burgers het contactonderzoek vertrouwen, dan zal privacy gerespecteerd moeten worden'](#)), 27 May 2020 [last accessed 27 September 2020]; Liga voor Mensenrechten (2020), 'We must track the virus, not the citizens' (['We moeten het virus tracken, niet de burgers'](#)), 15 May 2020 [last accessed 27 September 2020]; Ligue des Droits Humains (2020), 'Track COVID, not the citizens', ['Tracer le COVID, pas les citoyen-ne-s'](#), 15 June 2020 [last accessed 27 September 2020]; Ligue des Droits Humains (2020), 'COVID-19 and tracing: the devil is in the details' (['COVID19 et traçage: le diable est dans les détails'](#)), 19 May 2020 [last accessed 27 September 2020].

<sup>11</sup> Belgium, Unia (2020), 'Wanted: Belgian balance between fundamental rights and general interest' (['Cherche : équilibre belge entre droits fondamentaux et intérêt général'](#)), 11 August 2020 [last accessed 27 September 2020].

<sup>12</sup> Belgium, Unia, 'Statistics Report 2019' (['Cijferslag 2019'](#)), 22 June 2020 [last accessed 27 September 2020].

<sup>13</sup> Belgium, Unia opens a case when (1) an individual report refers to a discrimination ground for which Unia is competent or when it concerns the rights of persons with disabilities, and (2) when the reporter expects concrete advice or other type of intervention. The notion of 'case' is therefore independent of the seriousness and the proven or unproven nature of the facts. Unia can also open a case on its own initiative.



people mainly report problems with access to banking and insurance services: they often report denial of insurance or excessively high insurance premiums.

In January 2020, a collective of human rights organisations issued a letter to the Federal Parliament regarding the **Guaranteed Income for Seniors** (IGO/GRAPA).<sup>14</sup> Since 1 July 2019, a new procedure is in place for the control of recipients of IGO. Persons leaving the country for any period, or leaving their home for over 21 days must report this in advance. Controls are carried out by the postal services who deliver a letter upon verification of the recipient's ID-card. If there is no response after coming to the door three times, a document is left behind which the recipient has to return within five days. The organisations criticised this new procedure in their letter, as it restricts beneficiary's freedom of movement even within the country, intensifies controls, and lacks transparency.<sup>15</sup> Subsequently, a demonstration was held on February 17 and on 4 March, various organisations were heard in the Parliament's Social Affairs Commission concerning the new procedure.<sup>16</sup> The procedure has not been changed to date (except temporary in light of COVID-19, see *infra*).

Five former care givers of a residential care centre for older persons were sentenced to prison for 12 to 18 months with suspension. The Criminal Court convicted them for shared degrading photos and videos of residents with dementia in a Facebook group. Photos included naked residents, in the bath or on the toilet. According to the court, the care givers seriously betrayed the trust of the care centre, the residents and their families.<sup>17</sup>

### COVID-19 related developments

In Belgium, the rate of **infections and deaths** among older persons caused by COVID-19 was very high, especially in care homes for the elderly. Belgian

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<sup>14</sup> Belgium, The IGO is a benefit automatically granted to people over the age of 65 whose income is too low to support themselves.

<sup>15</sup> Belgium, Ligue des Droits Humains (2020), 'GRAPA Controls: letter to the MEPs and the Ministers' (['Contrôles GRAPA: lettre aux Parlementaires et aux Ministres'](#)), 27 January 2020 [last accessed 27 September 2020].

<sup>16</sup> Belgium, Ligue des Droits Humains (2020), 'Parliamentary Hearing on GRAPA: in the majority of cases, older persons in precarious situations are considered to be frauds and have their benefits unrightfully suspended' (['Audition parlementaire sur la GRAPA : dans la majorité des situations, les personnes âgées précarisées sont considérées comme des fraudeurs et voient leur allocation suspendue... à tort'](#)), 4 March 2020 [last accessed 27 September 2020].

<sup>17</sup> Belgium, Hiroux, D. (2020), 'Sentences of imprisonment with suspension for carers who shared degrading photographs of elderly people with dementia: "Confidence betrayed"' (['Celstraffen met uitstel voor verzorgers die menonterende foto's van ouderen met dementie deelden: "Vertrouwen beschaamd"'](#)), VRT NWS, 22 October 2020 [last accessed 22 November 2020].

hospitals reported clinical data for 15,301 patients hospitalised between 29 February and 21 June 2020. Half of the hospitalised patients during this period were older than 71. In total, 25% of all hospitalised patients aged 65 and older were residents of residential care centres for the elderly. Up to 23 June, 6 249 COVID-19 deaths were reported among residents of care homes for the elderly, which represents 64.3% of all COVID-19 deaths until then.<sup>18</sup> In Flanders, the Minister of Wellbeing was publicly criticised for not acting quickly enough to prevent the COVID-19 outbreak in care homes for older persons.<sup>19</sup>

On 15 April, the Federal Minister in charge of the testing task force in the fight against the new coronavirus announced that, together with the regional health ministers, an agreement was reached on the roll-out of the **testing in residential care homes**. They agreed to carry out tests on all residents and staff of healthcare institutions, more than 210,000 tests.<sup>20</sup> Adopting a testing strategy was particularly important as all regional authorities decided that reopening care homes for the elderly was dependent on testing of all residents and staff (see below).<sup>21</sup> On 26 September, the Flemish Agency for Care and Health (*Agentschap Zorg en Gezondheid*) announced it would suspend preventive testing of staff in care homes for the elderly due to a lack of testing materials. In response, the Federal Minister in charge of testing expressed its disappointment and noted that there was still sufficient testing capacity. Preventive testing of staff will continue in residential care centres for the elderly in the Brussels and Walloon Regions.<sup>22</sup>

In response to the outbreak of the COVID-19 pandemic, the Belgian Government adopted strict measures regarding social distancing in March 2020.<sup>23</sup> This included a ban on **visits** for older persons in **care homes**. Although the National Security Council decided to allow visits again as of 15 April, this decision was met with serious criticism from regional authorities, who decided not to implement the new

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<sup>18</sup> Belgium, Sciensano, 'COVID-19 –Weekly epidemiological bulletin of 26 June2020' (['COVID-19 –Wekelijks epidemiologisch bulletin van 26 juni 2020'](#)), 26 June 2020 [Last accessed 27 September 2020].

<sup>19</sup> Belgium, For more information, please see page 16 of the [Franet country study](#) released on 28 May 2020.

<sup>20</sup> Belgium, For more information, please see page 25 of the [Franet country study](#) released on 30 June 2020.

<sup>21</sup> Belgium, For more information please see pages 16-17 of the [Franet country study](#) released on 28 May 2020.

<sup>22</sup> Belgium, De Morgen (2020), 'Preventive coronate testing in Flemish residential care centres suspended, Minister regrets decision' (['Preventieve coronatesten in Vlaamse woonzorgcentra opgeschort, minister betreurt beslissing'](#)), De Morgen, 26 September 2020 [last accessed 27 September 2020].

<sup>23</sup> Belgium, Ministerial Decree of 18 March 2020 (['Arrêté ministériel portant des mesures d'urgence pour limiter la propagation du coronavirus COVID-19 on the emergency measures for limiting the spread of coronavirus COVID-19'](#)), Published in the Belgian Official Gazette 18 March 2020 [last accessed 27 September 2020].

measure at the regional level.<sup>24</sup> On 23 April, the Brussels Government adopted guidelines on the confinement of care homes, followed by the Walloon Government (27 April) and the Flemish Government (18 May). Conditions included availability of sufficient staff and protective materials to ensure visits could take place in a safe manner; social distancing; a single visitor per resident; registration beforehand of visitors etc.<sup>25</sup> Media subsequently reported, however, that in practice not all care centres allow visits and are not sufficiently prepared for a second wave.<sup>26</sup>

Since September there has been a significant **rise in COVID-19 infections in residential care centres for the elderly** again. The Flemish Agency for Care and Health stated in the media that by 27 October, infections have been reported in over half of residential care centres in Flanders.<sup>27</sup> The media reported on the same day that according to the Walloon Agency for Health (AVIQ), approximately 5% of residents and staff of residential care centres in the Walloon Region are infected. One in six care centres reported a cluster of infections (more than 10 cases).<sup>28</sup> Staff members in particular are infected, making it a challenge for many residential care centres to ensure the quality of care. Availability of protective gear is no longer an issue, but **shortage of staff** is a definite concern. Residential care institutions also state in the media that testing remains an issue, with waiting periods up to 5 days for the results. Consequently new residents are infected before even getting the test results in of other residents that turn out to be infected.<sup>29</sup>

The Flemish Parliament set up an ad hoc Commission for the Evaluation and Further Implementation of the Flemish Corona Policy.<sup>30</sup> The Commission has been active since 3 June and its first sessions were dedicated to elder care. Its work resulted in a proposal for a **Resolution** on interim conclusions and recommendations on **elder care and contact tracing** in function of a second

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<sup>24</sup> Belgium, For more information please see page 16 of the [Franet country study](#) released on 28 May 2020.

<sup>25</sup> Belgium, For more information, please see page 26 of the [Franet country study](#) released on 30 June 2020.

<sup>26</sup> Belgium, For more information, please see page 10 of the [Franet country study](#) released on 29 July 2020.

<sup>27</sup> Belgium, Huyghebaert, P. (2020), 'Coronavirus re-emerged in half of Flemish residential care centers: "No longer shortage of materials, but staff"' (["Coronavirus opnieuw opgedoken in helft van Vlaamse woonzorgcentra: "Geen tekort meer aan materiaal, wel aan personeel"](#)), *VRT NWS*, 27 October 2020.

<sup>28</sup> Belgium, Le Soir (2020), 'Coronavirus: about 5% of the residents of Walloon care homes are infected' (["Coronavirus: environ 5% des résidents des maisons de repos wallonnes sont contaminés"](#)), *Le Soir*, 27 October 2020.

<sup>29</sup> Belgium, Huyghebaert, P. (2020), 'Coronavirus re-emerged in half of Flemish residential care centers: "No longer shortage of materials, but staff"' (["Coronavirus opnieuw opgedoken in helft van Vlaamse woonzorgcentra: "Geen tekort meer aan materiaal, wel aan personeel"](#)), *VRT NWS*, 27 October 2020. Also see see page 19 of the [Franet country study](#) released on 25 November 2020.

<sup>30</sup> Belgium, Flemish Parliament, ad hoc Commission on the for the Evaluation and Further Implementation of the Flemish Corona Policy (["Commissie ad hoc voor de Evaluatie en Verdere Uitvoering van het Vlaamse Coronabeleid"](#)), 2020 [last accessed 27 September 2020].

COVID-19 outbreak.<sup>31</sup> The Resolution has been discussed but has yet to be adopted by the Plenary Assembly.

As noted above, a new stricter procedure is in place for the monitoring of recipients of a **Guaranteed Income for Seniors** (IGO/GRAPA).<sup>32</sup> On 3 September 2020, the Belgian Anti-Poverty Network (BAPN) announced that the Minister of Pensions agreed to its call to **suspend all monitoring** activities until the end of the year to ensure social distancing and protect older persons from COVID-19 infections.<sup>33</sup>

Unia raised concerns about older persons' **access to health** after receiving worrying reports from the field.<sup>34</sup> The guidelines issued by the Belgian Society for Gerontology and Geriatrics to help assess whether or not to admit an older person to hospital, were also criticised as they devoted a great deal of attention to the medical side, but ignored the options available to the patient.<sup>35</sup> In addition, the Ethical Care Commission of Leuven Hospital (UZ Leuven) drafted ethical guidelines on triage in the COVID-19 crisis that were distributed among all university hospitals in Belgium and that seem to call for triage on the basis of age.<sup>36</sup>

In light of the COVID-19 measures imposing restrictions on older persons as a high risk category, a former director of Unia (the Interfederal Centre for Equal Opportunities) publicly called for a **Commissioner for the rights of older persons**. He stressed the need to protect the rights of older persons and to take into account the diversity among the elderly population. His plea was discussed in the Flemish Parliament in May, but no consensus was found on the need for such

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<sup>31</sup> Belgium, Flemish Parliament, proposal for a resolution on interim conclusions and recommendations of the ad hoc committee for the evaluation and further implementation of the Flemish Corona policy, on elderly care and contact tracing in function of a second wave ([voorstel van resolutie over tussentijdse conclusies en aanbevelingen van de commissie ad hoc voor de Evaluatie en Verdere Uitvoering van het Vlaamse Coronabeleid, inzake ouderenzorg en contactopsporing in functie van een tweede golf](#)), 24 July 2020 [last accessed 27 September 2020].

<sup>32</sup> Ligue des Droits Humains (2020), 'GRAPA Controls: letter to the MEPs and the Ministers' (['Contrôles GRAPA: lettre aux Parlementaires et aux Ministres'](#)), 27 January 2020 [last accessed 27 September 2020].

<sup>33</sup> Belgium, Belgian Anti-Poverty Network (2020), '[IGO controls remain suspended until the end of 2020](#)' (['De IGO-contrôles blijven opgeschort tot eind 2020'](#)), 3 September 2020.

<sup>34</sup> Belgium, Unia, 'Disabled and elderly people have the right to be cared for' (['Les personnes handicapées et les personnes âgées ont le droit d'être soignées'](#)), 10 April 2020 [last accessed 27 September 2020].

<sup>35</sup> Belgium, Mortier, F., Regulation for weakest rest home residents with corona infection is ethically flawed (['Regeling voor zwakste rusthuisbewoners met coronabesmetting schiet ethisch tekort'](#)), De Tijd, 24 March 2020. Also see page 17 of the [Franet country study](#) released on 28 May 2020.

<sup>36</sup> Belgium, Ethische commissie-zorg UZ Leuven, Ethical aspects of making choices in the COVID-19 crisis (['Ethische aspecten van het maken van keuzes in de COVID-19 crisis'](#)), 17 March 2020 [last accessed 27 September 2020]. For more information, please see page 24 of the [Franet country study](#) released on 30 June 2020.

a new mandate.<sup>37</sup> Nevertheless, a proposal for a Resolution was submitted to the Flemish Parliament in November with the aim of setting up a Commissioner's office for the rights of older persons.<sup>38</sup>

Unia also published an analysis of the **impact of COVID-19 related measures on vulnerable groups**, including older persons. In fact, the majority of individual complaints related to COVID-19 measures concerned their impact on older persons (331 complaints). For example, in May the Government had announced that older persons were not allowed to take care of their grandchildren, despite social distancing rules becoming less strict for the rest of the population. In response, 267 older persons reported to Unia that they felt discriminated by this rule. Other complaints concerned the prohibition for older persons to resume volunteering activities, and the lack of accessibility of digital services, such as online reservation systems, mandatory payment by bank card, use of QR codes in shops and restaurants etc.<sup>39</sup>

A human rights research report by Amnesty International also exposes **human rights violations** that took place in **residential care centres for the elderly** during the first outbreak of COVID-19, including violations of the right to health, the right to life and the prohibition of discrimination. According to Amnesty International, there is a stark contrast between how hospitals were able to deal with the health crisis and the situation in residential care centres, where staff and residents felt abandoned. In the first phase of the pandemic, residential care centres had insufficient and inadequate personal protective equipment and were not given priority for testing. Regular testing is crucial in tackling infections, yet it was only introduced in August 2020 in the care centre for elderly, with a maximum of one test per month for staff, not for residents. Preventive screening in residential care centres was already suspended again in October, except for new and hospitalised residents. At the start of the pandemic, residential care centres were also struggling with extra care tasks that would normally take place in the hospital. Staff were neither prepared to provide this type of care nor sufficiently trained to deal with infectious diseases. Another issue is that during the COVID-19 crisis some of the sick residents were not admitted to hospitals: only 57% of serious cases could be transferred to a hospital, compared to 86% before the crisis. Access to health care was further hindered by the suspension of routine visits by general practitioners. Residents had only limited access to doctors and residential care staff lacked the expertise and materials to provide specialised

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<sup>37</sup> Belgium, Flemish Parliament, Commission on Welfare, Public Health, Family and Poverty Reduction: Request for an explanation on a committee on the rights of the elderly ([Commissie voor Welzijn, Volksgezondheid, Gezin en Armoedebestrijding: Vraag om uitleg over een ouderenrechtencommissariaat](#)), 19 May 2020 [last accessed 17 September 2020].

<sup>38</sup> Belgium, Flemish Parliament, Draft Resolution resolution on the creation of a commissioner's office on the rights of older persons ([Voorstel van resolutie over de oprichting van een ouderen rechten commissariaat](#)), 16 November 2020 [last accessed 23 November 2020].

<sup>39</sup> Belgium, Unia (2020), Covid-19: Putting human rights to the test ([Covid-19: les droits humains à l'épreuve](#)), 12 November 2020 [last accessed 22 November 2020].

care. Amnesty International recorded several testimonies about neglect of residents. Some residents did not receive the necessary care and stayed in their pyjamas for days without help to get dressed, help with bathing or other personal hygiene. Some did not receive sufficient nutrition or were not sufficiently hydrated. After the first lockdown period, the Government guidelines also left a lot of room for interpretation to the residential care centres. This resulted in a wide range of visiting arrangements. Residents were not always consulted about visiting regulations or other restrictive measures.<sup>40</sup>

### c. LGBTI People

In its **Concluding Observations**, the **CESCR** Committee expressed its concern at the situation of intersex minors, and in particular the practice of performing surgical procedures that are often irreversible and medically unnecessary or non-urgent and that are detrimental to the physical and mental integrity of the individuals concerned.<sup>41</sup>

The Act of 4 February 2020 amended the 2007 Act on combating discrimination between women and men. Article 4, § 3 now states that a direct distinction on the basis of gender identity, gender expression or **sexual characteristics** shall be assimilated to a direct distinction on the basis of sex.<sup>42</sup> The latter was added to the text, to refer to intersex persons whose characteristics do not correspond to those of either a male or a female person.

On the occasion of the International Day Against Homophobia, Transphobia and Biphobia, Unia announced that it opened a **record number of cases on discrimination against LGBTI people in 2019**: 133 cases, of which 35 cases concerned discrimination or harassment in the workplace. For the first time, most cases concerned incidents at work, followed by hate speech in the media and aggression on the streets. The NHRI's director explained that homophobia in the

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<sup>40</sup> Belgium, Amnesty International (2020), 'New research uncovers human rights violations in Belgian residential care centres for the elderly' (['nieuw onderzoek legt mensenrechtenschendingen in Belgische woonzorgcentra bloot'](#)), 16 November 2020 [last accessed 22 November 2020].

<sup>41</sup> Belgium, UN Committee on Economic, Social and Cultural Rights, [Concluding Observations on the fifth periodic report of Belgium](#), 26 March 2020.

<sup>42</sup> Belgium, Act of 4 February 2020 amending the Act of 10 May 2007 to combat discrimination between women and men as regards the prohibition of discrimination against paternity or motherhood ([Wet tot wijziging van de wet van 10 mei 2007 ter bestrijding van discriminatie tussen vrouwen en mannen wat het discriminatieverbod op vaderschap of meemoederschap betreft / Loi modifiant la loi du 10 mai 2007 modifiant, en ce qui concerne l'interdiction](#)), Published in the Belgian Official Gazette 28 February 2020 [last accessed 30 September 2020].

workplace is not taken seriously enough. Some employers are unaware of the impact of discriminatory behaviour, recurring jokes, harassment etc. LGBTI people are suffering from this and increasingly turning to Unia. The NHRI received reports about conflicts with colleagues or a manager, about organisational and working conditions. Overall, the reported cases of discrimination covered all areas: education, hospitals, police forces etc. Unia expressed particular concern about this development.<sup>43</sup> Its annual statistics report also shows that the cases of discrimination based on sexual orientation in 2019 represent 5% of all cases and an increase of 8 cases compared to 2018. The vast majority of persons filing a complaint with Unia are men (81.2%).<sup>44</sup>

On the occasion of the International Day Against Homophobia, Transphobia and Biphobia, the Walloon Minister of Equal Opportunities visited the [Ihsane Jarfi Foundation](#) and its **shelter**, which takes in **young LGBTQI+ people** rejected by their families and entourage because of their sexual orientation or gender identity. The Minister took the opportunity to recall her commitment in support of LGBTQI+ people and to provide initial **financial support** from Wallonia to the Foundation. In addition, the Walloon Government announced it is currently working on a **new LGBTQI+ Interfederal Action Plan** which should be implemented in the second half of 2020. Several strategic objectives will be integrated into it, such as health care adapted to the needs of LGBTQI+ people, strengthening their safety or improving the wellbeing of the community.<sup>45</sup>

In October 2020, a Member of the Flemish Parliament posted a **tweet about a newly appointed transgender Federal Minister**, stating that “Crazy [*name of the previous Minister*] may not be Minister, but what replaces him is even worse. Transgender [*name of the Minister*] is the personification of cultural Marxism. This person wants to destroy and replace all the foundations of our Western civilisation.” In response, certain other MP’s publicly criticized the tweet during the Parliament’s plenary meeting.<sup>46</sup>

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<sup>43</sup> Belgium, Unia (2020), ‘Homophobia at work not taken seriously enough’ ([Holebifobie op de werkplek wordt te weinig serieus genomen](#)), 15 May 2020 [last accessed 27 September 2020].

<sup>44</sup> Belgium, Unia, Statistics Report 2019 ([Cijfersverslag 2019](#)), 22 June 2020 [last accessed 27 September 2020].

<sup>45</sup> Belgium, Walloon Minister of Equal Opportunities (2020), ‘World Day Against Homophobia and Transphobia: First support from Wallonia to the Ihsane Jarfi Foundation and its shelter for young LGBTQI+’ ([‘Journée mondiale de lutte contre l’Homophobie et la Transphobie : Premier soutien de la Wallonie à la Fondation Ihsane Jarfi et à son refuge pour jeunes LGBTQI+’](#)), 17 May 2020 [last accessed 27 September 2020].

<sup>46</sup> Belgium, The Brussels Time (2020), “‘Dehumanising’: Vlaams Belang MP slammed for tweet about Petra De Sutter”, 7 October 2020 [last accessed 11 November 2020]; Belgium, Flemish Parliament, Plenary Meeting of 7 October 2020, [Point of Order](#) [last accessed 11 November 2020].

The Flemish Government approved the new **education targets** for secondary education. Schools will be required to teach about sexual orientation and sexual preference as of next school year.<sup>47</sup> The new learning goals are pending approval from the Flemish Parliament.

### COVID-19 related developments

Unia reports that the situation of LGBTI people has become worse due to the COVID-19 pandemic. The NHRI notes that despite progress made in the area of effective legal equality, Belgium still has a lot of work to do when it comes to raising public awareness. Unia's director explains that 'since the beginning of the quarantine measures, the institute has received signals of a resurgence of **intrafamilial violence** against young LGBT people. They are trapped in an unsafe environment, exacerbated by the pressure of the quarantine measures. This can lead to suicide attempts, self-harm, self-medication and alcohol addiction'.<sup>48</sup>

## **2. Findings and methodology of research, studies or surveys on experiences of discrimination against older people and against LGBTI people.**

### **a. Older people**

The King Baudouin Foundation published its Digital Inclusion Barometer, which aims to map the phenomenon of **digital exclusion**, to better understand its causes and consequences, and to monitor how this phenomenon evolves, in the hope of narrowing the digital divide. The Barometer is based on results of existing surveys, in addition to interviews with fifteen persons at risk of digital exclusion. This group included illiterate persons, unemployed persons, persons aged 65 and

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<sup>47</sup> Flemish Government, Draft Decree on the educational targets for the second and third levels of secondary education ([Voorontwerp decreet onderwijsdoelen tweede en derde graad secundair onderwijs](#)), 9 October 2020 [last accessed 22 November 2020].

<sup>48</sup> Belgium, Unia (2020), 'Homophobia at work not taken seriously enough' ([Holebifobie op de werkplek wordt te weinig serieus genomen](#)), 15 May 2020 [last accessed 27 September 2020].



older, and persons with disabilities. The last chapter of the Barometer focuses on three specific target groups, including persons aged 75 and older. Interviews show a lack of recognition that 70+ people experience due to the lack of an appropriate social response to their 'disengagement' (due to being disconnected). Apart from the symbolic exclusion of which they are victims, these situations lead to forms of sometimes unsuspected discrimination in financial terms or in terms of real access to rights and services.<sup>49</sup>

The National Institute for Health and Disability Insurance (*Rijksinstituut voor ziekte- en invaliditeitsverzekering/Institut national d'assurance maladie-invalidité*) commissioned a study by the European Social Observatory (OSE) on **access to Belgian healthcare**. To understand the extent of access issues in Belgium compared to other EU countries, an overall descriptive cross-country analysis of different dimensions of access to healthcare was carried out, which draws on available secondary statistical data and literature. To identify the profile of people facing unmet needs for healthcare in Belgium, an in-depth statistical analysis of microdata on self-reported unmet needs for medical and dental care was performed, drawing on the EU-SILC data on self-reported unmet needs for medical and dental care. To provide an overview of the variety of issues related to financial access to healthcare and financial hardship resulting from healthcare take-up, researchers carried out and analysed 13 semi-structured interviews with social and health workers active in services providing support to people in a precarious situation, as well as a group interview with people with a chronic illness. The study shows that unmet needs are high among persons with no or low working activity (except for students and retirees): the unemployed (7.6% for medical care and 11.6% for dental care), the disabled (9.8% and 13.8%) or in households with low levels of working activity (9.9% and 14.1%). The elderly, students and self-employed are less likely to declare unmet medical needs.<sup>50</sup>

Sciensano, a Belgian centre of expertise on health, has conducted several health surveys on the **impact of COVID-19 measures** on the Belgian population.<sup>51</sup> The third online survey was carried out from 28 May until 3 June 2020 to which a total of 33.913 persons responded, including 3.005 men and 3.170 women aged 65 and older. As regards older persons, the third survey showed that older persons have less frequently consulted a doctor in relation to COVID-19: 8% compared to 15% - 18% of persons aged 25-54. It also showed that the percentage of persons

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<sup>49</sup> Belgium, King Baudouin Foundation, Digital Inclusion Barometer ([Barometer Digitale Inclusie](#)), 27 August 2020 [last accessed 27 September 2020].

<sup>50</sup> Belgium, Cès, S. and Baeten, R. (2020), [Inequalities in access to healthcare in Belgium](#), Brussels: European Social Observatory, July 2020 [last accessed 27 September 2020].

<sup>51</sup> Belgium, For further results of the third survey, please see page 9 of the [Franet country study](#) released on 30 June 2020.

aged 65 and older who indicate that their household's current financial situation has deteriorated is significantly lower than in younger age groups.<sup>52</sup> Sciensano's latest survey, undertaken from 24 September until 2 October, confirms that **fewer older persons consulted a doctor** since the lockdown (19%) than younger age groups (for example, 28-29% of persons aged 25-44). Approximately 19% of older persons have been tested for COVID-19, compared to the total average of 24%. In terms of mental health, the survey shows that the lowest percentage of depression is observed in persons aged 65 years and older (8%).<sup>53</sup>

A large scale academic study conducted by Vrije Universiteit Brussel, University of Maastricht and Hogeschool Gent shows that **COVID-19 measures** have a major impact on **the well-being and behaviour of older persons living at home**. The study is based on an online survey of persons older than 60: 3480 older persons participated in the study in Flanders and 2011 in the Netherlands. The research is still ongoing, but preliminary results show that, as a result of the COVID-19 measures, especially the emotional loneliness (the lack of a close and intimate bond with one or more dear persons) in the elderly has strongly increased, while the number of people experiencing social loneliness (having less contact with other people than you wish) remains almost the same. For example, 60% of the interviewees indicated that they miss people around them more often than before the new coronavirus crisis.<sup>54</sup>

A study by the Socialist Health Insurance funds (*Socialistische mutualiteiten*) shows that the pandemic **particularly affected older persons in the residential care homes and older person in a weaker financial position**. More than half (53%) of the deaths caused by COVID-19 were among persons aged 85 and older, followed by those aged 75 to 84 (29.1%). Excess mortality was particularly high in residential care centres.<sup>55</sup>

The Belgian Health Care Knowledge Centre published its **study report 'How to better tackle elder abuse in Belgium?'** The study addresses all types of elder

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<sup>52</sup> Belgium, Sciensano (2020), Third COVID-19 health survey: first results ([Derde COVID-19 gezondheidsenquête: eerste resultaten](#)), 25 June 2020 [Last accessed 27 September 2020].

<sup>53</sup> Belgium, Sciensano, Fourth Covid-19 Health Survey: Preliminary Results ([Vierde Covid-19-Gezondheidsenquête: Eerste resultaten](#)), 16 October 2020.

<sup>54</sup> Belgium, VUB Today (2020), 'Corona makes the elderly crave close contacts' (['Corona doet ouderen snakken naar hechte contacten'](#)), Press release, 19 June 2020 [last accessed 27 September 2020]. Also see page 9 of the [Franet country study](#) released on 30 June 2020.

<sup>55</sup> Belgium, Vlaamse Ouderenraad (2020), 'Corona particularly affects older people in weaker socio-economic situations' (['Corona treft vooral ouderen in zwakkere socio-economische situatie'](#)), 16 October 2020. For more information, please see (?) of the Franet country study released on (?) [to be completed after publication of the final Covid-19 Human Rights Bulletin]

abuse committed by another person to an elder in all kinds of settings (residential, domestic, hospital,..), includes abuse by relatives as well as by professionals (all called 'authors' for this report) and involves actors from all sectors concerned by all steps of the fight against elder abuse, i.e. prevention, detection, intervention. The overall objective of the study is to provide a general framework for all steps and actors to tackle elder abuse in Belgium. The research was conducted using grey literature review, scientific literature review, systematic and narrative reviews, and qualitative methodology (discussion groups, exploratory interviews and online surveys). The results of the study show that elder abuse is seriously underestimated and underreported: only one case in 24 is reported. In Belgium, there is no national or regional plan, or structural agreement between the judiciary, health care and long term care to tackle elder abuse. Regional or local action plans exist, but they are not coordinated and do not systematically address elder abuse. Moreover, these action plans suffer from a structural lack of funding. In every region there are organizations and services that specialize in listening to and counselling older people, supporting professionals and combating elder abuse. However, there is no integrated policy for complaints related to quality of care or against care providers. The multitude of bodies at different levels, each with their own competences, make it more complicated for older persons to report any abuse. Overall, numerous obstacles were identified at the various stages of tackling elder abuse (prevention, detection, intervention). For instance, due to the backlogs within the justice systems, insults, threats, assault, breach of trust, abuse of weakness seem to be often considered as "minor offenses". Moreover, due to the close relationship between the elder and the author, the victim is often reluctant or unable to cooperate fully with the judicial authorities.<sup>56</sup>

## b. **LGBTI people**

LGBTI-organisation Cavia launched a study on the **well-being and health of LGBTI+ persons during the lockdown**, in cooperation with the University of Antwerp, the Institute of Tropical Medicine and Sensoa. An online survey was distributed in April to assess how LGBTI+ persons experience COVID-19 and to get a better insight into the current care for PrEP users and people with HIV. The results were published in a report, along with specific recommendations for policy makers.<sup>57</sup> A total of 692 bisexual and gay men answered questions about their experiences and sexual contacts during the lockdown. Only 9% of them indicated

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<sup>56</sup> Belgian Health Care Knowledge Centre (2020), [How to better tackle elder abuse in Belgium?](#), Belgian Health Care Knowledge Centre, Brussels, 10 November 2020.

<sup>57</sup> Belgium, Cavia (2020), The impact of COVID-19 on LGBTI-persons: a call for policy makers ([De impact van COVID-19 op LGBTI-personen: een oproep aan beleidsmakers](#)), Cavia, 2020 [last accessed 27 September 2020].

that they still had loose, new or anonymous sex partners in April (compared to 59% before the lockdown). Preventive measures against COVID-19 were relatively well complied with. The Institute of Tropical Medicine suspects that this will also lead to a decrease in the number of HIV and STI infections in Belgium. These figures also offered a unique opportunity to intervene in the HIV epidemic.<sup>58</sup> The results on mental well-being were particularly worrying. The COVID-19 preventive measures have a strong impact on feelings of depression, feelings of anxiety and loneliness. 7.6% of respondents struggled several days a week with feelings of suicide or wanting to hurt themselves, an increase of 74% compared to the situation before lockdown.<sup>59</sup>

The Flemish Department of Culture, Youth and Media commissioned Expeditions VZW to conduct research on the **experiences of LGBTQIA+ youth in youth work**. The research aims to answer questions such as what images, attitudes and experiences about gender and sexuality exist in youth work organisations and how do they influence the well-being of LGBTQIA+ young people? How do young people experience their gender and sexual identity in youth work? Several key actors were interviewed, as well as young people who identify themselves as LGBTQIA+ and youth workers. Their reactions and experiences were translated into 21 concrete recommendations for both policy and organisational work. The report shows that 'for LGBTQIA+ youth who run additional risks of discrimination because they are not white, Muslim, or of foreign origin, other threshold-increasing reputations [of youth work] also play a role. For example, there is the idea that youth movements are "typically Flemish", and therefore exist for and by "typically Flemish" children and young people.'<sup>60</sup>

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<sup>58</sup> Belgium, Sensoa recently launched a campaign calling on bisexual and gay men to get themselves tested for HIV before the end of the lockdown. Obtaining results of an HIV test take time, but because of the pandemic the waiting period took place in lockdown. In other words, those who didn't have new sexual contacts during the lockdown can now be 100% sure of their test result, immediately start medication in case of a positive test result, and think about possible PrEP use in case of a negative result.

<sup>59</sup> Belgium, Cavaria (2020), Research LGBTI+ and COVID-19: the results (['Onderzoek LGBTI+ & COVID-19: resultaten'](#)), 27 mei 2020 [last accessed 27 September 2020].

<sup>60</sup> Belgium, Moris, M. et al. (2020), 'I see, I see what you don't see: Gender and sexual diversity in youth work' (['Ik zie ik zie wat jij niet ziet: Gender en seksuele diversiteit in het jeugdwerk'](#)), Flemish Department of Culture, Youth and Media, 2020, p. 67.

## Chapter 2. Racism, xenophobia and related intolerance

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

On 6 March 2020, the UN Committee on Economic, Social and Cultural Rights (**CESCR**) adopted its **Concluding Observations** on Belgium's fifth periodic report. The Committee expressed concern over the 'shortcomings in the implementation of the national strategy for the integration of Roma people and the absence of specific measures to combat discrimination against the Roma community, in particular Roma women and children. The Committee is also concerned about persistent antigypsyism.'<sup>61</sup>

On 25 September 2020, the federal Minister of Equal Opportunities announced that the federal government and the various regional governments reached an agreement to draw up a **National Action Plan against Racism**. A starting paper was adopted, which proposes a process and working method and sets out the content of the future Action Plan. It provides for the involvement of civil society and the target groups themselves in the process. The Action Plan will include general measures, such as better monitoring of racism, victim support and tackling cyber hate, as well as additional measures to tackle discrimination and promote diversity in specific areas such as work, education and housing.<sup>62</sup> In November, the newly appointed Secretary of State for Gender Equality and Equal Opportunities announced in Parliament that she aims to adopt the Action Plan in 2021.<sup>63</sup>

The federal Parliament set up a **Special Commission** in charge of research on Congo Free State (1885-1908) and the **Belgian colonial past** in Congo (1908-1960), Rwanda and Burundi (1919-1962), its impact and the consequences to be given to it. Its mandate includes developing recommendations on how to deal with Belgium's colonial past, and developing proposals for reconciliation between Belgians (including Belgians of Congolese Rwandan and Burundian origin), and

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<sup>61</sup> Belgium, UN Committee on Economic, Social and Cultural Rights, [Concluding Observations on the fifth periodic report of Belgium](#), 26 March 2020.

<sup>62</sup> Belgium, Muylle, N. (2020), 'Outline of action plan against racism approved' (*'Krijtlijnen voor actieplan tegen racisme goedgekeurd'*), 25 September 2020 [last accessed 27 September 2020].

<sup>63</sup> Belgium, Belgian Chamber of Representatives, [General Policy Paper: Gender Equality, Equal Opportunities and Diversity](#), 6 November 2020 [last accessed 26 November 2020].

optimise relations between Belgians and Congolese, Rwandans and Burundians. A first report by the Special Commission was initially due by 1 October,<sup>64</sup> but was later postponed to 1 December.<sup>65</sup>

On 22 June 2020, Unia published its annual statistics report.<sup>66</sup> In 2019, the NHRI opened **951 cases<sup>67</sup> on discrimination based on racial criteria** (skin colour, descent, nationality and national or ethnic origin). This constitutes a 9.8% increase compared to 2018 and a 26.3% increase compared to the average number for the last five years. The cases mainly concern access to goods and services (24.3%), media (23.6%) and work (22.7%).

The Federal Public Service Employment, Labour and Social Dialogue and Unia published the results of the 2019 Socio-Economic Monitoring, which assesses the situation of persons in the labour market, taking into account their origin and migration background. The report covers the period 2008-2016 and is based on administrative data collected at the Labour Market and Social Protection Data Warehouse of the Social Security Database (*Kruispuntbank Sociale Zekerheid/Banque Carrefour de la Sécurité Sociale*). The results show only a slight improvement in the **labour market** as people of foreign origin are excluded more often than those of Belgian origin and **structural discrimination** on the basis of race persists. Women of all origins have a higher inactivity rate than men on the labour market, but the total female inactivity rate fell between 2008 and 2016 (from 33.2% to 30.0%).<sup>68</sup>

The Federal Public Service Health, Food Chain Safety and Environment updated its Ethealth **report on health care policies for migrants and ethnic minorities**, in consultation with experts from the medical field, academia, civil

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<sup>64</sup> Belgium, Belgian Chamber of Representatives, Special Commission in charge of research on Congo Free State (1885-1908) and the Belgian colonial past in Congo (1908-1960), Rwanda and Burundi (1919 -1962), its impact and the consequences to be given to it (*Commission spéciale chargée d'examiner l'état indépendant du Congo (1885-1908) et le passé colonial de la Belgique au Congo (1908-1960), au Rwanda et au Burundi (1919-1962), ses conséquences et les suites qu'il convient d'y réserver / Bijzondere commissie belast met het onderzoek over Congo-Vrijstaat (1885-1908) en het Belgisch koloniaal verleden in Congo (1908-1960), Rwanda en Burundi (1919-1962), de impact hiervan en de gevolgen die hieraan dienen gegeven te worden*), 17 July 2020 [last accessed 27 September 2020].

<sup>65</sup> Belgium, Belgian Chamber of Representatives, Special Congo Commission – Colonial past (Bijzondere commissie Congo - koloniaal verleden / Commission spéciale Congo - Passé colonial), Exchange of views with the experts on the current state of the work, 5 October 2020.

<sup>66</sup> Belgium, Unia, 'Statistics Report 2019' (*Cijferslag 2019*), 22 June 2020 [last accessed 27 September 2020].

<sup>67</sup> Belgium, Unia opens a case when (1) an individual report refers to a discrimination ground for which Unia is competent or when it concerns the rights of persons with disabilities, and (2) when the reporter expects concrete advice or other type of intervention. The notion of 'case' is therefore independent of the seriousness and the proven or unproven nature of the facts. Unia can also open a case on its own initiative.

<sup>68</sup> Belgium, Federal Public Service Employment, Labour and Social Dialogue and Unia (2020), *Socio-Economic Monitoring 2019: Labour markets and origin*, [last accessed 30 September 2020].

society etc. It provides recommendation aimed at the relevant Government authorities and minister on how to increase equality in access to health care. For each recommendation the report provides a problem statement, identifies the competent authorities, and formulates concrete actions for implementation.<sup>69</sup> The recommendations in the report, however, are those of the expert group alone and the FPS does not explicitly validate or commit to them.

The Collective against Islamophobia in Belgium (*le Collectif contre l'islamophobie en Belgique*) reports that between 1 January and 31 December 2019, 80 cases of Islamophobic incidents were reported out of a total of 108 reports. Striking is that in most cases **Muslim women** are the victims in **Islamophobia** in Belgium, with **90.6% of female victims** compared to 9.4% of men in 2019. The CCIB's analysis of the reports showed that the perpetrator of rejection or violence against Muslim persons comes from public institutions/organisations/services in 44% of the cases (compared to 31% in 2017 and 49% in 2018). According to the CCIB, this illustrates the institutional (and therefore structural) nature of the perpetrator, i.e. the public authority itself.<sup>70</sup>

In light of the Black Lives Matter movement and the need to address structural racism, a proposal was submitted to the Flemish Parliament for the urgent consideration of a resolution on discrimination tests on the private rental market (*'praktijktesten'*).<sup>71</sup> This was rejected, however, which led to a public and political debate on the need to for effective **monitoring of racial discrimination**. In a new Resolution, the Parliament asked the Flemish Government to develop 'an independent and academic monitoring system that maps discrimination on an aggregated level and that is also used to raise awareness'.<sup>72</sup> According to the academics consulted, however, the existing system of field tests remains the best monitoring system, despite policy makers rejecting it. This system entails letting two candidates apply for a vacancy or rental advertisement and checking afterwards whether the employer or broker treats both candidates equally.<sup>73</sup> This

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<sup>69</sup> Belgium, Federal Public Service Health, Food Chain Safety and Environment (2020), Ethealth report 2020: Towards care for migrants and ethnic minorities (*'Ethealth rapport 2020: Vers des soins pour les migrants et minorités ethniques'*), 2020 [last accessed 30 September 2020].

<sup>70</sup> Belgium, Collectif contre l'islamophobie en Belgique, Annual Report 2019 (*'Rapport d'activités 2019'*), 2020 [last accessed 27 September 2020].

<sup>71</sup> Flemish Parliament, Report plenary meeting Wednesday 10 June 2020 (*'Verslag plenaire vergadering woensdag 10 juni 2020'*), 10 June 2020 [last accessed 27 September 2020].

<sup>72</sup> Flemish Parliament, Resolution on combating discrimination and racism in society (*'Resolutie over de bestrijding van discriminatie en racisme in de samenleving'*), adopted on 10 June 2020.

<sup>73</sup> Santens, T., 'Flemish government will be advised to introduce practical tests, says expert Pieter-Paul Verhaeghe' (*'Vlaamse regering zal advies krijgen om toch praktijktesten in te voeren, verwacht expert Pieter-Paul Verhaeghe'*), VRT Nws 13 juni [last accessed 27 September 2020].

was confirmed in the experts' final report,<sup>74</sup> which was discussed by the Flemish Government on 18 December 2020. More specifically, the experts recommend the use of '**correspondence tests**' and '**mystery shopping**' to monitor discriminatory behaviour. The first is a type of field test that only entails written correspondence (letter, email). The latter includes discrimination tests in which the tester asks a discriminating question to a service provider.<sup>75</sup>

In November, the Flemish Minister for Equal Opportunities announced that the **NGO Minderhedenforum** vzw would **no longer be receiving Government grants**. Instead, the Minister opted for a completely new organisation - Join.Vlaanderen - despite Minderhedenforum's years of expertise in promoting the inclusion of people with a migrant background in society.<sup>76</sup> This decision was severely criticized by the opposition and civil society, and considered to be a political decision. In addition, Join.Vlaanderen had barely been set up, did not have a functioning website, and several of its supposed partners announced they were not informed or had not agreed to work with the organisation, despite claims by the new organisation stating so.<sup>77</sup> Ultimately, Minderhedenforum appealed the decision before the Council of state (*Conseil d'État/Raad van State*). The latter decided to suspend the decision to appoint Join.Vlaanderen as well as the decision to cut funds for Minderhedenforum. It found that the application of Join.Vlaanderen was assessed with greater leniency than that of the Minority Forum. Moreover, it was not clear from the decisions why Join.Vlaanderen was preferred. The procedure for recognising the participation of the organisation was therefore be suspended.<sup>78</sup> On 29 December, all parties came to the agreement that Minderhedenforum would join forces with Join.Vlaanderen by January 2022.<sup>79</sup>

### COVID-related developments

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<sup>74</sup> Belgium, Centraal Expertencomité Discriminatie, Final Report ([Eindrapport](#)), 9 December 2020 [last accessed 29 December 2020].

<sup>75</sup> Belgium, Centraal Expertencomité Discriminatie, Final Report ([Eindrapport](#)), 9 December 2020 [last accessed 29 December 2020].

<sup>76</sup> Belgium, Minderhedenforum (2020), 'Disbelief within Minderhedenforum ('[Ongeloof troef bij het Minderhedenforum](#)'), 9 November 2020 [last accessed 26 November 2020].

<sup>77</sup> Belgium, Abbeloos, J.-F. (2020), Somers changes course after criticism of rejection Minority forum ('[Somers verandert geweer van schouder na kritiek op afwijzing Minderhedenforum](#)'), De Standaard, 12 November 2020 [last accessed 26 November 2020].

<sup>78</sup> Belgium, Minderhedenforum, (2020), 'Minority forum proven right before Council of State: decision on the selection of participation organisation is suspended' ('[Minderhedenforum krijgt gelijk bij raad van state: beslissing somers rond selectie van participatie organisatie wordt geschorst](#)'), 25 November 2020 [last accessed 26 November 2020].

<sup>79</sup> Belgium, Het Laatste Nieuws (2020), 'Minority Forum and Join.Vlaanderen reach agreement to merge' ('[Minderhedenforum en Join.Vlaanderen bereiken kerstakkoord om samen te smelten](#)'), 29 December 2020 [last accessed 29 December 2020].



Field experiments of discrimination on the **rental housing market** after the first Covid-19 lockdown show an increase in **discrimination against Belgians of Moroccan** descent. Between October 2019 and March 2020 (the period before corona), researchers carried out a first series of 482 tests with real estate agents on the rental market. They responded to existing real estate advertisements with two fictitious candidate tenants: the test person had a Moroccan or Congolese sounding name and the control person a Belgian sounding name and checked to what extent the candidates were invited to view the rental property. These tests showed that Moroccan Belgians were discriminated against by real estate agents in 20% of the cases and Congolese Belgians in 17% of the cases. To assess the impact of the lockdown the researchers organized a second series of 440 practical tests between May 16 and June 30, 2020 (the period just after the lockdown). These tests showed that the invitation chances for almost all candidates had decreased significantly, potentially due to the increased workload, the fear of contamination or the limited possibility of organizing home visits. Although the invitations of candidates with a Belgian name dropped by a quarter, the invitations of candidates with a Moroccan name also dropped, resulting in more ethnic discrimination. Rental discrimination of Moroccan Belgians almost doubled from 20% to 36%. Remarkably, the chances of Congolese Belgians to be invited to view a rental property did not decrease.<sup>80</sup>

## **2. Legal and policy developments relating to the application of the Framework Decision on Racism and Xenophobia relevant to combating hate speech and hate crime**

As noted above, the federal and regional governments reached an agreement on the establishment of **National Action Plan against Racism**. One of its main transversal measures is to tackle cyber hate.<sup>81</sup>

As noted above, Unia opened **951 cases<sup>82</sup> on discrimination based on racial criteria**. This constitutes a 9,8% increase compared to 2018 and a 26,3%

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<sup>80</sup> Belgium, Feron, L. (2020), '[Corona increases rental discrimination against Moroccan Belgians](#)', VUB Press, 15 October 2020 [last accessed 26 November 2020].

<sup>81</sup> Muylle, N. (2020), 'Outline of action plan against racism approved' ('[Krijtlijnen voor actieplan tegen racisme goedgekeurd](#)'), 25 September 2020 [last accessed 27 September 2020].

<sup>82</sup> Unia opens a case when (1) an individual report refers to a discrimination ground for which Unia is competent or when it concerns the rights of persons with disabilities, and (2) when the reporter expects concrete advice or other type of intervention. The notion of 'case' is therefore independent of the seriousness and the proven or unproven nature of the facts. Unia can also open a case on its own initiative.

increase compared to the average. Of the registered cases, 23,6% related to media. Racist statements in the media were mainly made via social media such as Facebook (55.2%) and Twitter (13%). Unia also opened 38 cases on physical assault, 12 of which involved the police and 2 of which were related to education. Finally, Unia opened two cases on attempted murder with a reprehensible motive based on one of the racial criteria.

In July 2020, the National Institute for Criminalistics and Criminology (*Nationaal Instituut voor Criminalistiek en Criminologie/Institut National de Criminalistique et de Criminologie*) published its report on identifying and addressing problems or abuses in **police selectivity**.<sup>83</sup> The **research** was carried out in partnership with Unia (the Inter-federal Centre of Equal Opportunities), which funded the research, and the police zone of Brussels North. The project partners opted for a broader focus than 'ethnic profiling' because of the political sensitivity of the term on the one hand, and to broaden the scope of the research on the other hand. The research leaves room for a range of modalities of police selectivity so that conscious and/or unconscious practices and mechanisms fall within its scope as well. Police selectivity is a more neutral and above all broader term, which can be interpreted positively or negatively, depending on the needs of the analysis.<sup>84</sup> The results were presented to police officers, civil society organisations, magistrates, lawyers, the General Directorate for Immigration Affairs and the academic world in a webinar.<sup>85</sup> The research shows that police selectivity can be the result of questions from citizens, choices concerning work organisation or of the police officer in the field. In any case, this selectivity coincides with the (negative) perception of certain population groups.<sup>86</sup>

**Two complementary studies on hate crimes** were commissioned by Unia, the Institute for Gender Equality (IGVM) and the King Baudouin Foundation, with the support of the College of Procurators General. The first study, carried out by the National Institute for Criminalistics and Criminology (*Nationaal Instituut voor*

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<sup>83</sup> Belgium, Van Praet, S. (2020), [Identificeren en aanpakken van problemen of misbruiken bij politiselectiviteit. Een actieonderzoek naar problematische praktijken en mechanismes van politiselectiviteit in de politiezone Schaerbeek-Evere-Sint-Joost- ten-Node \(PolBruNo\)](#), National Institute for Criminalistics and Criminology, July 2020.

<sup>84</sup> Belgium, Van Praet, S. (2020), [Identificeren en aanpakken van problemen of misbruiken bij politiselectiviteit. Een actieonderzoek naar problematische praktijken en mechanismes van politiselectiviteit in de politiezone Schaerbeek-Evere-Sint-Joost- ten-Node \(PolBruNo\)](#), National Institute for Criminalistics and Criminology, July 2020, p. 5

<sup>85</sup> Belgium, Unia (2020), 'Identifying and addressing problems or abuses of police selectivity' ([Identificeren en aanpakken van problemen of misbruiken bij politieonele selectiviteit](#)), 2 July 2020 [last accessed 27 September 2020].

<sup>86</sup> Belgium, Unia (2020), 'Research takes a close look at selectivity in police action' ([Onderzoek neemt selectiviteit bij politieoptreden onder de loep](#)), 2 July 2020 [last accessed 27 September 2020].

*Criminalistiek en Criminologie/Institut National de Criminalistique et de Criminologie*) focuses on the prosecution of hate crimes. The research shows that **between 66 and 81%** of complaints concerning **hate speech or hate crimes** are **not prosecuted**. The research is based on a qualitative and quantitative analysis of 371 cases in which the public prosecutor's office did not prosecute, as well as focus group discussions with judges. It confirms that lack of prosecution is mainly due to technical reasons (impossible to establish the facts precisely, identify the perpetrators or collect all the necessary proof). In rare cases, proceedings are dismissed because the public prosecutor does not consider it appropriate to prosecute.<sup>87</sup>

The second study, carried out by the King Baudouin Foundation, focuses on the victims and is based on **in-depth interviews** with a number of **victims of hate crimes**. The research shows that victims are not always able to put into words what they feel or experience. Sometimes it takes a long time for them to be heard, and this can lead to serious psychosomatic disorders. Any interlocutor they have to deal with can reopen the wound or help the victims regain their self-confidence and trust in society. The interviews make it clear that citizens want a crime to be officially recognised by the police or the courts, but also that all kinds of stakeholders have a role to play in supporting the victims, including witnesses, the employer, the school, associations, mediation services, psychologists etc.<sup>88</sup>

The search for migrants attempting to cross the North Sea after a boat had capsized off the Belgian coast led to a surge of hateful comments on **social media**. Former Prime Minister Wilmès publicly condemned the **racist comments** in the Chamber of Representatives, and one political party pleaded for an amendment of Article 150 the constitution (political and press offences) so that hate crimes can be prosecuted effectively.<sup>89</sup>

In August 2020, a video surfaced of the **brutal handling and death** of a Slovak man, Jozef Chovanec, **by the police at Charleroi Airport**. The man was prevented from boarding a plane after being disruptive and locked in a cell, where

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<sup>87</sup> Belgium, Unia (2020), 'How to tackle discrimination and hatred? A task for the court and for society as a whole' (['Hoe pak je discriminatie en haat aan? Een opdracht voor het gerecht én voor de hele samenleving'](#)), 18 November 2020 [last accessed 26 November 2020].

<sup>88</sup> Belgium, Unia (2020), 'How to tackle discrimination and hatred? A task for the court and for society as a whole' (['Hoe pak je discriminatie en haat aan? Een opdracht voor het gerecht én voor de hele samenleving'](#)), 18 November 2020 [last accessed 26 November 2020].

<sup>89</sup> Belgium, Chamber of Representatives, Integral Report: Plenary Meeting of 23 Januari 2020 ([Compte Rendu Intégral Avec Compte Rendu Analytique Traduit Des Interventions / Integraal Verslag Met Vertaald Beknopt Verslag Van De Toespraken](#)) [last accessed 30 September 2020].

one police officer is seen sitting on top of him for 16 minutes. The video shows other officers laughing at the situation and one police officer giving a Nazi salute. The facts date from 2018, but were never made public. In response to seeing the footage, the federal Minister of Justice stated: 'I find them, as far as I can judge, because of course I've only seen a little bit, unbecoming, shocking and inappropriate'.<sup>90</sup> Slovakia's foreign minister condemned the violent treatment of a Slovak citizen by police officers, and the European Commission's stated that it expects Belgium to conduct an in-depth investigation into the death of Jozef Chovanec.<sup>91</sup> The Walloon Human Rights League noted that even though the technique to hold a victim down used in this case is not permitted by law in Belgium, it is not prohibited either. In view of the eminently risky and harmful nature of this immobilisation technique, the organisation therefore called for an explicit legal prohibition to be added to Belgian law.<sup>92</sup>

A **student** with Mauritanian roots, Sanda Dia, **died** at the end of 2018 after a 'student baptism' or hazing. In the course of 2020, new details surrounding his death became public which led to significant **media coverage and public outrage**.<sup>93</sup> The student died of hypothermia and multiple organs failure during an initiation to join student club Reuzegom, after drinking large amounts of alcohol and fish oil, and standing in a cold pool of water in December for an extended period of time.<sup>94</sup> Two months before the fatal hazing the student who died had also experienced racism from other members of his student club.<sup>95</sup> KU Leuven University imposed 30 hours of community service on the students involved in the hazing, and made them write a paper on the history of initiation rituals. A large number of students, professors and members of the general public believed the **punishment** to be **too mild** and expressed their disappointment and outrage on social media, through public letters etc.<sup>96</sup> The former university rector called out the university for not including any press releases on the case in the University's

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<sup>90</sup> Belgium, Vanreenterghem, A. et al (2020), 'Horror at images of dead men after police action at Charleroi airport: 'Shocking, indecent and inappropriate'' ('[Afschuw over beelden van dood man na politieoptreden op luchthaven Charleroi: 'Choquerend, onbetamelijk en ongepast'](#)"), VRT Nws 19 August 2020 [last accessed 27 September 2020].

<sup>91</sup> Belgium, De Jaegere, A. (2020), 'European Commission expects "in-depth investigation" into death of Jozef Chovanec' ('Europese Commissie verwacht "diepgaand onderzoek" naar de dood van Jozef Chovanec'), VRT Nws 3 September 2020 [last accessed 27 September 2020].

<sup>92</sup> Belgium, Ligue des Droits Humains (2020), Minneapolis, Paris, Antwerp and now Charleroi: for the ban on prone decubitus ('[Minneapolis, Paris, Anvers et maintenant Charleroi: pour l'interdiction du décubitus ventral](#)'), 21 August 2020 [last accessed 27 September 2020].

<sup>93</sup> Belgium, De Morgen (2020), 'The death of Sanda Dia: what happened? Who is being prosecuted? And what are the next steps?' ('[De dood van Sanda Dia: wat is er gebeurd? Wie wordt vervolgd? En wat zijn de volgende stappen?](#)'), De Morgen 5 August 2020 [last accessed 27 September 2020].

<sup>94</sup> Belgium, The Brussels Time 2020, '[Reuzegom: what happened during Belgium's deadly student hazing?](#)', 2 September 2020 [last accessed 27 September 2020].

<sup>95</sup> Belgium, Clapson, C. (2020), Student killed at hazing target of earlier racist abuse ('[Student killed at hazing target of earlier racist abuse](#)'), VRT Nws 31 August 2020 [last accessed 27 September 2020].

<sup>96</sup> Belgium, Ibid.

press overview, and criticised the mild punishment and the lack of investigation into potential racist motives.<sup>97</sup> Eventually, KU Leuven presented itself as an aggrieved party in the court case against the members of the student club that were in charge of the hazing<sup>98</sup> and started a new disciplinary investigation into the student organisation.<sup>99</sup>

Independent news site Apache reported on its analysis of comments in a **closed Facebook group for police officers** called 'Thin Blue Line' with over 6.700 members. Police officers and retired police personnel used **racist language** and a number of comments **glorified violence**. Posts from extremist right-wing groups are also shared. Comments include hurtful, shocking or disturbing language in which young people with a migration background are dehumanised, for example by describing them as 'rats' or 'vermin'. In a number of cases, members encourage violence and share illegal practices on how to arrest people.<sup>100</sup> In response, the chief of the Belgian federal police publicly condemned the racist comments. The spokesperson of the federal police stated that the police will investigate itself whether any active policemen are members of the Facebook group, and whether they have actually made racist statements. If so, the police will start a disciplinary investigation. Being a mere member of a Facebook group, however, does not violate the police code of ethics.<sup>101</sup>

On 27 September members of a **right wing party** gathered in Brussels to protest against the forming of the new federal Government. Images spread in the media showed **Nazi symbols** and certain participants doing a **Nazi salutation**. In response, the leader of the CdH group in the Chamber of Representatives

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<sup>97</sup> Belgium, Baert, D. (2020), 'Former Rector Torfs sharp for KU Leuven in the Reuzegom case: "University failed and would better recover"' (['Oud-rector Torfs scherp voor KU Leuven in zaak-Reuzegom: 'Universiteit is tekortgeschoten en zou zich beter herpakken'](#)), 3 August 2020 [last accessed 27 September 2020].

<sup>98</sup> Belgium, De Wolf, L. (2020), 'KU Leuven presents itself as aggrieved party in the Reuzegom case' (['KU Leuven stelt zich benadeelde partij in de zaak-Reuzegom'](#)), 27 August 2020 [last accessed 27 September 2020].

<sup>99</sup> Belgium, Paelinck, G. (2020), 'KU Leuven starts new disciplinary investigation into students involved in fatal baptism Sanda Dia' (['KU Leuven start nieuw tuchtonderzoek naar studenten die betrokken waren bij fatale doop Sanda Dia'](#)), 4 September 2020 [last accessed 27 September 2020].

<sup>100</sup> Belgium, Vanden Bussche, S. (2020), 'Racism and incitement to violence in closed police Facebook group' (['Racisme en aanzetten tot geweld in gesloten Facebookgroep politie'](#)), 31 August 2020 [last accessed 27 September 2020].

<sup>101</sup> Belgium, Truys, J., 'Police Chief De Mesmaeker on racism in police group on Facebook: "To those who think so, I say: get lost"' (['Politietopman De Mesmaeker over racisme in politiegroep op Facebook: "Aan wie dat meent, zeg ik: bol het af"'](#)), 1 September 2020 [last accessed 27 September 2020].

reintroduced a proposed 2013 law that would make it illegal to wear or use any Nazi insignia for propaganda purposes.<sup>102</sup>

On Armistice Day, the member of a right wing party posted a picture on social media of her laying flowers by the grave of an SS-soldier, causing public outrage. Along with the picture she posted the comment "During the war there are always multiple sides, the winner writes most of this story. I'm not a denier, but I don't forget these people either." The right wing political party announced it would launch internal disciplinary proceedings.<sup>103</sup>

### COVID-related developments

Between 1 April and 1 July 2020, Unia, the interfederal Centre for equal opportunities, received **19 complaints of alleged hate speech or hate crime** linked to COVID-19. For example, a person of Asian origin reported her parents being verbally assaulted as passers-by yelled 'corona' or even spat at them. Others also report excessive police controls and fines, as well as social media posts blaming migrants for the Coronavirus.<sup>104</sup>

On 10 April 2020, a **19-year-old man of Moroccan background was killed** when his scooter crashed head-on with a police vehicle that had been called for reinforcement because the teen fled an attempted **COVID-19 related check**. The incident caused outrage within the local community and riots where residents clashed with the police. Following a request from the victim's family, an independent examining magistrate was appointed to lead an involuntary manslaughter investigation into the police chase.<sup>105</sup> The lawyer of the victim's family had questioned in the media whether an offence with a fine of 250 euros

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<sup>102</sup> Belgium, La Nouvelle Gazette, After the VB demonstration, the cdH wants to suppress the use of Nazi signs ('[Après la manifestation du VB, le cdH veut réprimer l'utilisation de signes nazis](#)'), 28 September 2020 [last accessed 29 September 2020].

<sup>103</sup> Belgium, Segers, F. et al. (2020), 'Vlaams Belang starts internal disciplinary proceedings against Carrera Neefs who laid flowers at the grave of an SS man: "A stupid action"' (["Vlaams Belang start interne tuchtprocedure tegen Carrera Neefs die bloemen legde bij het graf van een SS'er: "Een domme actie"](#)), 12 November 2020 [last accessed 26 November 2020].

<sup>104</sup> Belgium, Information received in writing from Unia, 1 July 2020. For more information, please see the Franet country study released on 29 July 2020.

<sup>105</sup> Belgium, The Brussels Time (2020), '[Coronavirus: teen's death in police check investigated as involuntary manslaughter](#)', 14 April 2020 [last accessed 11 November 2020].

justifies the use of two police vehicles in the pursuit.<sup>106</sup> The examining magistrate concluded, however, that the two police officers involved were not to blame. The Public Prosecutor's Office therefore asks that they be excluded from prosecution. According to the investigation, the light of the victim's scooter was not on and it was impossible for the officers to see him. The scooter drove much faster than the allowed 50 km/h when it crashed and the police car didn't deviate from his lane either.<sup>107</sup>

Police Watch, the Walloon Human Rights League's police violence observatory, launched a campaign to collect testimonies regarding abusive behaviour by police during the period of confinement. In two months, over a hundred testimonies were collected, analysed and published in a report. Without claiming to be statistically representative, the organisation notes that the findings seriously undermine the words of the Minister of Security and Interior, who publicly claimed there is no problem of structural racism in the police.<sup>108</sup> **Police monitoring of COVID-19 measures** appears to be much differentiated: 98% of the alleged abuses took place in the three poorest provinces of the country, while in Brussels, 71% of the reported abuses took place in the poor areas. 53% of people feel they have been subjected to discriminatory treatment. For the purpose of the report, 'police abuses' refer to the use of coercion that goes beyond the legal framework (principle of legitimacy, proportionality and necessity), including verbal and psychological violence (insults, threats, racism, sexism, etc.), as well as abuse of power (facial checks, fines and/or non-justified arrests, etc.). Among the most regularly reported forms of alleged abuse, physical assault (36%), arrests (33%) and administrative fines (31%) were reported most frequently, followed by insults (21%), searches (16%) and the use of handcuffs or collars (12%). However, detailed analysis of the testimonies shows that, very often, there is a combination of abuse, as an arbitrary arrest can be accompanied by beatings and/or insults. Four factors were identified as increasing the likelihood of being a victim of police abuse: being young (55%), being racialised (40%), having opinions on and/or acting for solidarity (17%), being in a precarious situation (15%).<sup>109</sup>

Seven human rights organisations in Belgium launched a **joint campaign against ethnic profiling** by police. According to the organisations, the fact that

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<sup>106</sup> Belgium, Het Laatste Nieuws (2020), 'Lawyer of the Adil family: "Wonder if two police vehicles were necessary".' ([Advocaat van familie Adil: "Vraag me af of twee politievoertuigen wel nodig waren"](#)), Het Laatste Nieuws, 13 April 2020 [last accessed 26 November 2020].

<sup>107</sup> Belgium, Eeckhaut, M. (2020), 'Officers are not to blame for Adil's death' ([Agenten hebben geen schuld aan dood Adil](#)), De Standaard, 26 November 2020 [last accessed 26 November 2020].

<sup>108</sup> League des Droits Humains, '[Abus policiers dans le cadre du confinement: le rapport de Police Watch](#)', 16 June 2020 2020 [last accessed 27 September 2020].

<sup>109</sup> Belgium, League des Droits Humains (2020), Police Watch report: Police abuse and quarantine ([Rapport Police Watch: Abus policiers et confinement](#)) [last accessed 11 November 2020].

even during the pandemic many protests against ethnic profiling, police violence and structural racism took place in several Belgian cities, shows that these problems still require a lot of attention today. They also note that in recent weeks, worrying signs of ethnic profiling surfaced during the lockdown, among others through a survey of youth work organisation 'Uit De Marge'. Youth workers interviewed 2.421 children and youth living in a socially precarious situations all over Flanders. 30,6% of them feel targeted by police on the streets. Several interviewees state that the police specifically target youth from a minority or migrant background.<sup>110</sup> Moreover, the project of the Ligue des Droits Humains, 'Police Watch', received more reports of discrimination by the police during the lockdown. These reports suggest that the police are enforcing measures more strictly in neighbourhoods where many people with a migration background live. The campaign will run for two years and includes concrete recommendations to policy makers and police to tackle ethnic profiling. It advocates for recognising the occurrence of ethnic profiling, creating a transparent legal framework to prevent it, registering identity checks to ensure accountability etc.<sup>111</sup>

Amnesty International also published a **report on human rights violations by police forces in the enforcement of COVID-19 measures**, including in Belgium. The report discusses disproportionate police response in several cases involving persons with a migrant background.<sup>112</sup>

## Chapter 3. Roma equality and inclusion

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

On **7 October 2020**, the **new EU Roma strategic framework for equality, inclusion and participation for 2020-2030**<sup>113</sup> was adopted. According to the

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<sup>110</sup> Belgium, Uit De Marge vzw (2020), The impact of the COVID-19 measures on children and young people in socially vulnerable situations: How do children and young people in vulnerable positions survive the lockdown? ([De impact van de COVID-19- maatregelen op kinderen en jongeren in maatschappelijk kwetsbare situaties](#): Hoe overleven kinderen en jongeren in kwetsbare posities de lockdown?) [last accessed 11 November 2020].

<sup>111</sup> Belgium, Minderhedenforum (2020), 'Campaign "stop ethnic profiling"' (["Campagne "stop etnisch profileren"](#)), 10 June 2020 [Last accessed 30 September 2020].

<sup>112</sup> Belgium, Amnesty International (2020), ["Policing the pandemic: Human rights violations in the enforcement of COVID-19 measures in Europe"](#), 24 June 2020 [Last accessed 1 July 2020].

<sup>113</sup> European Commission, *The new EU Roma strategic framework for equality, inclusion and participation (full package)*, [https://ec.europa.eu/info/publications/new-eu-roma-strategic-framework-equality-inclusion-and-participation-full-package\\_en](https://ec.europa.eu/info/publications/new-eu-roma-strategic-framework-equality-inclusion-and-participation-full-package_en) [last accessed 27 November 2020].



European Roma Rights Centre (ERRC)<sup>114</sup>, although the new framework improves upon past European inclusion strategies, it has not learned from the failures of the last framework on Roma **inclusion**, as it still falls short on police brutality, justice and segregation. With regard to Belgium, except for some *ad hoc* initiatives reported below, no major updates have been provided yet by the Federal and Regional Governments concerning a new comprehensive strategic document on Roma equality and inclusion post-2020. The current Belgian National Roma Integration Strategy was adopted in 2012.

On **30 September 2019**, the **Coalition Agreement of the Flemish Government 2019-2024**<sup>115</sup> was finalised. The coalition agreement lays down the policy decisions for the 2019-2024 legislature, including specific integration and civic integration measures targeting caravan residents (*woonwagenbewoners*).<sup>116</sup> Namely, the Agreement states that '**caravan residents, the traveling labour force and foreign nationals without legal residence are no longer approached from the integration policy**'.<sup>117</sup> Such decision builds on the fact that 'the Flemish integration policy does not want to address people about their ethnic-cultural origin, but on the contrary strives for an inclusive society'.<sup>118</sup>

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<sup>114</sup> European Roma Rights Centre (ERRC), *New EU Roma Framework Falls Short on Police Brutality, Justice, & Segregation*, <http://www.errc.org/press-releases/new-eu-roma-framework-falls-short-on-police-brutality-justice--segregation> [last accessed 27 November 2020].

<sup>115</sup> Belgium, [Regeerakkoord van de Vlaamse Regering 2019-2024](#), [last accessed 4 October 2020].

<sup>116</sup> Belgium, 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? ([Woonwagenbewoners opnieuw aan de zijlijn?](#)), Sociaal.net, 26 November 2019 [last accessed 5 October 2020].

<sup>117</sup> Belgium, "integration policy" refers to the Decree amending various provisions of the Decree of 7 June 2013 on the Flemish integration and habituation policy ([Decreet tot wijziging van diverse bepalingen van het decreet van 7 juni 2013 betreffende het Vlaamse integratie- en inburgeringsbeleid](#)), 18 January 2019, Published in the Belgium Official Gazette 11 February 2019, p. 109 [last accessed 5 October 2020]. Additional information on how the new Decree addresses caravan residents (*woonwagenbewoners*) is provided at p. 29 of the [Franet National contribution to the Fundamental Rights Report 2020 – Belgium](#) [last accessed 4 October 2020].

<sup>118</sup> Ibid., p. 110.

Consequently, 'initiatives that revert to ethnic-cultural origin and promote segregation are no longer subsidised by the Flemish government.'<sup>119</sup> The Minorities Forum (*Minderhedenforum*) reported<sup>120</sup> that the withdrawal of the subsidies provided by the Flemish government to support initiatives addressing caravan residents will have a negative impact on the activities of the Forum, as it will no longer be allowed to develop and implement actions specifically targeting this group.

On **8 November 2019**, Bart Somers, Deputy Prime Minister of the Flemish Government and Flemish Minister of Internal Administration, Administrative Affairs, Civic Integration and Equal Opportunities, submitted the **Policy Memorandum 2019-2024 "Equal Opportunities, Integration and Civic Integration"**,<sup>121</sup> where no specific reference is made to Roma and Travellers. On **20 June 2020**, Mr. Somers published a communication<sup>122</sup> to the Flemish Government regarding the **policy recommendations** (*beleidsaanbevelingen*) identified by the researchers of the Higher Institute for Work and Society (*Hoger Instituut voor Arbeid en Samenleving*) of KULeuven in a **study on the living conditions of caravan residents in Belgium**<sup>123</sup> commissioned by the Agency for Internal Affairs of the Flemish government. Such recommendations are meant to be relevant to the various policy areas under the competence of the Flemish Government and to support the proper implementation of the Coalition Agreement 2019-2024, according to which caravan residents do not fit anymore under the integration policy regime.

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<sup>119</sup> Ibid.

<sup>120</sup> Belgium, information provided by the Minorities Forum (*Minderhedenforum*) to the author via phone interview on 21/9/2020.

<sup>121</sup> Belgium, Flemish Government, Policy memorandum 2019-2024. Equal Opportunities, Integration and Civic Integration ([Beleidsnota 2019-2024 "Gelijke Kansen, Integratie en Inburgering"](#)) [last accessed 4 October 2020].

<sup>122</sup> Belgium, Flemish Government, Council of Ministers of 12 June 2020, Policy recommendations for HIVA research on itinerant caravan residents ([Ministerraad van 12 juni 2020, Beleidsaanbevelingen HIVA-onderzoek over rondtrekkende woonwagengewoners](#)) [last accessed 4 October 2020].

<sup>123</sup> Belgium, Reidsma, M., Juchtmans, G., Chakkar, S. en De Cuyper, P., Itinerant Travelers: an overview of living conditions and existing support initiatives ([Rondtrekkende woonwagengewoners: een overzicht van de levensomstandigheden en bestaande initiatieven ter ondersteuning](#)), Hoger Instituut voor Arbeid en Samenleving, KULeuven, Leuven, 2020. VR 2020 1206 MED.0189/1BIS. [last accessed 5 October 2020].

Building on the Coalition Agreement 2019-2024, **the Flemish Government will withdraw from the competence of UNIA** and will set up its own equality body instead. However, the current Cooperation Agreement between UNIA and the Flemish Government remains in force until March 2023. UNIA fears that the creation of a Flemish equality body will lead to confusion for citizens regarding the roles and competencies of the various institutions combating discrimination in Belgium. Moreover, the Flemish Government is currently responsible for 10% of the financial resources of UNIA and this loss of income will have harsh consequences for the running of the centre.<sup>124</sup> On **23 October 2020**, the **Horizontal Integration and Equal Opportunities Policy Plan 2020-2024**<sup>125</sup> was approved by the Flemish Government to implement the Coalition Agreement 2019-2024.

On 1 August 2019, the **Decree concerning assistance to Travellers (*Gens du Voyage*) amending the Walloon Code of Social Action and Health**<sup>126</sup> (adopted on 2/5/2019) entered into force. The Decree amends and strengthens the provisions under the Title relating to Help for Travellers. Among the specific measures foreseen by the Decree, there are: (i) the approval of an organisation specialising in Traveller mediation – the body approved by the Walloon Government on November 2019 is the a.s.b.l. “Mediation Centre for Travellers and Roma” in Wallonia<sup>127</sup> (*Centre de Médiation des Gens du Voyage et des Roms en Wallonie*); (ii) the financing of municipalities in terms of reception infrastructure – a call for projects was launched at the end of May 2019 for the creation of a maximum of ten equipped reception areas, with a total budget of 5,000,000 euros (500,000 euros per project). The call for projects is currently underway and nine preselected municipalities must submit their project by 31 December 2020; (iii) the financing of the municipalities in terms of staff and operating costs – municipalities which have a reception area can apply for a subsidy from the

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<sup>124</sup> Belgium, European Commission (DG Justice and Consumers), [European Equality Law Review 2020/1](#), p. 75, The position of UNIA regarding the decision of the Flemish Government to withdraw from UNIA’s competence is available at <https://www.unia.be/fr/articles/unia-reagit-a-la-decision-de-la-flandre-darreter-leur-cooperation> [both websites last accessed 5 October 2020].

<sup>125</sup> Belgium, Flemish Government, [Horizontaal Integratie- en Gelijke Kansenbeleidsplan 2020-2024](#) [last accessed 5 January 2021].

<sup>126</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. Published in Belgian Official Gazette 1 August 2019 [last accessed 5 October 2020]. Additional information on the Decree is provided at p. 30 of the [Franet National contribution to the Fundamental Rights Report 2020 – Belgium](#) [last accessed 4 October 2020].

<sup>127</sup> Belgium, the Mediation Center for Travellers and Roma in Wallonia (*Centre de Médiation des Gens du Voyage et des Roms*) regularly publishes information and news about Travellers and Roma on their websites [www.cmgv.be](http://www.cmgv.be) and <https://www.mediation4roma.be> [both last accessed 5 October 2020].

Walloon Region in the amount of 30,000 euros / year. This subsidy is intended to organise reception and social assistance missions for Travelers. This subsidy scheme will begin in 2021. A partnership agreement binding eleven municipalities to the Walloon Region was meanwhile applicable until 31 December 2020.<sup>128</sup>

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

On **3 December 2020**, on the proposal of the **Minister of Local Government and Housing of Wallonia**, Christophe Collignon, the Walloon Government definitively adopted **three decrees<sup>129</sup> defining the minimum criteria of sanitation and overcrowding as well as those relating to the rental permit for light dwellings** in order to better regulate this type of housing. As declared by Collignon on his official webpage<sup>130</sup>, “[t]he objective of the Walloon authorities is to enable people who so wish to make a lifestyle choice, through a new way of living. It can also be an innovative way of realising the right to housing for some, but in any case, it must remain a choice.” These decrees, which will enter into force on 1 June 2021<sup>131</sup>, might open up important opportunities for caravan dwellers in the Walloon Region.

On **25 November 2020**, the **Council of State ordered<sup>132</sup> the suspension of the implementation of the decision of Bart Somers**, Flemish Minister of Internal Administration, Administrative Affairs, Civic Integration and Equal Opportunities of 9 November 2020 (see above) not to select the Minorities Forum (*Minderhedenforum*) as a candidate participation organization to the Flemish

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<sup>128</sup> Belgium, detailed information about the specific measures foreseen by the Decree were provided via email by the representative body of the Belgian National Roma Contact Point for Wallonia ([Service public de Wallonie – Direction interdépartementale de la Cohésion sociale](#)) on 1 September 2020.

<sup>129</sup> Belgium, Government of Wallonia, Session of 3 December 2020, Press Release (Communiqué de Presse), [La Wallonie balise l’habitat léger en phase avec certaines préoccupations de notre temps](#) (p. 11) [last accessed 6 January 2021].

<sup>130</sup> Belgium, [La Wallonie encadre l’habitat léger pour le protéger de bailleurs peu scrupuleux](#) [last accessed 6 January 2021].

<sup>131</sup> Belgium, [Habitats légers, des critères de salubrité pour juin 2021](#) [last accessed 6 January 2021].

<sup>132</sup> Belgium, Raad van State (Council of State), Afdeling Bestuursrechtspraak Voorzitter van de Xe Kamer – [Arrest nr. 249.047 van 25 November 2020](#) [last accessed 5 January 2021].

Government and to choose Join.Vlaanderen as a candidate participation organization instead.

On **20 November 2020**, in collaboration with the EU Agency for Fundamental Rights (FRA), UNIA, Foyer (asbl) and the Belgian National Roma Platform (*SPP Intégration Social/POD Maatschappelijke Integratie*) have organised an online event<sup>133</sup> for presenting the **key findings of the FRA Roma and Travellers Survey 2018-2019**<sup>134</sup>. The event has been opened by Karine Lalieux, the Belgian Minister of Pensions and Social Integration, responsible for People with Disabilities, Poverty Alleviation and Beliris. Video-testimonies from Roma people residing in Belgium have been also shown throughout the event.<sup>135</sup>

On **9 November 2020**, Bart Somers, Deputy Prime Minister of the Flemish Government and Flemish Minister of Internal Administration, Administrative Affairs, Civic Integration and Equal Opportunities, announced<sup>136</sup> his **decision to stop supporting the Minorities Forum** (*Minderhedenforum*) and to recognize Join.Vlaanderen as a participation organisation to the Flemish Government instead. Such a decision caused several reactions from both academics<sup>137</sup> and civil society organizations and activists<sup>138</sup>, and might have

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<sup>133</sup> Belgium, SPP Intégration Social/POD Maatschappelijke Integratie, *Rencontre numérique "Roms et gens du voyage" - Présentation des principaux résultats de l'enquête 2018/2019 par l'Agence des droits fondamentaux de l'Union européenne*, <https://www.mi-is.be/fr/agenda/rencontre-numerique-roms-et-gens-du-voyage-presentation-des-principaux-resultats-de-lenquete> [last accessed 27 November 2020].

<sup>134</sup> European Union Agency for Fundamental Rights (FRA), *Roma and Travellers in six countries*, <https://fra.europa.eu/en/publication/2020/roma-travellers-survey> [last accessed 27 November 2020].

<sup>135</sup> Belgium, all materials related tot he event (i.e. video, texts, PowerPoint presentations) are available at <https://www.mi-is.be/fr/themes/pauvrete/integration-des-roms/plateforme-nationale-belge-pour-les-roms/annee-dactivite-4-1> [last accessed 6 January 2021].

<sup>136</sup> Belgium, De Standaard, *Somers ruilt Minderhedenforum in voor Join.Vlaanderen*, [https://www.standaard.be/cnt/dmf20201109\\_98044338](https://www.standaard.be/cnt/dmf20201109_98044338) [last accessed 27 November 2020].

<sup>137</sup> Belgium, Mo\* Magazine, *'Met het Minderhedenforum valt de laatste dominosteen'*, <https://www.mo.be/opinie/met-het-minderhedenforum-valt-de-laatste-dominosteen> [last accessed 27 November 2020].

<sup>138</sup> Belgium, Knack, *'Opzijschuiven Minderhedenforum is een historische fout'*, [https://www.knack.be/nieuws/belgie/opzijschuiven-minderhedenforum-is-een-historische-fout/article-opinion-1664817.html?cookie\\_check=1605518116](https://www.knack.be/nieuws/belgie/opzijschuiven-minderhedenforum-is-een-historische-fout/article-opinion-1664817.html?cookie_check=1605518116) [last accessed 27 November 2020].

important repercussions on the current and future work of the Minorities Forum concerning Roma and Travellers (see also the previous decision to withdraw the subsidies provided by the Flemish government to support initiatives addressing caravan residents reported [text removed] above).

On **3 November 2020**, the **Minister of Local Government and Housing of Wallonia**, Christophe Collignon, signed a **circular**<sup>139</sup> (*circulaire*) concerning the measures to be adopted at the provincial level to **guarantee the sanitary conditions necessary for the management and the containment of the COVID-19 epidemic among Travelers** (*gens du voyage*). This document builds on four key recommendations: (i) maintenance of current facilities; (ii) compliance with the rules relating to departures and arrivals in Belgium; (iii) suspension of expulsion orders; (iv) organisation of access to water and electricity. Such recommendations are applicable from 2 November 2020 until 13 December 2020, namely for the duration of the current COVID-19-related measures adopted by the Consultation Committee of the Belgian Federal and Regional Governments. The circular particularly focuses on the specificities of the winter season, when reception areas are closed due to the temporary return of several Travelers from neighbouring countries. The circular thus recommends that – in good agreement with the groups present and, where applicable, with the support of the Travellers’ mediation centre – the municipalities try to find alternatives to maintain a temporary reception in these areas in order to limit the propagation of the epidemic by travelling. However, the circular remains a non-binding text and therefore does not imply a modification of the usual administrative police powers.

On **21 February 2020**, the **Council of Mayor and Aldermen of the City of Antwerp** published a decision<sup>140</sup> about the **closure of the caravan site in Deurne**, inhabited by about 50 families – for a total of nearly 150 residents, including 25 children. Since 2014 there were plans for the redevelopment of the site funded by the Flemish Government. On 18 February 2020, the caravan dwellers learned through a journalist from the *Gazet van Antwerpen* that a decision to close the site was on the agenda of the Council of 21 February 2020. On 21 February 2020, the caravan dwellers received an official communication concerning the closure of the site. The residents were given 3.5 years to move and no alternative was offered by the city. The residents started a petition. In

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<sup>139</sup> Belgium, Government of Wallonia, Minister of Local Government and Housing (*Ministre du Logement, des Pouvoirs Locaux et de la Ville*), *Circulaire "Coronavirus: Gens du Voyage"*, [http://www.uvcw.be/no\\_index/files/4616-coronavirus---gens-du-voyage.pdf](http://www.uvcw.be/no_index/files/4616-coronavirus---gens-du-voyage.pdf) [last accessed 27 November 2020].

<sup>140</sup> Belgium, Council of Mayor and Aldermen of the City of Antwerp, Decision 2020\_CBS\_01517, Caravan Park Deurne – Site closure and termination of residents' pitches – Approval ([Woonwagenterrein Deurne – Sluiting terrein en opzeg bewoners standplaatsen – Goedkeuring](#)) [last accessed 6 October 2020].

mid-March, they then filed a complaint with the Agency for Internal Affairs (ABB), together with their lawyers Lies Michielsen and Mieke Van Laer of **PROGRESS Lawyers Network**, to have the decision of the Council annulled. Many organisations, including the **League for Human Rights**, the **Minorities Forum** and **Community Development**, also filed a complaint. On **3 April 2020**, the Council of Mayor and Aldermen of the City of Antwerp finally decided to keep the caravan site in Deurne open.<sup>141</sup>

From **18 March 2020**, the Belgian Federal Government adopted new measures in response to the emergency decree allowing urgent measures for limiting the spread of the new coronavirus.<sup>142</sup> According to the **European Roma Rights Centre** (ERRC), some of the restrictions on freedom of movement and gatherings of people foreseen by such measures adversely affected Romani Travellers living nomadically in large family groups and without a fixed address.

In its report **"Roma Rights in the Time of COVID"**<sup>143</sup>, ERRC states that police operations took place on **4 and 5 April 2020** concerning two groups of Travellers living at unofficial sites in Charleroi, namely in the areas of Jumet and Couillet respectively. The police exclusively targeted members of the Romani community with the aim of seizing their caravans, which were also their homes. Multiple police cars arrived at the sites alongside a large number of armed federal police, dressed all in black, to deal with what the police said was a routine vehicle check (p. 7). The affected Traveller families – which included minor children, a pregnant young woman, and persons with serious health conditions – were made homeless as result of the raid, without being offered any alternative housing solution, social aid, or COVID-19 emergency support (p. 8). On **27 April 2020**, the **ERRC brought a complaint concerning the police actions before the European Committee of Social Rights of the Council of Europe**,<sup>144</sup> alleging that this operation amounted to ethnically targeted collective punishment. On 22 July 2020, the Belgian Government sent its observations on admissibility and request for

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<sup>141</sup> Belgium, ATV, "Residents of caravan park in Deurne are allowed to stay" ([Bewoners woonwagenpark in Deurne mogen blijven](#)), published on-line on 3 April 2020 [last accessed 6 October 2020].

<sup>142</sup> Belgium, Federal Government, Ministerial Decree on the emergency measures for limiting the spread of coronavirus COVID-19 ([Arrêté ministériel portant des mesures d'urgence pour limiter la propagation du coronavirus COVID-19](#)), [last accessed 5 October 2020].

<sup>143</sup> Belgium, ERRC, [Roma Rights in the Time of COVID](#), 9 September 2020 [last accessed 3 October 2020].

<sup>144</sup> Belgium, European Committee of Social Rights, [European Roma Rights Centre \(ERRC\) v. Belgium](#), Complaint No. 195/2020, 28 May 2020 [last accessed 3 October 2020].

immediate measures,<sup>145</sup> where it clarified the reasons why none of the requested measures could be accepted. On 11 September 2020, ERRC replied<sup>146</sup> to the observations of the Belgian Government by renewing its request for immediate measures and asking the Committee to make a decision as quickly as possible. The case is still pending.<sup>147</sup>

On **8 April 2020**, the **Federal Minister for Poverty Reduction and Minister of Social Inclusion** announced the setting up of a **task force on vulnerable groups**. The task force aims to assess the impact of the COVID-19-policies on vulnerable groups, determine which groups fall outside the scope of socio-economic measures and suggest additional socio-economic measures accordingly. The task force consists of the Federal Ministers for Poverty Reduction and Social Inclusion and the Regional Ministers for Poverty and Social Action. It is assisted by a Working Group on the Social Impact of COVID-19, consisting of representatives of the administrations, and a consultative group that provides input from the field, consisting of experts from civil society organisations.<sup>148</sup>

On **24 April 2020**, following the proposal of coordinating Minister for Poverty Reduction Wouter Beke, the Flemish government set up a "**Taskforce for vulnerable families**" in order to tackle the challenges related to the COVID-19 pandemic among vulnerable population groups in Flanders – such as, the lack of effective and inclusive communication, internet access, availability of mouth masks for the homeless, etc. The Taskforce consists of two groups: one with stakeholders that includes representatives from organisations in the fields of poverty reduction, social work, the elderly, people with disabilities, coexistence and integration, as well as representatives of the local authorities and the social dialogue; another with the representatives of the Coordinating Minister for Poverty Reduction, the Prime Minister and Deputy Prime Ministers, and other selected ministers according to the agenda.

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<sup>145</sup> Belgium, Council of Europe, European Social Charter, Pending complaints, No. 195/2020 European Roma Rights Centre (ERRC) v. Belgium, Observations by the Government on admissibility and request for immediate measures ([Observations Du Gouvernement Sur La Recevabilite Et Demande De Mesures Immediates](#)), 22 July 2020 [last accessed 5 October 2020].

<sup>146</sup> Belgium, Council of Europe, European Social Charter, Pending complaints, No. 195/2020 European Roma Rights Centre (ERRC) v. Belgium, [Response by the ERRC on the Government's observations on admissibility and request for immediate measures](#), 11 September 2020 [last accessed 5 October 2020].

<sup>147</sup> Belgium, Council of Europe, European Social Charter, [Pending complaints, No. 195/2020 European Roma Rights Centre \(ERRC\) v. Belgium](#), [last accessed 5 October 2020].

<sup>148</sup> Belgium, for more information on the impact of COVID-19-related measures on particular groups in Belgium and the task force set up by the Belgian Federal Minister for Poverty Reduction and Minister of Social Inclusion in April 2020, please see page 12 of the Franet country study "[Coronavirus pandemic in the EU – Fundamental Rights Implications](#)", released on 4 May 2020 [last accessed 5 October 2020].



On **14 May 2020**, the **European Committee of Social Rights of the Council of Europe unanimously voted**<sup>149</sup> to issue an interim measure against **Belgium**, concerning Romani Travellers who were targeted by the large-scale police operation "Strike"<sup>150</sup> that took place on 7 May 2019. The collective complaint<sup>151</sup> was lodged by the **European Roma Rights Centre** on 12 July 2019. The Committee has ordered the Belgian Government to immediately guarantee that those affected are not rendered homeless, and are given access to water, sanitation, electricity, necessary medical and social assistance, as well as legal aid. The declaration of the Committee recognises the violations of the affected people's social rights particularly concerning vulnerable adults, elderly people, pregnant women, and children who were adversely affected by the police actions. The Belgian Government had until 22 July 2020 to respond to the Committee about the other aspects of the complaint, including the ERRC's allegation that this operation amounted to ethnically targeted collective punishment. No response from the Government was received and/or made available so far. In the meantime, the interim measures to ensure the affected Roma are not homeless and have access to utilities and services are binding and must be carried out by the Belgian Government.

On **6 July 2020**, at the request of the Flemish Minister of Welfare, Health, Family and Poverty Reduction, the document "**Input from the stakeholder consultation in connection with the Flemish Taskforce Vulnerable Families**"<sup>152</sup> was published. This document has a thematic structure, and is given a new publication date in function of the next meeting of the political working group. Roma and caravan residents (*woonwagenbewoners*) are explicitly mentioned with reference to homelessness and education. In particular, specific attention is given to the Roma as concerns homelessness (pp. 23, 25 – e.g. distribution of mouth masks), whilst education measures address caravan resident children (pp. 49-51 – e.g. facilitating distance learning).

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<sup>149</sup> Belgium, Council of Europe, European Committee of Social Rights, [Decision on Admissibility and on Immediate Measures](#), 14 May 2020, European Roma Rights Centre (ERRC) v. Belgium, Complaint No. 185/209, [last accessed 5 October 2020].

<sup>150</sup> Belgium, additional information concerning the operation 'Strike' is available in the Franet country study on Belgium (pp. 5-8), "[Roma and Travellers Survey 2019 – Legislation, policy and practical aspects](#)" [last accessed 3 October 2020].

<sup>151</sup> Belgium, *ERRC v Belgium*, [Collective Complaint 185/2019 – Introduction of a New Collective Complaint and URGENT Request for the Indication of Immediate Measures](#) [last accessed 3 October 2020].

<sup>152</sup> Belgium, Steunpunt tot bestrijding van armoede, bestaansonzekerheid en sociale uitsluiting, Input from the stakeholder consultation in connection with the Flemish Taskforce on Vulnerable Families ([Input van het stakeholdersoverleg i.f.v. de Vlaamse Taskforce Kwetsbare gezinnen](#)) [last accessed 5 October 2020].

In light of the COVID-19 outbreak, the Walloon Government, in collaboration with the public administration (SPW Interior and Social Action – Department of Social Cohesion) and the “Mediation Centre for Travellers and Roma in Wallonia”, addressed recommendations to the municipalities intended to organise the reception of Travellers in optimal conditions, taking into account the official health instructions. These recommendations are gathered in a **“Frequently Asked Questions” document**<sup>153</sup> that is regularly updated according to the measures taken by the Belgian National Security Council.

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<sup>153</sup> Belgium, SPW Interior and Social Action – Department of Social Cohesion, Recommendations and FAQ COVID-19 ([\*Recommandations et FAQ relatives à l'accueil des gens du voyage dans le cadre du déconfinement progressif\*](#)), version of 23 September 2020 [last accessed 5 October 2020].

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

Extension of residence permits and other authorisations to stay that expired during COVID-19 pandemic measures.

EUMS/ Republic of North Macedonia, Republic of Serbia	Category of TCN	Brief description of the measure	Legal source (legislation or case law as relevant) with hyperlink	Comments
	Complete this row if measures concern all/most of the TCN listed below whose (national or EU law based) permission to stay expired during COVID-19 related travel restrictions. In this case indicate in the next rows the categories to which the measure applies	Overall, all visa holders who cannot leave Belgium can request to extend their stay in the country. There are a few differences between visa categories, which are specified below.	The extension of stay has no legal basis in Belgian law and thus has no defined period of application. The procedure to request such extension, however, is contained in the Immigration Office's <a href="#">website</a> .	The Agency for Integration and Social Inclusion ( <i>Agentschap Integratie en Inburgering</i> ) created a detailed <a href="#">online guide</a> (only available in Dutch) explaining all COVID related visa extension measures, including the procedure to request extensions. Law offices such as <a href="#">Altea Lawyers</a> and certain municipalities such as <a href="#">Roelx</a> also published

				information on visa extension on their websites.
	<p>Holders of visas issued based on the <a href="#">Visa Code</a> No. 810/2009 (as last amended by <a href="#">Regulation (EU) No. 2019/1155</a>) (Schengen visas)</p>	<p>A short-stay visa holder who is not able to leave Belgium due to force majeure (quarantine, flight cancellation, border closure, etc.) may request an authorisation to extend their stay in the country.</p>	<p>The extension of stay has no legal basis in Belgian law and thus has no defined period of application. The procedure to request such extension, however, is contained in the Immigration Office's <a href="#">website</a>.</p>	<p>The Agency for Integration and Social Inclusion (<i>Agentschap Integratie en Inburgering</i>) created a detailed <a href="#">online guide</a> explaining all COVID related visa extension measures, including the procedure to request extensions. Law offices such as <a href="#">Altea Lawyers</a> and certain municipalities such as <a href="#">Roeulx</a> also published information on visa extension on their websites.</p>
	<p>Visa-free TCN who reached the maximum of 90 days in any 180-day period under Article 4 of the <a href="#">Visa List</a></p>	<p>A visa-free TCN who is not able to leave Belgium due to force majeure (quarantine, flight cancellation, border closure, etc.) may request an</p>	<p>The extension of stay has no legal basis in Belgian law and thus has no defined period of application. The procedure to request</p>	<p>The Agency for Integration and Social Inclusion (<i>Agentschap Integratie en Inburgering</i>) created a detailed <a href="#">online guide</a> explaining all</p>

<p><a href="#">Regulation</a> (Regulation (EU) 2018/1806)</p>	<p>authorisation to extend their stay in the country.</p>	<p>such extension, however, is contained in the Immigration Office's <a href="#">website</a>.</p>	<p>COVID related visa extension measures, including the procedure to request extensions. Law offices such as <a href="#">Altea Lawyers</a> and certain municipalities such as <a href="#">Roeulx</a> also published information on visa extension on their websites.</p>
<p>Holders of long-term visas issued by the EUMS (under <a href="#">Regulation (EU) No. 265/2010</a> and beyond, under national law)</p>	<p>Holders of a temporary right of residence who are unwilling or unable to renew their residence card but who are unable to leave Belgium can extend their residence with a short stay. Those who are exempt from the visa requirement for a short stay are entitled to a short stay of 90 days immediately following their long stay. Those who are subject to a visa can request an extension of their stay on the basis of a so-called COVID</p>	<p>The extension of stay has no legal basis in Belgian law and thus has no defined period of application. The procedure to request such extension, however, is contained in the Immigration Office's <a href="#">website</a>.</p>	<p>According to the <a href="#">online guide</a> of the Agency for Integration and Social Inclusion (<i>Agentschap Integratie en Inburgering</i>), since 22 June, Belgian municipalities have officially extended the stay of third-country nationals who require a visa on the basis of a so-called COVID document. This was done in accordance to a</p>

		<p>document. Since June 22, municipalities have been issuing COVID documents valid until November 30. If the person concerned presents an airplane ticket with a return date later than 30 November 2020, s/he may be allowed to stay until the day following his plane ticket, as long as the date is before December 31. Under no circumstances may the expiry date of the COVID document exceed the travel health insurance expiry date and/or the date of 31 December 2020. The practice of issuing a COVID document has been discontinued in January 2021 and migrants can no longer extend their stay in Belgium, being requested to leave the country as soon as possible.</p>		<p>communication that was transmitted to the municipal authorities and has not been published. According to the Agency for Integration and Social Inclusion, the issuance of a COVID document is not in accordance with the communication of 30 March 2020 from the European Commission, which provides that Member States should issue a national long-term visa or a temporary residence permit to foreign nationals who cannot return to their country of origin after an (extended) period of 90/180 days due to COVID measures.</p>
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<p> Holders of residence permits issued under <a href="#">Regulation (EC) No. 1030/2002</a> (as last amended by <a href="#">Regulation (EU) 2017/1954</a>)</p>	<p> All TCN in Belgium can request an extension of their stay for reasons of force majeure.</p>	<p> The extension of stay has no legal basis in Belgian law and thus has no defined period of application. The procedure to request such extension, however, is contained in the Immigration Office's <a href="#">website</a>.</p>	<p> The Agency for Integration and Social Inclusion (<i>Agentschap Integratie en Inburgering</i>) created a detailed <a href="#">online guide</a> explaining all COVID related visa extension measures, including the procedure to request extensions. Law offices such as <a href="#">Altea Lawyers</a> and certain municipalities such as <a href="#">Roeulx</a> also published information on visa extension on their websites.</p>
<p> Holders of local border traffic permit under <a href="#">Regulation (EC) No. 1931/2006</a></p>	<p> All TCN in Belgium can request an extension of their stay for reasons of force majeure.</p>	<p> The extension of stay has no legal basis in Belgian law and thus has no defined period of application. The procedure to request such extension, however, is contained</p>	<p> The Agency for Integration and Social Inclusion (<i>Agentschap Integratie en Inburgering</i>) created a detailed <a href="#">online guide</a> explaining all COVID related visa extension measures, including the procedure to</p>

			in the Immigration Office's <a href="#">website</a> .	request extensions. Law offices such as <a href="#">Altea Lawyers</a> and certain municipalities such as <a href="#">Roeulx</a> also published information on visa extension on their websites.
	Any other category of TCN not listed above.	TCN with an order to leave the territory who are unable to leave Belgium due to the COVID-19 pandemic can submit a motivated request to extend the period for voluntary return on their order. The procedure, however, is not COVID-19 specific; it is the same procedure that applies to anyone cannot return to his/her country of origin within the order period. No COVID-specific extension was created.	Art. 74/14 of the <a href="#">Law of 15 December 1980</a> on Access to the Territory, Residence, Establishment and Removal of Foreigners.	

Notes:

TCN = third-country nationals

EUMS = EU Member State



## Chapter 5. Information society, privacy and data protection

### 1. Legal and political initiatives that have been implemented to support access to, and use of, personal data.

In July 2020, the Data Protection Authority applied its highest fine thus far (600.000 euros), sanctioning Google Belgium for not respecting the right to be forgotten.<sup>154</sup> The fine was applied in relation to a case in which a complainant had asked Google to remove from its search engine pages related to a harassment accusation, of which he was found to be not guilty. Google refused to remove them, however, since the facts allegedly took place a long time ago and have not been proven, as well as the likelihood of the pages' display having serious repercussions for the complainant, the DPA deemed that the rights and interests of the complainant must prevail over any public interest in maintaining the pages on the engine.

Earlier in the year, the Authority had already imposed a 50,000 euros fine to a social media platform for processing data of non-users without a legal basis.<sup>155</sup> In practice, the social media platform allowed its users to upload their contact list to the platform to send their contacts invitations to join the network. As those in the contact list had not given consent to the platform to process their data, this processing was done without a legal basis.

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<sup>154</sup> Belgium, Data Protection Authority, 600,000 euros fine: the DPA sanctions Google Belgium for failure to respect the right to be forgotten ([600.000 euros d'amende : l'APD sanctionne Google Belgium pour non-respect du droit à l'oubli](#)) [Last accessed 24 August 2020].

<sup>155</sup> Belgium, Data Protection Authority - Litigation Chamber (Geschillenkamer) [Decision on the merits 25/2020 of May 14th 2020](#) [last accessed 11 September 2020]

Furthermore, the Authority also implemented a provisory measure that established that public authorities were no longer allowed to request users to login with their Microsoft accounts to access public information regarding tax declarations on the Fisconetplus portal, as no personal data should be required to obtain access to public information.<sup>156</sup>

### *Data protection and the COVID-19 pandemic*

As part of its de-confinement strategy, Belgium put in a place a contact tracing system, in which every person who has been confirmed as a COVID-19 case is contacted by phone and asked to provide the names and contact details of every person s/he has been in contact with recently; these persons are then contacted and given instructions on how to act to prevent the spread of the disease.<sup>157</sup> All the data collected through such tracing efforts are stored in a database managed by the Belgian institute for health, Sciensano.<sup>158</sup> The database was created by a Royal Decree,<sup>159</sup> valid until the end of June.<sup>160</sup> On June 29, a new

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<sup>156</sup> Belgium, Data Protection Authority, Disclosing personal data cannot be a condition to obtain fiscal information ([Divulguer des données ne peut pas être une condition pour accéder à l'information fiscale](#)) [Last accessed 11 September 2020].

<sup>157</sup> Belgium, Info Coronavirus (2020), Contact tracing ([Suivi des contacts](#)) [Last accessed 22 June 2020].

<sup>158</sup> Belgium, Info Coronavirus (2020), Database at Sciensano in the context of the fight against the spread of the COVID-19 coronavirus ([Banque de données chez Sciensano dans le cadre de la lutte contre la propagation du coronavirus COVID-19](#)) [Last accessed 22 June 2020].

<sup>159</sup> Belgium, Royal Decree No. 18 establishing a database at Sciensano in the context of the fight against the spread of the coronavirus COVID-19 ([Arrêté royal n° 18 portant création d'une banque de données auprès de Sciensano dans le cadre de la lutte contre la propagation du coronavirus COVID-19](#)). Published in the Belgian official gazette 4 May 2020 [Last accessed 29 June 2020].

<sup>160</sup> Belgium, the validity of the initial Royal Decree was extended by Royal Decree No. 25 amending Royal Decree No. 18 of 4 May 2020 on the creation of a database at Sciensano in the context of the fight against the spread of the coronavirus COVID-19 ([Arrêté royal n° 25 modifiant l'arrêté royal n° 18 du 4 mai 2020 portant création d'une banque de données auprès de Sciensano dans le cadre de la lutte contre la propagation du coronavirus COVID-19](#)). Published in the Belgian official gazette 3 June 2020 [Last accessed 29 June 2020].

Royal Decree<sup>161</sup> was enacted to give a legal basis to both manual tracing activities (as the former Decree expired in the end of June) and to a possible digital tracing app. The Decree states in its article 14 that the purpose of the contact tracing application is to prevent the spread of the COVID-19 coronavirus in the population by informing users that they have had an at-risk contact with an infected person, without the infected person being identified by the contact tracing application, and with the additional objective that the informed user will then voluntarily take the necessary precautionary measures. The Decree further prescribes that neither the contact tracing application nor the data processed by means of it may be used for purposes other than the one previously specified, in particular but not exclusively for police, commercial, criminal or state security purposes. Furthermore, it establishes that the complete source code as well as the interface of the digital contact tracing application are to be made public and that the digital contact tracing application is to be developed using DP3T (Decentralised Privacy-Preserving Proximity Tracing) protocol as a reference.

A law proposal to replace the decree is being discussed. In this regard, the Belgian Data Protection Authority provided multiple opinions<sup>162</sup> concerning the law proposals that would regulate tracing activities in the country. Changes in the original proposal took into account several of the Authority's recommendations. For example, in one of its most recent opinion, the Authority noted that the updated draft was much more detailed than the previous ones, seeking to clarify, with a great degree of precision, the purposes of the proposed law, the data that will be collected and used, as well as the data flows that will be put in place.

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<sup>161</sup> Belgium, Royal Decree No 44 on the joint processing of data by Sciensano and the contact centres designated by the competent regional authorities or by the competent agencies, by health inspectorates and by mobile teams in the framework of a follow-up of contacts of (presumed) persons infected with the coronavirus COVID-19 on the basis of a database at Sciensano (*Arrêté royal n° 44 concernant le traitement conjoint de données par Sciensano et les centres de contact désignés par les autorités régionales compétentes ou par les agences compétentes, par les inspections sanitaires et par les équipes mobiles dans le cadre d'un suivi des contacts des personnes (présümées) infectées par le coronavirus COVID-19 auprès sur la base d'une base de données auprès de Sciensano*). Published in the Belgian Official Gazette 29 June 2020 [Last accessed 1 July 2020].

<sup>162</sup> Belgium, Data Protection Authority, Opinion no 34/3030 of 28 April 2020 ([Avis n° 34/2020 du 28 avril 2020](#)); Opinion no 36/2020 of 29 April 2020 ([Avis n° 36/2020 du 29 avril 2020](#)); Opinion no 42/2020 of 25 May 2020 ([Avis n° 42/2020 du 25 mai 2020](#)); Opinion no 43/2020 of 26 May 2020 ([Avis n° 43/2020 du 26 mai 2020](#)); Opinion no 44/2020 of 5 June 2020 ([Avis n° 44/2020 du 5 juin 2020](#)); and Opinion no 46/2020 of 5 June 2020 ([Avis n° 46/2020 du 5 juin 2020](#)); Opinion no 50/2020 of 5 June 2020 ([Avis n° 50/2020 du 5 juin 2020](#)); Opinion no 64/2020 of 20 July 2020 ([Avis n° 64/2020 du 20 juillet 2020](#)) [Last accessed 2 October 2020].

The Authority, however, still had concerns with the draft. For example, the possibility of physical visits in the tracing context needed to be better defined and the data to be inserted in the different databases needed to be further specified.

In September, the Authority issued another opinion concerning the draft royal decree and agreement between communities to launch a digital tracing app.<sup>163</sup> The Authority's recommendations included clarifying the possibility of re-identification due to the possible communication between the digital and manual tracing databases, specifying that no location data would be collected and recommending the publication of the entire source code of the digital tracing application. On 17 September, a new Royal Decree<sup>164</sup> was enacted to enable the deployment of a tracing app, CoronAlert,<sup>165</sup> which was released on September 30. The enacted Decree took into account recommendations of the Authority, specifying, for example, that no location data would be collected and that the source code would be made public.

Outside the context of tracing, the Belgian Data Protection Authority issued some guidelines<sup>166</sup> on temperature control to enter buildings, in which the Authority highlighted that, when they involve personal data, such controls must respect the GDPR and those responsible for the processing of such data must have a legal basis to do so, keep all data safe and, when appropriate,

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<sup>163</sup> Belgium, Data Protection Authority, Opinion no 79/2020 of 7 September 2020 ([Avis n° 79/2020 du 7 septembre 2020](#)) [Last accessed 2 October 2020].

<sup>164</sup> Belgium, Royal Decree implementing Royal Decree No.44 of June 26, 2020 concerning the joint processing of data by Sciensano and the contact centers designated by the competent regional authorities or by the competent agencies, by health inspections and by mobile teams as part of a follow-up of contacts with people (presumed) infected with the COVID-19 coronavirus on the basis of a database within Sciensano ([Arrêté royal portant exécution de l'arrêté royal n° 44 du 26 juin 2020 concernant le traitement conjoint de données par Sciensano et les centres de contact désignés par les autorités régionales compétentes ou par les agences compétentes, par les inspections sanitaires et par les équipes mobiles dans le cadre d'un suivi des contacts auprès des personnes \(présumées\) infectées par le coronavirus COVID-19 sur la base d'une base de données auprès de Sciensano](#)). Published in the Belgian official gazette 17 September 2020 [Last accessed 1 October 2020].

<sup>165</sup> Belgium, see application website: <https://coronalert.be/en/> [Last accessed 2 October 2020].

<sup>166</sup> Belgium, Data Protection Authority, Temperature measurement as part of the fight against COVID-19 ([Prise de température dans le cadre de la lutte contre le COVID-19](#)) [Last accessed 29 June 2020].

conduct a data protection impact assessment before proceeding with the processing. In this context, the Authority expressed concern over the temperature control that was taking place at Brussels Airport,<sup>167</sup> as the Authority believed such control was being done without an appropriate legal basis.

To help combat disinformation regarding COVID-19, the Belgium government has set up an official website (info-coronavirus)<sup>168</sup> to provide information on the virus, how it spreads and hygiene measures to avoid contamination; to clarify confinement and de-confinement measures; as well as to publish updates on the situation in Belgium. The national crisis centre also reports on its website official news and information about the virus in Belgium.<sup>169</sup> Lastly, the Belgian institute for health, Sciensano, publishes daily updates on the number of new cases, hospitalisations and deaths in the country.<sup>170</sup> Some media sources such as RTBF Info published tips to readers on how to identify and avoid the spread of disinformation.<sup>171</sup>

### *Safety and disinformation online*

The Federal Police monitors and reports on online threats. In September, it announced that cyber criminality had increased by 30% in 2019.<sup>172</sup> To avoid harm, the police reported on scams and threats multiple times, for example, warning against fake

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<sup>167</sup> Belgium, Data Protection Authority, Temperature controls: DPA contacts Brussels Airport ([Contrôles de température : l'APD prend contact avec Brussels Airport](#)) [Last accessed 29 June 2020].

<sup>168</sup> Belgium, [Coronavirus COVID-19](#) [Last accessed 13 November 2020]

<sup>169</sup> Belgium, Crisis Centre, News ([Actualités](#)) [Last accessed 13 November 2020]

<sup>170</sup> Belgium, Sciensano, [Belgium COVID-19 Epidemiological Situation](#) [Last accessed 13 November 2020]

<sup>171</sup> Belgium, RTBF Info, Coronavirus: how to avoid Fake News on Covid-19? ([Coronavirus : comment éviter les Fake News sur le Covid-19 ?](#)) [Last accessed 13 November 2020]

<sup>172</sup> Belgium, Federal Police, Safe surfing: cybercrime on the rise ([Surfons Tranquille: La cybercriminalité en forte hausse](#)) [last accessed 13 November 2020]

emails allegedly sent on behalf of the police charging inexistent fines,<sup>173</sup> common computer viruses,<sup>174</sup> common scams<sup>175</sup> and risky apps.<sup>176</sup>

In an effort to combat revenge porn, the penalties applicable to such crime were increased in July.<sup>177</sup>

## 2. Artificial intelligence and big data

Please fill in the table below with any initiatives you may identify in your country:

MS	Actor*	Type* *	Description	Are Ethical concerns mentioned? (yes/no)	Are Human Rights issues mentioned? (yes/no)	Reference

<sup>173</sup> Belgium, Federal Police, Alert! False fine on behalf of the Federal Police ([Alerte! Fausse amende au nom de la Police Fédérale](#)) [last accessed 13 November 2020]

<sup>174</sup> Belgium, Federal Police, Safe Surfing: Trojan Horse - beware of chain mail! ([Surfons Tranquille: Cheval de Troie - méfiez-vous des chaînes de mails !](#)); and Federal Police, Safe Surfing: Distrust: wages hijacked by hackers ([Surfons Tranquilles: Méfiance : des salaires détournés par des pirates informatiques](#)) [last accessed 13 November 2020]

<sup>175</sup> Belgium, Federal Police, Safe Surfing: Investment offers that are too good to be true ... ([Surfons Tranquille: Des offres de placements trop belles pour être vraies...](#)); Federal Police, Safe Surfing: Scammers don't know the crisis! ([Surfons Tranquille : Les arnaqueurs ne connaissent pas la crise !](#)) [last accessed 13 November 2020]

<sup>176</sup> Belgium, Federal Police, Safe Surfing: Apps that trap you ([Surfons Tranquille: Des applications qui vous piègent](#)) [last accessed 13 November 2020]

<sup>177</sup> Belgium, Federal Police, Safe Surfing: Harsher penalties for "Revenge porn" ([Surfons Tranquille: Le «Revenge porn» plus durement sanctionné](#)) [13 November 2020]

<b>Belgium</b>	Business	Other project	The Belgium-based start-up Oncoradiomics will lead the Dragon project, which intends to use artificial intelligence to develop a system that allows more rapid diagnosis and prognosis in the context of the COVID-19 pandemic. The project involves 21 partners and is funded by the Innovative Medicines Initiative (IMI).	No	No	Innovative Medicines Initiative (IMI), ' <a href="#">IMI announces COVID projects, boosts funding pot to EUR 72 million</a> ' [last accessed 25 August 2020]
<b>Belgium</b>	Other (State company)	Other projects	Belgium's State company in charge or managing the country's railways, Infrabel, developed a series of artificial intelligence tools to ensure sanitary measures are respected in its facilities.	No	No	Infrabel, 'Artificial intelligence against coronavirus' ( <a href="#">L'intelligence artificielle contre le coronavirus</a> ) [last accessed 25 August 2020]
<b>Belgium</b>	Business, academia	Other projects	Telenet, together with KU Leuven, VUB, ULB and the BeCode programming school, created an 'Academy for Digital & Data Talent' to strengthen the digital knowledge and technical skills of Telenet's employees through initial and	Yes	No	VUB, ' <a href="#">Lifelong Learning Partnership between Telenet, KU Leuven, VUB, ULB, and BeCode</a> ' [last accessed 25 August 2020]

			further training as well as retraining. The collaboration focuses on “natural language and speech recognition, transparent and ethical artificial intelligence, predictive network maintenance and operationalization of machine learning models, IoT and cybersecurity.”			
<b>Belgium</b>	Independent State Institution	Study	The DigitalWallonia4.ai initiative selected CRIDS/NADI of the Namur University to conduct a study on the impact of AI, in connection with the ethical and societal dimensions of AI. The final report is expected by the end of 2020.	Yes	No	Digital Wallonia, ‘DigitalWallonia4.ai: results and actions’ ( <a href="#">DigitalWallonia4.ai : bilan et actions</a> ) [last accessed 25 August 2020]
<b>Belgium</b>	Government, Academia, Business	Other projects	Since September 2020, the course ‘elements of AI’ is available in Belgium. The course teaches the basics of AI to anyone in the country for free.	No	No	<a href="#">Elements of AI</a> [last accessed 18 November 2020]



<b>Belgium</b>	Government, Academia	Study	DIGI4FED aims to understand how big data can be used in the Belgian federal administration system to enable better public service provision through new technologies such as artificial intelligence and block chain. By focusing on the technical, moral, legal and organisational conditions within the internal and external federal decision-making processes, DIGI4FED aims to develop a governance design that serves the administrative and public service processes of the Belgian federal government and makes full use of the potential offered by big data and its application via artificial intelligence and block chain technology.	Yes [although the word moral is the one used]	No	CRIDS/NADI, Namur University, <a href="#">NEW PROJECT - DIGI4FED - Digital Revolution in Belgian Federal Government: An Open Governance Ecosystem for Big Data, Artificial Intelligence, and Block chain (2020-2022) – Study for the Belgian Science Policy Office BELSPO</a> ; KU Leuven, <a href="#">DIGI4FED – About</a> [last accessed 6 January 2021]
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\*For the actors, please pick from the following suggestions:

Government/ Parliamentary

DPA

NGO/Other Non Profit

Academia

Domestic Courts

Business

Independent State Institution

Other

\*\* for the type, please pick from the following suggestions:

National Draft Acts / Adopted Acts

report/study

other projects

## Chapter 6. Rights of the child

### 1. Measures taken during the COVID 19 to ensure the well-being of children living in poverty and the protection of children from violence.

In May 2020, the **Flemish Office of the Children's Rights Commissioner** together with the **Children's Rights Knowledge Centre (KeKi)** and the **Flemish Children's Rights Coalition** shared the results of a large survey conducted amongst children in Flanders to get a better insight into the experiences and needs of children during the new coronavirus crisis. From the results of the survey, the Commissioner and partners requested more attention for children growing up in vulnerable circumstances and the issue of the protection of children against (intrafamilial) violence.

The Commissioner's report notes that while the right to social contacts and play are crucial, the measures taken to prevent the spread of the new coronavirus have drastically restricted those rights. The results of the survey show that while some children were confined indoors a lot, it was socially vulnerable children who went outside to relax least of all. The report concluded that the sanitary measures did not sufficiently take children into consideration, in particular vulnerable children, who did not have their own space to relax. They were often literally locked up. In particular, corona measures weighed heavily on children staying in a group home, in particular when they were not allowed to receive visits. Children who, after a stay at home, returned to the group home had to quarantine for seven days before they could participate with their group. The report recommends that specific attention should be given to such children living in group homes to ensure that they have access to sufficient play and leisure activities. Moreover, in general, the report recommends to designate more public spaces to enable play and meeting at a distance, rather than only making existing playgrounds accessible again. It further recommends to engage in active outreach, by organising activities for children in their neighbourhoods, to ensure that all children, and in particular those most vulnerable, are able to get out of the house. Particular attention is also requested for children with special educational needs and those who are in a difficult home situation, to ensure that they do not fall behind even more. Specifically for children in a difficult home situation, material support and intensive, tailor-made counselling may be required. Where children do not have adequate space to follow classes or make homework, the report recommends that spaces will be offered that such children can make use of.

The results of the survey further confirmed the reports of increased intrafamilial violence during the lockdown. The Commissioner's report advised to combine any lockdown with the protection of children against violence. It called for sensitisation and raising awareness on issues of abuse and violence and ensuring information on emergency hotlines was widely available. For families with difficulties, child protective services should remain available and accessible, particularly in periods of lockdown. Opening schools and offering playgrounds where children can escape a difficult home situation will assist in offering support to these children. It is emphasised that active communication should be maintained with these vulnerable

families through the various communication and social media applications. In addition, it is recommended that particular attention should be given to these children in organisations such as Centres for General Welfare (CAWs), Public Centres for Social Welfare (CPAS/OCMWs) as well as with GPs, teachers, youth welfare workers and after-school care. The report advocates for a coherent approach of cases of violence where the police, justice department and social services act in a coordinated manner. To support this, the report suggests a reboot of the Flemish Forum for Child Abuse and refining the Child Abuse Protocol.<sup>178</sup>

On 21 September 2020, the Flemish Children's Rights Commissioner presented the outcome of the survey and report during a hearing for the evaluation and further implementation of the Flemish corona-policy in the areas of welfare, public health and family in the Flemish Parliament.<sup>179</sup>

In June 2020, the **General Delegate for the Rights of the Child** (*Délégué général aux droits de l'enfant*) issued recommendations for measures to be taken/to be continued to ensure that the impact of COVID-19 on children who live in poverty is minimised.

The recommendations reflected upon, *inter alia*, the need for a social understanding of the crisis that emphasises the social impact, and that any measures taken to tackle the virus are not discriminatory, and monitoring such an approach via the use of "social emergency" task forces.

The recommendations called for continued measures that guarantee access to utilities such as water and emergency and that suspension on evictions and debt collection continue to be enforced. And to monitor the amount of Social Integration Income (*Revenue Intégration Sociale*) to ensure that it reflects changes in the cost of living e.g. surges in food prices etc.<sup>180</sup>

In July 2020, the **Working Group Social Impact COVID-19** issued a note on the issue of families with children as vulnerable groups during the COVID-19 crisis. While the COVID-19 crisis has put significant pressure on families

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<sup>178</sup> Belgium, Flemish Office of the Children's Rights Commissioner, Children's Rights Knowledge Centre (KeKi) and the Flemish Children's Rights Coalition (*Kinderrechtencommissariaat, het Kenniscentrum Kinderrechten en de Kinderrechtencoalitie Vlaanderen*) Results of the Online Survey #youngpeopleaboutcorona ([Resultaten online-enquête #jongerenovercorona](#)) 27 May 2020 [last accessed 6 October 2020].

<sup>179</sup> Belgium, Coronavirus Pandemic in the EU – Fundamental Rights Implications, 3 November 2020.

<sup>180</sup> Belgium, General Delegate for the Rights of the Child (*Délégué général aux droits de l'enfant*) Children's rights in the face of the COVID epidemic-19 Issues of containment and deconfinement: Recommendations of the General Delegate for the Rights of the Child and the Observatory for Children, Youth and Aid to Young People ([Droits de l'enfant face à l'épidémie du COVID-19 Enjeux du confinement et du deconfinement: Recommandations du Délégué général aux droits de l'enfant et de l'Observatoire de l'Enfance, de la Jeunesse et de l'Aide à la jeunesse](#)) 1 June 2020, pp. 56-58 [last accessed 6 October 2020].

with children in terms of child care arrangements during the closure of schools and the expectation that parents support the education of their children, even more pressure has been put on single-parent households, large families and particularly families who, even before the COVID-19 crisis, already were at higher risk for poverty or social exclusion.

The COVID-19 crisis and in particular the sharp increase in unemployment has put these families under additional financial strain. Households in poverty were particularly vulnerable for loss of income and have less capacity to take on additional expenses resulting from the COVID-19 crisis.

The extended closure of schools exacerbated the existing inequalities and can be damaging for children living in poverty. Children from families that live in poverty often live in circumstances that make home-schooling difficult. Online learning usually requires computers, reliable internet connection and a suitable space to do homework and follow online classes.

From the beginning of the COVID-19 crisis, there were also signs that it was difficult for parents to combine working (whether or not from home) with the care for children with special needs or disability. It was particularly difficult for single-parent households.

The Note found that children in families that were at higher risk for poverty or social exclusion were more vulnerable to the COVID-19 crisis. In considering whether the risk of poverty or social exclusion increased during the COVID-19 crisis, the Note concludes that this was the case as due to the crisis, more families with children were confronted with (temporary) unemployment, had to rely on temporary COVID-19 financial relief measures, social welfare and other material and financial aid.

It was further reported that children, youth and families living in poverty often already possess a more limited social network and take less part in organised activities (day-care, leisure, culture, sports, youth work). With group activities for families with children ceasing, strengthened the social isolation of families. The Note mentioned the expectation that locally organised leisure activities needed to be increased, especially during the summer months, to meet the demand. Moreover, the organisation of such activities would be impacted by accommodating the necessary COVID-19 safety measures. Particular attention for access to these activities for vulnerable children is considered crucial and the Note emphasises that local governments might need to take on a coordinating role, also in relation to registration. That, together with clear and comprehensible communication on the activities on offer, can contribute to the highest possible accessibility

thereof for children, including those growing up in poverty or with special needs or disability.<sup>181</sup>

In October 2020, the **Flemish Office of the Children's Rights Commissioner** issued advice in connection to the impending discussion in the Flemish Parliament of the Flemish Actionplan to Combat Poverty<sup>182</sup>, wherein the Commissioner stressed that close consideration should be given to lessons learnt during the corona crisis and the inequalities that were exposed during this period and especially during the period of lockdown.<sup>183</sup> For instance, with the closure of schools during the first lockdown, the pre-existing digital gap was highlighted further and the Commissioner welcomed the proposed steps in the action plan to address this. Moreover, noting the re-opening of schools entailed mandatory masks in secondary education, the Commissioner raised the consideration of offering free masks, at least to families living in poverty. The Commissioner noted that taking such considerations into account when developing future corona measures could help in avoiding further disenfranchisement.

<b>Measures to address the specific vulnerabilities of children</b>	Taking into account the concerns raised by the Working Group Social Impact COVID-19 on children as a vulnerable group, <sup>184</sup> the following measures have been reported that will minimise the impact of COVID-19 on this vulnerable group, and in particular those who are living in poverty.
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<sup>181</sup> Belgium, Service Public Federal, Social Integration, Fight against Poverty, Social Economy and Urban Policy Taskforce for Vulnerable Groups (*SPP Intégration Sociale, Lutte contre la Pauvreté, Economie Sociale et Politique des Grandes Villes Taskforce Groupes Vulnérables*), Working Group Social Impact COVID-19, 'Families with children as a vulnerable group' ([Gezinnen met kinderen als kwetsbare groep](#)) 7 July 2020 [last accessed 6 October 2020].

<sup>182</sup> Belgium, Flemish Government (Commission for Welfare, Public Health, Family and Combating Poverty), Meeting 15 October 2020 – Spotlight on: Flemish Action Plan to Combat Poverty ([Vergadering 15 oktober 2020 – In de kijker: Vlaams Actieplan Armoedebestrijding](#)), 15 October 2020 [last accessed 23 November 2020].

<sup>183</sup> Belgium, Flemish Office of the Children's Rights Commissioner, Advice – Flemish Action Plan to Combat Poverty ([Advies – Vlaams Actieplan Armoedebestrijding 2020-2024](#)), 14 October 2020 [last accessed 23 November 2020].

<sup>184</sup> Belgium, Service Public Federal, Social Integration, Fight against Poverty, Social Economy and Urban Policy Taskforce for Vulnerable Groups (*SPP Intégration Sociale, Lutte contre la Pauvreté, Economie Sociale et Politique des Grandes Villes Taskforce Groupes Vulnérables*), Table for monitoring TF measures Vulnerable groups ([Tableau de suivi des mesures de la TF Groupes vulnérables](#)), 1 July 2020 [last accessed 6 October 2020].

<p><b>living in poverty</b></p>	<p>In May 2020, €15 million were made available to the Public Centres for Social Welfare (CPAS/OCMWs) to support vulnerable families and enable them to access, among other things, health care, summer courses, educational material.<sup>185</sup></p> <p>In April 2020, access to corona parental leave was extended to 30 September with an allowance that is increased to 150% for single-parent families.<sup>186</sup></p> <p>The Federal Public Service Finance - SECAL service - was invited to examine urgent requests from single parents who wish to benefit quickly and efficiently from their maintenance rights since many families, mainly families with children, plunge into poverty and this threat increases if the alimony is not honoured. The health crisis has hit single-parent families hardest. A draft law on the abolition of the income ceiling (of €2200) for access to the SECAL service was adopted during the Finance Committee meeting of 17 June 2020.<sup>187</sup></p> <p>In Flanders, €45 million has been made available to finance three measures to combat poverty: family allowances, local social policy and a consumer budget. In addition, the Flemish government has provided free childcare during the Easter holidays for children aged 3 to 12. These facilities cater for children of care providers or those who would otherwise have to be cared for by grandparents. It does not matter whether this care is organised by a school, a local authority or an out-of-school initiative: all childcare initiatives must be free of charge. The government has made available €8 million to support such after-school care initiatives, as the income of the latter will decrease substantially during the Easter holidays, as many parents</p>
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<sup>185</sup> Belgium, Royal Decree of 13 May 2020 creating a "COVID-19" subsidy for the target groups of public social action centres ([Arrêté royal du 13 mai 2020 portant création d'un subside « COVID-19 » à destination des publics cibles des centres publics d'action sociale](#)). Published in the Belgian Official Gazette 20 May 2020 [last accessed 6 October 2020].

<sup>186</sup> Belgium, National employment office (*Office National d'Emploi*) 'Corona Leave' ([Congé Corona](#)) (last updated 16 July 2020) [last accessed 6 October 2020].

<sup>187</sup> Belgium, RTBF, Advances on maintenance claims: the income ceiling of 2200 euros net is abolished ([Avances sur les créances alimentaires : le plafond de revenus de 2200 euros net est supprimé](#)) 18 June 2020 [last accessed 6 October 2020].

	<p>will keep their children at home, who would normally have to attend these facilities. The Flemish government provided €633,000 in subsidies to residential youth care facilities for the purchase of or investment in computer equipment so that the children and young people living there can follow their courses at a distance. Investment of €76,900 in computer equipment and for the support of socially vulnerable children and young people in order to bridge the digital divide in Brussels.<sup>188</sup></p> <p>The government decided to grant an additional €2,285,000 euros, over and above the existing budgets, to higher education institutions so that they can help their students. The aim is to help students facing budgetary problems due to rent, fees, internet connection, food, etc.<sup>189</sup></p> <p>To support such distance learning, the Flemish Minister of Education has made available 10 million euros for the purchase of 15,000 new laptops for vulnerable students.<sup>190</sup> This is in addition to the 12,000 second-hand laptops that were made available earlier this year.</p> <p>The Flemish government announced it would make available a total of 12 million euros for the allocation of a one-time COVID-19 allowance per child to vulnerable families with children who are struggling financially.<sup>191</sup></p>
<p><b>Measures to protect</b></p>	<p><i>e.g. set up of new helplines or strengthening of existing ones through training or increased number of staff;</i></p>

<sup>188</sup> Belgium, Service Public Federal, Social Integration, Fight against Poverty, Social Economy and Urban Policy Taskforce for Vulnerable Groups (*SPP Intégration Sociale, Lutte contre la Pauvreté, Economie Sociale et Politique des Grandes Villes Taskforce Groupes Vulnérables*), Table for monitoring TF measures Vulnerable groups ([Tableau de suivi des mesures de la TF Groupes vulnérables](#)), 1 July 2020 [last accessed 6 October 2020].

<sup>189</sup> Belgium, Service Public Federal, Social Integration, Fight against Poverty, Social Economy and Urban Policy Taskforce for Vulnerable Groups (*SPP Intégration Sociale, Lutte contre la Pauvreté, Economie Sociale et Politique des Grandes Villes Taskforce Groupes Vulnérables*), Table for monitoring TF measures Vulnerable groups ([Tableau de suivi des mesures de la TF Groupes vulnérables](#)), 1 July 2020 [last accessed 6 October 2020].

<sup>190</sup> Belgium, Ben Weyts, Ben Weyts buys 15,000 new laptops for vulnerable students ([Ben Weyts koopt 15.000 nieuwe laptops voor kwetsbare leerlingen](#)), 3 November 2020 [last accessed on 6 November 2020].

<sup>191</sup> Belgium, Wouter Beke, Corona: Flanders provides allowance to vulnerable families with children as part of the 'Groeipakket' ([Corona: Vlaanderen voorziet toelage voor kwetsbare gezinnen met kinderen via het Groeipakket](#)), 17 November 2020 [last accessed 27 November 2020].



<p><b>children from violence</b></p>	<p><i>campaigning on issues related to violence and COVID 19; revision of standard operating procedures for health and social workers to ensure identification and referral of victims of violence during COVID 19; social services identify alternative methods if home visits become impossible; internet safety support to families.</i></p> <p>The existing telephone helplines in Belgium<sup>192</sup> reported an increase in the number of calls across the country.</p> <p>The number of calls to the “Listen to Domestic Violence” helpline 0800/30.030 doubled. In order to cope with the increase in demand, the capacity of the helpline was reinforced. The helpline is accessible from Monday to Friday, at least 6 hours a day between 9am and 7pm. <sup>193</sup></p> <p>In Flanders, the helpline “1712” reported a 70% increase in calls between the first and fourth week of lockdown. <sup>194</sup> In response, the Flemish Minister of Welfare Wouter Beke (CD&amp;V), decided to grant an additional subsidy to the helpline “1712”. <sup>195</sup> The Helpline 1712 also launched a communication campaign “Nothing justifies domestic violence” that sought to raise public awareness of domestic violence during the lockdown. The campaign was launched on 13 April 2020 as part of an of the Task Force “Domestic and Intra-family Violence”, set up by the Wallonia-Brussels Federation, Wallonia, the Brussels-Capital Region and the COCOF. This campaign was</p>
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<sup>192</sup> Belgium, For comprehensive list of all helplines available in Belgium see UNICEF website, <https://www.unicef.be/fr/COVID-19-violence-contre-les-enfants-et-les-adolescent-e-s/> [last accessed 2 October 2020]; A number of other phone lines were set up to tackle any social issues that arose: see website of General Delegate for the Rights of the Child (*Délégué général aux droits de l'enfant*) for list of available helpline etc, [http://www.dgde.cfwb.be/index.php?id=dgde\\_actualite&no\\_cache=1](http://www.dgde.cfwb.be/index.php?id=dgde_actualite&no_cache=1). [last accessed 2 October 2020].

<sup>193</sup> Belgium, Wallonie, COVID-19 Campaign, “Nothing justifies domestic violence” ([COVID-19 Campagne « Rien ne justifie la violence conjugale »](#)) 14 April 2020 [last accessed 6 October 2020].

<sup>194</sup> Belgium, RTBF Info, Coronavirus in Belgium: helplines for victims of domestic violence are saturated ([Coronavirus en Belgique: les lignes d'écoute pour les victimes de violences conjugales sont saturées](#)) 6 April 2020 [last accessed 6 October 2020].

<sup>195</sup> Belgium, Wouter Beke, Additional resources for WATWAT, Awel, Telephone, 1712 and the Suicide Line ([Extra middelen voor WATWAT, Awel, Tele-Onthaal, 1712 en de Zelfmoordlijn](#)) [last accessed 2 October 2020].

	<p>broadcasted on television, radio and social networks until 31 May 2020.<sup>196</sup></p> <p>In order to raise awareness amongst children and young people, a campaign was launched via RTBF radio and television channels and on social media to encourage them to reach out if they need assistance. 'Talk about it! Call line 103, they are there to listen to you. It's completely free and anonymous.'<sup>197</sup></p> <p>In August 2020, Article 78 of the Judicial Code was modified to introduce mandatory training for all judges on sexual and domestic violence.<sup>198</sup> Whilst the modification was envisaged in order to comply with obligations under the Istanbul Convention, its implementation was expedited in light of the consequences on COVID-19 on the incidence of reported cases of domestic violence.<sup>199</sup></p>
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## 2. Legal and policy measures or initiatives developed about criminal proceedings

<p><b>Legislative changes</b></p>	<p>No further measures have been adopted regarding the transposition of Directive 2016/800. However, the following legislative changes are of relevance for the implementation of the Directive:</p>
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<sup>196</sup> Belgium, CAW, "Afraid to stay in your home" new 1712 - campaign on domestic violence ("Bang om in uw kot te blijven?" nieuwe 1712 – campagne over huiselijk geweld) no date [last accessed 2 October 2020].

<sup>197</sup> Belgium, Brussels-Wallonia Federation Youth Support (*Fédération Wallonie-Bruxelles, Aide a la jeunesse*), Confined children and young people: help lines reach out to them ([Enfants et jeunes confinés : les lignes d'écoute leur tendent la main](#)) 18 May 2020 [last accessed 2 October 2020].

<sup>198</sup> Belgium, Law of 31 July 2020 laying down miscellaneous urgent provisions in the field of justice ([Loi du 31 Juillet 2020 portant dispositions urgentes diverses en matière de justice](#)) Published in the Belgian Official Gazette 7 August 2020 [last accessed 2 October 2020].

<sup>199</sup> Belgium, RTBF Info, Sexual and domestic violence: mandatory training for judges ([Violences sexuelles et intrafamiliales: des formations obligatoires pour les juges](#)) 21 August 2020 [last accessed 2 October 2020].

	<p>In the Wallonia-Brussels region, <b>Ministerial decree of 1 September 2020 appointing the members of the advisory committee for the care in community centres of young people who have been divested</b> (<i>Arrêté ministériel du 1 Septembre 2020 portant désignation des membres du comité d'avis pour la prise en charge en centre communautaire des jeunes ayant fait l'objet d'un dessaisissement</i>) appointed, for a period of six year, the members of the Advisory Committee for the care in community centres of young people who have been the object of a divestiture.<sup>200</sup></p> <p>The Flemish government amended <b>Article 21 of the Decree of 15 February 2019 on juvenile delinquency</b> (<i>Decreet betreffende het jeugddelinquentierecht</i>)<sup>201</sup> by extending the duration of the preparatory procedure from six months to nine months.<sup>202</sup></p> <p>In Flanders, the <b>Decree of 19 June 2020 containing measures in the event of a civil emergency in the field of public health within the framework of the decree of 15 February 2019 on juvenile delinquency law and amending the decree of 15 February 2019 on juvenile delinquency law</b> (<i>Decreet van 19 juni 2020 over maatregelen in geval van een civiele noodsituatie met betrekking tot de volksgezondheid in het kader van het decreet van 15 februari 2019 betreffende het jeugddelinquentierecht en tot wijziging van het decreet van 15 februari 2019 betreffende</i>) permitted an extension</p>
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<sup>200</sup> Belgium, Ministerial decree of 1 September 2020 appointing the members of the advisory committee for the provision of care in centres of young people who have been divested from the community ([Arrêté ministériel du 1 septembre 2020 portant désignation des membres du comité d'avis pour la prise en charge en centre communautaire des jeunes ayant fait l'objet d'un dessaisissement](#)) Published in the Belgian Official Gazette 9 September 2020 [last accessed 2 October 2020].

<sup>201</sup> Belgium, [Decree of 15 February 2019 on juvenile delinquency \(Decreet betreffende het jeugddelinquentierecht\)](#). Published in the Belgian Official Gazette on 26 April 2019 [last accessed 2 October 2020].

<sup>202</sup> Belgium, Decree of 17 July 2020 amending the decree of 15 February 2019 on juvenile delinquency law, with regard to the preparatory procedure ([Décret du 17 juillet 2020 modifiant le décret du 15 février 2019 sur le droit en matière de délinquance juvénile, en ce qui concerne la procédure préparatoire](#)) Published in the Belgian Official Gazette on 7 August 2020

	of 4 months on all procedural aspects as a result of a public health emergency (Arts. 21(1) 1; 22; 231(4)(5); 24(1)(3); and 25(2)).
<b>Policy developments</b>	<p><i>e.g. guidance or training for law enforcement officers on the treatment of child suspects; amendment of police academy curriculum; training of judges; developing indicators to monitor the situation of child suspects and improve data collection</i></p> <p>In February 2020, the shortage in number of closed places for juvenile offenders was criticised by magistrates, which led to calls that juvenile delinquency is being tackled too softly.<sup>203</sup> Subsequently, Minister for Welfare Wouter Beke announced an investment of €20 million for 132 new closed places intended for children in problematic situations.<sup>204</sup> The proposal was discussed in Flemish Parliament where Mr. Beke indicated that they aimed to realise the additional closed spaces partially by 2021 and the remainder by 2022.<sup>205</sup></p>
<b>Other measures or initiatives</b>	<i>E.g. relevant activities to promote alternatives to detention; community involvement or general initiatives related to the dissemination and information in relation to the entering into force of the Directive.</i>

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<sup>203</sup> Belgium, Het Laatste Nieuws, Prosecutor Ine van Wymersch "Our most severe punishment is an empty box. Prosecutor denounces lack of space in closed juvenile institutions" (*Procureur des Konings Ine van Wymersch «Onze strengste straf is een lege doos. Procureur hekelt plaatsgebrek in gesloten jeugdinstituten»*) 14 February 2020; Het Laatste Nieuws, Youth Judge Luc Versteyle "Youth institution just has to make room" (*Jeugdrechter Luc Versteyle «Jeugdinstelling moet maar plaats maken»*) 15 February 2020 cited in De Smet, B., « Toevertrouwen van minderjarigen aan een instelling op basis van het Vlaamse Jeugddelinquentierecht », *R.W.*, 2019-2020/28, p. 1083-1099, para 53.

<sup>204</sup> Belgium, Wouter Beke, EUR 20 million for 132 new secure shelters for young people in difficult living situations (*«20 miljoen euro voor 132 nieuwe beveiligde opvangplaatsen voor jongeren in problematische levenssituaties»*) Press Release 14 February 2020 cited in De Smet, B., « Toevertrouwen van minderjarigen aan een instelling op basis van het Vlaamse Jeugddelinquentierecht », *R.W.*, 2019-2020/28, p. 1083-1099, para 53.

<sup>205</sup> Belgium, Flemish Parliament, Commission Meeting ([Commissievergadering](#)), 11 February 2020 [last accessed on 27 November 2020].

# Chapter 7. Access to justice including crime victims

## 1. Victims' Rights Directive

In 2020, several legislative developments have been identified and will be presented successively.

### ***a) Adaptations of criminal procedural laws to the COVID-19 pandemic***

As in other countries in Europe, the Belgian federal legislator adopted a series of measures adapting criminal procedural law to the health situation. These first measures were enacted in spring 2020 at the occasion of the first lockdown and can be found in the Royal Decree No. 3 of 9 April 2020, laying down various provisions relating to criminal procedure and the enforcement of penalties and measures to combat the spread of the coronavirus COVID-19.<sup>206</sup>

This text was adopted on the basis of the Laws of 27 March 2020 empowering the King to take measures to combat the spread of the coronavirus COVID-19 (I)<sup>207</sup> and (II).<sup>208</sup> Two other Royal decrees extended

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<sup>206</sup> Belgium, Royal Decree No. 3 of 9 April 2020 laying down various provisions relating to criminal procedure and the enforcement of penalties and measures to combat the spread of the coronavirus COVID-19 ([Arrêté royal n° 3 portant des dispositions diverses relatives à la procédure pénale et à l'exécution des peines et des mesures prévues dans le cadre de la lutte contre la propagation du coronavirus COVID-19](#)), Published in the Belgian Official Gazette on 9 April 2020 [Last accessed on 22 September 2020].

<sup>207</sup> Belgium, Law of 27 March 2020 empowering the King to take measures to combat the spread of the coronavirus COVID-19 (I) ([Loi habilitant le Roi à prendre des mesures de lutte contre la propagation du coronavirus COVID-19 \(I\)](#)), Published in the Belgian Official Gazette on 30 March 2020 [Last accessed on 22 September 2020].

<sup>208</sup> Belgium, Law of 27 March 2020 empowering the King to take measures to combat the spread of the coronavirus COVID-19 (II) ([Loi habilitant le Roi à prendre des mesures de lutte contre la propagation du coronavirus COVID-19 \(II\)](#)), Published in the Belgian Official Gazette on 30 March 2020, art. 2 and 5 [Last accessed on 22 September 2020].

the temporal scope of the first one,<sup>209</sup> and in result the special measures adopted were applicable from 18 March 2020 to 17 June 2020.

For the limited period of time it applied, Royal Decree No. 3 made some adjustments which had consequences for the access to justice of victims of crime. For each adjustment, the law applicable will be briefly recalled. The adjustments identified are the following:

- Pursuant to Article 3 of the Royal Decree, the limitation period for initiating public action and for the execution of sentences was suspended for the period of implementation of the text plus one month.
- Under the Law of 17 May 2006, a victim who does not act as a civil party<sup>210</sup> has the possibility to be informed or heard when a decision is taken regarding the execution of an imprisonment sentence. Indeed, when the judge tasked with the enforcement of the sentence (*juge d'application des peines* or sentence enforcement judge) needs to receive complementary information from the applicant (the victim), he/she may schedule a hearing in order to statute on the direct and legitimate interest of the victim.<sup>211</sup> Pursuant to article 4 of the Royal Decree No. 3, only the applicant's attorney may be present to this hearing, unless a duly motivated decision provides for the hearing of the applicant.

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<sup>209</sup> Belgium, Royal Decree of 28 April 2020 extending the measures taken by Royal Decree No. 3 of 9 April 2020 on various provisions relating to criminal procedure and the enforcement of penalties and measures to combat the spread of the coronavirus COVID-19 ([Arrêté Royal du 28 avril 2020 prolongeant les mesures prises par l'Arrêté Royal n°3 du 9 avril 2020 portant des dispositions diverses relatives à la procédure pénale et à l'exécution des peines et des mesures prévues dans le cadre de la lutte contre la propagation du coronavirus COVID-19](#)), Published in the Belgian Official Gazette on 28 April 2020 [Last accessed on 22 September 2020]; Belgium, Royal Decree of 13 May 2020 extending the measures taken by Royal Decree No. 3 of 9 April 2020 on various provisions relating to criminal procedure and the enforcement of penalties and measures to combat the spread of the coronavirus COVID-19 ([Arrêté royal du 13 mai 2020 prolongeant les mesures prises par l'Arrêté royal n° 3 du 9 avril 2020 portant des dispositions diverses relatives à la procédure pénale et à l'exécution des peines et des mesures prévues dans le cadre de la lutte contre la propagation du coronavirus COVID-19](#)), Published in the Belgian Official Gazette on 13 May 2020. [Last accessed on 22 September 2020].

<sup>210</sup> Belgium, art. 2, 1st al., 6°, c) to e) of the Law of 17 May 2006 on the external legal status of persons convicted to the punishment of deprivation of liberty and on the rights granted to the victim in the modalities of the execution of the sentence ([Loi du 17 mai 2006 relative au statut juridique externe des personnes condamnées à une peine privative de liberté et aux droits reconnus à la victime dans le cadre des modalités d'exécution de la peine](#)), Published in the Belgian Official Gazette on 15 June 2006 [Last accessed on 22 September 2020].

<sup>211</sup> Belgium, Law of 17 May 2006, art. 3, paragraph 3.

- In other situations covered by the Law of 17 May 2006, Royal Decree No 3 provides that the judge or the tribunal tasked with the enforcement of the sentence hears only the attorneys of the convicted person and, when necessary, the victim, and the public prosecutor, unless a duly motivated decision provides the contrary.<sup>212</sup>
- Royal Decree No. 3 also includes a series of provisions aiming at reducing prison overcrowding and limiting the health risks associated with persons leaving and returning to prison. The text provides in its Articles 6 to 13 for a special ground “Coronavirus COVID-19” which suspends the execution of the imprisonment sentences. Such temporary suspension is conditional, notably upon the necessity to ensure the protection of the victims and prevent his/her harassment. Moreover, the victim must be informed within maximum 24 hours of the decision to interrupt the execution of the sentence and of the general conditions linked to it.<sup>213</sup> The victim must also be informed in case the decision to suspend the execution of the sentence is revoked, or if during such suspension, the convicted person seriously endangered the physical or psychological integrity of third parties.<sup>214</sup>
- Royal Decree No 3 also foresees in Article 15 that the victim is to be informed of the provisional release and early release of convicted persons. Such release may be granted by the prison director six months before the end of the enforceable part of the custodial sentence(s) to which a person has been sentenced.

At the occasion of the second lockdown, the Belgian government adopted measures aiming at ensuring the continuous functioning of shops, companies, private and public services that are necessary for the vital needs of the Nation and for the needs of the population.<sup>215</sup> The Federal government established a list of such shops, companies, private and public services which includes, among others, care and support services for minors, persons with disabilities and vulnerable persons, including victims of violence, sexual and domestic violence. In contrast with the measures enacted in March, the functioning of judicial institutions and related professions were also included in this list of essential services.<sup>216</sup> As a consequence, whereas teleworking, the recourse to videoconferences and the use of written procedures were

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<sup>212</sup> Belgium, Royal Decree No. 3, art. 5.

<sup>213</sup> Belgium, Royal Decree No. 3, art. 10.

<sup>214</sup> Belgium, Royal decree No. 3, art. 12 and 13.

<sup>215</sup> Belgium, Ministerial Decree of 1 November 2020 modifying the Ministerial Decree of 28 October 2020 on emergency measures to limit the spread of coronavirus COVID-19 ([Arrêté ministériel du 1er novembre 2020 modifiant l'arrêté ministériel du 28 octobre 2020 portant des mesures d'urgence pour limiter la propagation du coronavirus COVID-19](#)), Published in The Belgian Official Gazette on 1 November 2020 [Last accessed on 25 November 2020]

<sup>216</sup> Belgium, Annex to the Ministerial Decree of 1 November 2020.

encouraged, hearings and trials were organised in the most normal way,<sup>217</sup> pending the respect of preventive measures, within a reasonable time, in order to guarantee social distancing rules and provide a maximum level of protection. These elements were highlighted by the College of Courts and Tribunals (*Collège des Cours et Tribunaux*), the representative entity of Belgian courts and tribunals, which called more recently for a priority access to testing for the persons working in courts and tribunals.

As some of the exceptional measures adopted in response to the pandemic remain applicable, new controversies arose, notably relating to the powers of police to control the respect of measures in private homes.<sup>218</sup> The College of General Prosecutors adopted on 15 December 2020 new national directives concerning the criminal policy towards lockdown parties, rules on the use of drones and house visits in case of violations of the sanitary rules.<sup>219</sup> A few days before, the Federal Minister for Interior, Ms Annelies Verlinden, restated to the Chamber of Representatives that the government is working on a legislative proposal designated as "Pandemic Law" and destined to provide a legal framework offering both legal certainty and flexibility in dealing with such situations.<sup>220</sup>

### ***b) Adoption of a law reforming certain provisions of criminal procedural law***

The federal legislator adopted the Law of 31 July 2020 on urgent provisions in justice matters.<sup>221</sup> The text is a broad instrument covering various fields of law, and mixing measures adapting the procedures to the context of the pandemic, but also measures pursuing the long term objective of improving the functioning of the criminal justice system. Several provisions of this legislation may have an impact on the legal situation of victims of crime.

Firstly, the Law of 31 July 2020 modifies the rules concerning the contribution by the victims to the Budgetary Fund covering the expenses

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<sup>217</sup> Belgium, Directives of the College of Courts and Tribunals, [Communication Coronavirus XXI](#), 1 November 2020.

<sup>218</sup> See for instance The Brussels Times, [Several injured after police raid on lockdown party ends in violence](#), article published on Monday, 21 December 2020. [Last accessed on 5 January 2020].

<sup>219</sup> Belgium, College of General Prosecutors, Circular n°06/2020, revised version of 15 December 2020 ([Circulaire n°06/2020, version révisée du 15 décembre 2020](#)). [Last accessed on 5 January 2020].

<sup>220</sup> Belgium, Chamber of Representatives, Full Report of the Plenary Session of Thursday 10 December 2020 afternoon ([Compte rendu intégral Séance plénière Jeudi 10 décembre 2020 après-midi](#)), CRIV 55 PLE N 074, p. 25 [Last accessed on 5 January 2020].

<sup>221</sup> Belgium, Law of 31 July 2020 on urgent provisions in justice matters ([Loi du 31 juillet 2020 portant dispositions urgentes en matière de justice](#)), Published in the Belgian Official Gazette on 7 August 2020. [Last accessed on 23 September 2020].



linked to the provision of secondary legal aid (*Fond budgétaire relatif à l'aide juridique de deuxième ligne*).<sup>222</sup> Victims may constitute themselves as civil parties to the criminal proceedings in order to request compensation for the damage suffered, and benefit from additional procedural rights, such as the right to consult the file, or to request additional investigative measures. If the civil party initiates the procedure and loses the case, he/she has to pay a contribution to the budgetary fund, which amounts to 20 euros. However, in some cases, the civil party may be exempted from the obligation to contribute to the fund. Previously, only the victims benefitting from secondary legal aid (*aide juridique de deuxième ligne*) were exempted from such contribution and the new provision expands the scope of such exemption. It now also applies to civil parties benefitting from legal assistance (*assistance judiciaire*), a form of legal aid applicable only for proceedings before the Court of Cassation. Additionally, the exemption also applies to all persons for which the judge considers that they find themselves in a situation where they could apply for the secondary legal aid.<sup>223</sup> The latter covers situations in which persons do not defend themselves, or persons who have decided to defend themselves without the assistance of a lawyer. Rather than an extension of legal aid, this measure facilitates access to justice by removing a financial burden imposed on victims who would initiate and lose a case.

Secondly, the Belgian legislator modifies the modalities of hearings before the Commission for financial assistance to victims of intentional acts of violence and to occasional rescuers (*Commission pour l'aide financière aux victimes d'actes intentionnels de violence et aux sauveteurs occasionnels*). These amendments constitute an indirect consequence of the COVID-19 crisis, which made hearings in person more difficult, if not impossible,<sup>224</sup> but would remain applicable after the sanitary crisis end. Under the new legal framework,<sup>225</sup> the Commission may have meetings and deliberate by videoconference. The decision is taken by the President of the Chamber, who may decide that lawyers, interested parties or the members of the Commission will participate to the hearings remotely. The applicant may still request to be physically present to the session. However, hearings by

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<sup>222</sup>Belgium, Secondary legal aid is defined as the aid granted to a natural person for "detailed legal advice or legal assistance within the framework of proceedings" (Belgium, Judicial Code, Art. 508/1, 2<sup>o</sup>). This type of legal aid corresponds to financial assistance through which victims can benefit from the assistance of lawyer for free or for a reduced fee. This service is conditional, and depends on the income of each victim concerned. The contribution to the Fund is of an amount of 20 €.

<sup>223</sup> Belgium, Law of 31 July 2020, art. 47, 1<sup>st</sup> al., 2<sup>o</sup>.

<sup>224</sup> C. Govaert, *op. cit.*

<sup>225</sup> Art. 109 of the Law of 31 July 2020 amending Art. 34sexies of the Law of 1 August 1985 on fiscal and other measures ([Loi du 1<sup>er</sup> août 1985 portant des mesures fiscales et autres](#)), Published in the Belgian Official Gazette 6 August 1985 [last accessed 3 October 2020].

videoconference are only possible when the file is treated behind closed doors (“à huis-clos”), which is applied at the request of the applicant.<sup>226</sup>

Regarding the content of that Law, it is worth mentioning that the initial proposal contained a series of provisions destined to facilitate and organise the use of videoconference in criminal matters, in particular concerning the enforcement of penalties and in the execution of internment measures.<sup>227</sup> These measures pursued a two-fold objective: responding to the exceptional circumstances of the pandemic and introducing such measures in the Belgian legal framework. A first attempt was made with the adoption of the Law of 29 January 2016<sup>228</sup>, which was annulled by the Constitutional Court in 2018.<sup>229</sup> The new proposal presented in 2020 thus contained measures not connected to the pandemic context, such as provisions relating to the possibility to have recourse to videoconference for trials that may have to be held when despite the execution of a previous sentence, the victim faces a safety risk. Victims are not normally part to such proceedings, but they can ask to be heard in the course of the procedure. The drafters deemed necessary to make it explicit.<sup>230</sup> However, these provisions were taken out from the text adopted in July 2020, and further developments are to be expected in the coming weeks and months. The Council of Ministers has on 6 November adopted a preliminary draft of a legislative proposal, submitted to the Council of State (*Conseil d’Etat*). The text contains several measures aiming at adapting the functioning of justice in the context of the fight against coronavirus (full version not publicly available). First reactions to the preliminary proposal are rather reserved, if not negative, as reported in

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<sup>226</sup> C. Govaert, *COVID-19 : la Commission d’aide aux victimes délibère par vidéoconférence* (DD justice, Art. 109 – 110), *Jura Actualités*, 13 August 2020.

<sup>227</sup> Belgium, House of Representatives, Legislative proposal laying down various provisions in justice matters, particularly in the context of the fight against the spread of coronavirus ([Proposition de loi portant des dispositions diverses en matière de justice, notamment dans le cadre de la lutte contre la propagation du coronavirus](#)), Doc. 55 1295/001, p. 82 – 91 [Last accessed on 3 October 2020].

<sup>228</sup> Belgium, Law of 29 January 2016 on the use of videoconferencing for the appearance of defendants in preventive detention ([Loi du 29 janvier 2016 relative à l'utilisation de la vidéoconférence pour la comparution d'inculpés en détention préventive](#)), Published in the Belgian Official Gazette 19 February 2016 [Last accessed on 3 October 2020]

<sup>229</sup> Belgium, Constitutional Court, [Judgment No. 76/2018 of 21 June 2018](#).

<sup>230</sup> Belgium, Belgium, House of Representatives, Legislative proposal laying down various provisions in justice matters, particularly in the context of the fight against the spread of coronavirus ([Proposition de loi portant des dispositions diverses en matière de justice, notamment dans le cadre de la lutte contre la propagation du coronavirus](#)), Doc. 55 1295/001, p. 91.

newspapers and other supports.<sup>231</sup> The use of videoconference in criminal matters and the written procedure before courts and tribunals were among the controversial points.

### ***c) Victims of terrorism***

2020 marked an important deadline for the victims of terrorism willing to introduce a request for financial assistance, especially for the victims of the 2016 Brussels attacks. 18 March 2020 was indeed the closing date to present a request before the Commission for financial assistance to victims of intentional acts of violence and to occasional rescuers.<sup>232</sup> This deadline derives from the Law of 1 August 1985 on tax and other measures,<sup>233</sup> which has been amended by 4 new laws in 2019<sup>234</sup> 'to correct the gaps identified by the parliamentary commission,'<sup>235</sup> and includes specific provisions for financial assistance for victims of terrorism.<sup>236</sup> This assistance is granted on a subsidiary basis, after the insurance companies have closed the file of the persons concerned. According to the Law of 1 August 1985, indirect and direct victims may apply for financial assistance, as well as occasional rescuers.<sup>237</sup> By contrast, first responders (e.g. police, emergency medical staff, etc.) are not eligible for such assistance.

According to the Royal Decree of 16 February 2017, the application for financial assistance must be submitted within three years of the publication of the Royal Decree in which the event concerned was recognised as an act of terrorism.<sup>238</sup> On 15 March 2017, the government adopted a Royal Decree to recognise several events as terrorist attacks – for the purpose of granting access to state compensation to victims –, including the attacks of 22 March

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<sup>231</sup> Belgium, L'Écho, Lawyers reluctant towards written procedure ([Les avocats peu enclins à la procédure écrite](#)), 20 November 2020, or Avocats.be, Legislative developments ([Actualités législatives](#)), week of 16 November 2020 [last accessed on 27 November 2020].

<sup>232</sup> Belgium, FPS Justice, "Pour certaines victimes d'actes de terrorisme, la date limite pour les demandes d'aide financière approche", 21 January 2020. Available on [the website of the FPS Justice](#). [Last accessed on 23 September 2020].

<sup>233</sup> Belgium, Law of 1 August 1985 on tax and other measures ([Loi du 1<sup>er</sup> août 1985 portant des mesures fiscales et autres](#)), Published in the Belgian Official Gazette on 6 August 1985 [Last accessed on 23 September]

<sup>234</sup> Belgium, See FRA, *Franet National Contribution to the Fundamental Rights Report*, [Country research – Fundamental Rights Report 2020 - Belgium](#), p. 54.

<sup>235</sup> Belgium, *ibid.* p. 55.

<sup>236</sup> Belgium, Law of 1 August 1985, art. 42ter to 42septidécies.

<sup>237</sup> Article 31, al. 1<sup>st</sup>.

<sup>238</sup> Belgium, Royal Decree of 16 February 2017 implementing Article 42bis of the Law of 1 August 1985 on fiscal and other measures, with regard to State aid to victims of terrorism ([Arrêté royal du 16 février 2017 portant exécution de l'article 42bis de la loi du 1<sup>er</sup> août 1985 portant des mesures fiscales et autres, en ce qui concerne l'Aide de l'Etat aux victimes du terrorisme](#)), Published in the Belgian Official Gazette on 3 March 2017, art. 3 [Last accessed on 23 September 2020].

2016 in Brussels.<sup>239</sup> This Royal Decree was published on 17 March 2017 and victims had thus until 18 March 2020 to apply for financial assistance.<sup>240</sup> According to the Commission, not all victims requested assistance within the deadline. In January 2020, its section on terrorism released figures according to which it had at the end of 2019 handled over a thousand files and granted 4 million euros in financial assistance.<sup>241</sup> Yet at the end of January 2020, 600 more victims could still apply for financial assistance.<sup>242</sup> At the end of January 2020, 600 more victims were expected to apply for financial assistance.<sup>243</sup> Overall, 1638 victims of acts recognized as terrorist attacks, committed abroad or in Belgium, have applied for financial assistance. This figure includes both direct and indirect victims, as well as occasional rescuers. Despite these numbers, not all victims and other eligible persons have applied for financial assistance on time. This can be explained through several reasons. One explanation of the few requests received could be the lack of personalized information provided to the victims<sup>244</sup> despite the efforts undertaken by the Belgian authorities<sup>245</sup>. The role of victims support organisations has been crucial in disseminating information to victims and submitting victims' requests to the Commission for financial assistance. For instance, *Life For Brussels* submitted more than 300 requests on behalf of victims of the terrorist attacks of 22 March 2016.<sup>246</sup> Those who failed to introduce their request on time can still be eligible for the national solidarity status.

2020 was also marked by the revival of the debate on the reform of the jurisdiction of the Belgian Assize Court (criminal court) concerning terrorism

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<sup>239</sup> Belgium, Royal Decree of 15 March 2017 recognizing acts as acts of terrorism within the meaning of Article 42bis of the Law of 1 August 1985 ([Arrêté royal du 15 mars 2017 portant reconnaissance d'actes en tant qu'actes de terrorisme au sens de l'article 42bis de la loi du 1er août 1985](#)), Published in the Belgian Official Gazette on 17 March 2017 [Last accessed on 23 September 2020].

<sup>240</sup> See Belgium, V. Lăfarque, 'Victimes d'actes terroristes ? La date limite pour solliciter une aide financière approche!', *Bulletin Juridique et Social*, 645, March 2020.

<sup>241</sup> Belgium, FPS Justice, "Pour certaines victimes d'actes de terrorisme, la date limite pour les demandes d'aide financière approche", 21 January 2020. Available on [the website of the FPS Justice](#). [Last accessed on 23 September 2020].

<sup>242</sup> See Belgium, RTBF, 'Victimes d'actes de terrorisme : il sera bientôt trop tard pour demander une aide financière', 21 January 2020. [Available on the website of the RTBF](#). [Last accessed on 9 November 2020].

<sup>244</sup> Report of the Special Adviser, J. Milquet, to the President of the European Commission, Jean-Claude Juncker, 'Strengthening Victims' Rights: From Compensation to Reparation', March 2019, p. 28.

<sup>245</sup> Belgium, FPS Justice, "Pour certaines victimes d'actes de terrorisme, la date limite pour les demandes d'aide financière approche", 21 January 2020. Available on [the website of the FPS Justice](#). [Last accessed on 23 September 2020].

<sup>246</sup> Information collected during the interview of Jamila Adda, President of the executive board of *Life For Brussels*, 24 November 2020.

crimes.<sup>247</sup> In May 2020, two members of the House of Representatives tabled a proposal to revise article 150 of the Constitution with a view to abolishing the jury for crime of terrorism.<sup>248</sup> If adopted, this proposal would lead to excluding crimes of terrorism from the jurisdiction of the assize courts. The authors of the proposal consider that the complexity of terrorist affairs and the length of the procedure requires the settlement of an *ad-hoc* criminal procedure entirely in the hands of professional judges. Other parliamentarians have proposed an amendment to this proposition to revise article 150 of the Constitution in order to extend the exemption to all 'crimes against the internal and external security of the State, crimes of serious violations of international humanitarian law and terrorist crimes.'<sup>249</sup> However, in the run-up of the trial of the terrorist attacks of 22 March 2016, some associations for the defence of victims expressed their concerns about such revision and the risk of legal uncertainty it raises. They do not challenge the idea of abolishing the jurisdiction of the Assize Court for terrorism crimes, but they regret the absence of an accompanying proposal detailing the criminal procedure that would replace the procedure applicable before the Assize Court.<sup>250</sup> At this time, no such proposal has yet been tabled at the House of Representatives.

#### ***d) New government appointed and forthcoming developments***

On 30 September 2020, negotiations for the constitution of a federal government were finally concluded. The political parties taking part in the "Vivaldi coalition" concluded an agreement of government (*accord de gouvernement*) detailing the political priorities for the years to come.

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<sup>247</sup> Belgium, This provision has been amended a first time in 1999 to exclude from the jurisdiction of Assize Courts the press offences inspired by racism or xenophobia which are prosecuted before correctional tribunals composed of magistrates only. This revision was at the time motivated with the intention to facilitate the prosecution of hate crimes, and discussions are ongoing regarding the possibility to revise the text to exclude all hate crimes from the jurisdiction of assizes courts (see e.g. Belgium, UNIA, Recommendation to revise Article 150 of the Constitution ([Recommandation pour une révision de l'article 150 de la Constitution](#)), 2015).

<sup>248</sup> Belgium, House of Representatives, Revision of the Constitution, Proposition to revise article 150 of the Constitution with a view to abolishing the jury for crimes of terrorism ([Proposition de révision de l'article 150 de la Constitution en vue d'abolir le jury pour les crimes de terrorisme](#)), tabled by Mss Kristien Van Vaerenbergh and Sophie De Wit, 27 May 2020, DOC 55 1287/001.

<sup>249</sup> Belgium, House of representatives, Revision of the Constitution, Proposition to revise article 150 of the Constitution with a view to abolishing the jury for crimes of terrorism, Amendments ([Proposition de révision de l'article 150 de la Constitution en vue d'abolir le jury pour les crimes de terrorisme. Amendements](#)), tabled by Mr Verherstraeten and others, 30 June 2020, DOC 55 1287/002.

<sup>250</sup> See i.a. Belgium, Life For Brussels, [Communiqué de presse de l'ASBL Life 4 Brussels : La proposition de révision de l'article 150 de la Constitution a-t-elle réellement été déposée dans l'intérêt des victimes du 22 mars 2016 ?](#), Press release, 13 July 2020. [Last accessed on 23 September 2020].

Several points are of direct interest for the access to justice for victims of crime, and are worth highlighting.

In criminal matters, the text announces a focus on the victims and the establishment of a unique point of contact within the police and judicial services. This would improve their access to justice, as victims would no longer have to bear the weight of administrative complexities.<sup>251</sup>

Substantive criminal law, criminal procedural law and the law on the enforcement of sentences will be reformed and modernised in respect of defence and victims' rights.<sup>252</sup> This point refers to the work of several *ad hoc* parliamentary committees tasked since 2014 with the elaboration of new Codes in criminal matters. As a way of example, a legislative proposal has been presented in May 2020 proposing a major reform of Belgian criminal procedural law through the adoption of a unique Code of Criminal Procedure.<sup>253</sup> One aspect is of particular relevance for the protection of victims' rights. Under the current legal framework, when no prosecution is launched, the victims can constitute themselves as civil parties and thus take the initiative of public action. It is done before the investigative judge, who will then proceed to investigative measures under a specific procedure known as *instruction*. This possibility to initiate public action currently co-exists with public action led by the public prosecutors, known as *information*. The latter applies in the vast majority of cases under a procedure that do not provide many guarantees for the suspects, nor the victims. The legislative proposal aims at clarifying the law through the introduction of a unique procedure under which the launch and conduct of public action would be the monopoly of the public prosecutor, acting under the control of a judge. The rights offered to the suspects and victims would be harmonised, and would for instance include the right to access the file or to request certain measures.<sup>254</sup> Furthermore, the proposal foresees a possibility for the victims to challenge before a court a decision to dismiss the case taken by a public prosecutor (*classement sans suite*). The judges would control the proportionality, subsidiarity and feasibility of the criminal proceedings<sup>255</sup> and the victim can still initiate civil proceedings for the compensation of the

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<sup>251</sup> Belgium, Report of the formateurs ([rapport des formateurs](#)), 30 September 2020, p. 48 [Last accessed on 23 September 2020].

<sup>252</sup> Ibid.

<sup>253</sup> Belgium, House of Representatives, Legislative proposal containing the Code of Criminal Procedure ([Proposition de loi contenant le Code de procédure pénale](#)), 11 May 2020, Doc. No. 55 1239/001, 729 pages.

<sup>254</sup> Ibid, p. 12.

<sup>255</sup> These elements include an examination of the potential disproportionality between the damage suffered and the launch of criminal proceedings, the possibilities for the victim to obtain compensation for the damage suffered via civil proceedings, and the situations in which offences would require mutual legal assistance requests with limited chances of success. On the conformity of such judicial review with the Directive 2012/29/EU, see *ibid*, p. 85.

damage suffered.<sup>256</sup> This new unique procedure and the judicial review foreseen attempt to strike a balance in favour of the good functioning of the criminal justice system, preventing abusive or manifestly ill-founded criminal proceedings initiated by victims, while limiting the discretion of public prosecutors in dismissing cases.<sup>257</sup> It has been highly controversial in Belgium and many have voiced concerns about the disappearance of the investigative judge.<sup>258</sup>

The proposal also provides for an adjustment to the rights of the victims depending of the severity of the offence. . For less severe offences, which are not punishable by a deprivation of liberty, victims may no longer request the access to the file or additional measures, nor form a recourse against a decision to dismiss.<sup>259</sup> The scope of application of these exemptions would be limited, and as soon as the offence may be punishable by an imprisonment sentence, even of a very short time, the victims would be able to rely on such rights. The authors of the proposal refers to the responsibility of the legislator in defining the scope of application of such guarantees, especially considering the critics raised on the application of such guarantees in proceedings in which imprisonment sentences foreseen in the law are rarely imposed in practice.<sup>260</sup> Such definition exercise might be carried out via an amendment of substantive criminal law, and must thus be seen in relation with the ongoing discussions concerning the reform of the Criminal Code, including the scale of sentences (excluding imprisonment sentences below one year).<sup>261</sup>

Since the publication of the proposal, two opinions from the Data Protection Authority and the Organ of Control of Police Information have been published respectively on 4 September and 17 September 2020, but no debates has been yet scheduled.<sup>262</sup>

The government shall also evaluate the possibilities to improve access and quality of legal aid, notably through a transversal and holistic approach, including the development of pilot projects. The reform of legal aid, initiated

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<sup>256</sup> Ibid, p. 84.

<sup>257</sup> Ibid, p. 14 – 16.

<sup>258</sup> See for example, League of Human Rights, Analysis of the Reform of the Criminal Procedural Code ([Analyse de la réforme du code d'instruction criminelle](#)) May 2018 [last accessed on 19 November 2020].

<sup>259</sup> Ibid. p. 16.

<sup>260</sup> Ibid. p. 16 – 17.

<sup>261</sup> See C. Guillain and D. Scalia, « Une réforme en profondeur de l'arsenal pénal à l'encontre des personnes physiques » in C. Guillain and D. Scalia (ed), *La réforme du Livre Ier du Code pénal belge*, Bruxelles, Editions Larcier, 2018, p. 136

<sup>262</sup> Belgium, House of Representatives, [Overview of the procedure for the proposal](#) [last accessed on 3 October 2020].

with the adoption of the Law of 31 July 2020,<sup>263</sup> will be finalised. The entry into force of the law on 1<sup>st</sup> September 2020 expanded the scope of legal aid, by raising up the thresholds under which individuals may obtain legal aid (+200 euros in 2020, +100 euros in 2021, 22 and 23).<sup>264</sup>

These political priorities have been repeated in the note of political orientation<sup>265</sup> announcing what would be the policy followed during the current parliamentary session, and the note of general policy detailing the programme of the coming year.<sup>266</sup>

## **2. Violence against women**

### **a) Measures maintaining the protection of women in pandemic times**

The COVID-19 pandemic had also an impact on the protection afforded to women against violence. Nevertheless the laws and regulations enacted show that the Belgian legislator has been aware of the importance of maintaining a sufficient level of protection. A series of Ministerial Decrees defined emergency measures to limit the spread of the new coronavirus, and its Annex listed the shops, enterprises, private and public services necessary for the protection of the vital needs of the Nation and the needs of the population. Institutions providing assistance to vulnerable persons were initially the only ones listed<sup>267</sup> and in its latest version, the list further expanded to include among vulnerable persons, the victims of violence,

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<sup>263</sup> Belgium, Law of 31 July 2020 amending the Judicial Code to improve access to secondary legal aid and legal aid by increasing the income ceilings applicable in this area (*Loi du 31 juillet 2020 modifiant le code judiciaire afin d'améliorer l'accès à l'aide juridique de deuxième ligne et à l'assistance judiciaire par l'augmentation des plafonds de revenus applicables en la matière*), M.B. 6 August 2020 [last accessed on 3 October 2020].

<sup>264</sup> Belgium, Avocats.be, Increase of access thresholds for legal aid as of September 1<sup>st</sup>, 2020 (*Augmentation des seuils d'accès à l'aide juridique dès ce 1<sup>er</sup> septembre 2020*), <https://latribune.avocats.be/augmentation-des-seuils-daccés-a-laide-juridique-des-ce-1er-septembre-2020/> [last accessed 20 November 2020].

<sup>265</sup> Belgium, House of Representatives, Note on Political Orientation of the Minister for Justice (*Exposé d'orientation politique du ministre de la Justice*), Doc. 55 1610/015, 4 November 2020 [last accessed on 19 November 2020].

<sup>266</sup> Belgium, House of Representatives, Note on General Policy – Justice (*Note de politique Générale – Justice*), Doc. 55 1580/016, 4 November 2020 [last accessed on 19 November 2020].

<sup>267</sup> Belgium, Ministerial Decree of 18 March 2020 providing for emergency measures to limit the spread of the coronavirus COVID-19 (*Arrêté ministériel du 18 mars 2020 portant des mesures d'urgence pour limiter la propagation du coronavirus COVID-19*), M.B. 18 March 2020 [last accessed on 3 October 2020].



sexual violence and domestic violence.<sup>268</sup> This measure meant that such assistance services could continue to function, provided that they tried as much as possible to favour home working and implement measures of social distancing. Such concern for the protection of victims of domestic violence was also marked in the Directives of the College of General Prosecutors on international cooperation in criminal matters during the COVID-19 crisis.<sup>269</sup> The text indeed postponed the execution of European Arrest Warrants and extradition requests, except for a number of crimes, including domestic violence.<sup>270</sup>

Similar emergency measures were adopted in October 2020, also to limit the spread of the virus, with similar exceptions notably for institutions providing assistance to victims of violence, sexual violence and domestic violence.<sup>271</sup> These measures are in force until 13 December 2020. In addition, the College of General Prosecutors enacted a Circular concerning the suspension of certain convictions during the COVID-19 crisis. The text aiming at limiting the population in jails provides for the possibility to postpone the execution of non-urgent imprisonment sentences. Such postponement does not apply for those convicted for domestic violence and sexual violence (*délits de mœurs*).<sup>272</sup>

In addition, specific Task Forces on domestic violence were set up, notably to react to a strong increase in the number of calls to phone helplines during

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<sup>268</sup> Belgium, Ministerial Decree of 30 June 2020 providing for emergency measures to limit the spread of the coronavirus COVID-19 ([Arrêté ministériel du 30 juin 2020 portant des mesures d'urgence pour limiter la propagation du coronavirus COVID-19](#)), M.B. 30 June 2020, Annex [last accessed on 3 October 2020].

<sup>269</sup> Belgium, College of General Prosecutors, Circular No. 09/2020, Directives relating to international cooperation in criminal matters during the crisis of coronavirus COVID-19 ([Directives du Collège des procureurs généraux relatives à la coopération internationale en matière pénale pendant la crise du coronavirus COVID-19](#)), 30 March 2020, abrogated on 22 June 2020 [last accessed on 3 October 2020].

<sup>270</sup> Belgium, Ibid. p. 7.

<sup>271</sup> Belgium, Ministerial Decree of 28 October 2020 providing for emergency measures to limit the spread of the coronavirus COVID-19 (Arrêté ministériel du 28 Octobre 2020 portant des mesures d'urgence pour limiter la propagation du coronavirus COVID-19), Published in the Belgian Official Gazette of 28 October 2020 [last accessed 19 November 2020].

<sup>272</sup> Belgium, College of General Prosecutors, Circular N° 07bis/2020 - Directives regarding the suspension of the execution of certain convictions during the crisis of coronavirus COVID-19 ([Directives du Collège des procureurs généraux relatives à la suspension de l'exécution de certaines condamnations pendant la crise du coronavirus COVID-19](#)), 5 November 2020 [last accessed on 19 November 2020].

lockdown.<sup>273</sup> The Flemish helpline reported for instance an increase of 70% between the first and the fourth weeks of lockdown. In addition, of regular interministerial meeting, such as the one organized on 2 April 2020, A Task Force was set up by various French-speaking entities (Federation Wallonie-Bruxelles, Wallonia, the Region of Bruxelles-Capitale and the COCOF),<sup>274</sup> and contributed to the dissemination of information about emergency numbers.<sup>275</sup> The local authorities in Brussels and in Flanders reacted to a risk of shortage of accommodation in shelters for victims of domestic violence, and rented out a hotel, whose location remained secret.<sup>276</sup> In July 2020, the service of Brussels Security and Prevention published a first study on the occurrence of domestic violence in the context of lockdown.<sup>277</sup> Based on police data, helpline data and NGOs offering shelters to victims, the study notes for instance that the increase of calls to the helplines does not necessarily correspond to an increase in situations of violence, many calls being made by concerned family members or neighbours or professionals offering their help.<sup>278</sup> The number of requests for accommodation has increased substantially (+253% in April 2020, compared to the monthly average between November 2019 and February 2020).<sup>279</sup> The study finally pinpointed some shortcomings, including to access the hotels rented out which required specific procedural steps that were not available 24/7, or the need to better address the situations of child victims less detected due to their isolation from school and sport activities.<sup>280</sup>

Civil society organisations were also active during the lockdown. Ahead of a meeting of an interministerial meeting on 2 April 2020, the NGO Femmes CSC put forward a list of best practices to the government.<sup>281</sup> The list included the reinforcement of existing services aimed at supporting victims, opening 24 hour telephone helplines, using pharmacies as outreach facilities

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<sup>273</sup> See e.g. Belgium, RTBF, Coronavirus in Belgium: helplines for victims of domestic violence are saturated (Coronavirus en Belgique: les lignes d'écoute pour les victimes de violences conjugales sont saturées), 7 April 2020 [last accessed on 3 October 2020].

<sup>274</sup> Belgium, Wallonia, Assistance in matters of domestic violence (*Aide en matière de violences conjugales et intrafamiliales*), 8 June 2020 [last accessed on 3 October 2020].

<sup>275</sup> Ibid, see the illustration at the bottom.

<sup>276</sup> E.g. Belgium, Brussels Times (online journal), [Brussels hotel to shelter domestic violence victims amid coronavirus quarantine](#), 7 April 2020, or France 24, [Belgium requisitions hotel to house rising domestic abuse cases under lockdown](#), 13 April 2020 [last accessed on 3 October 2020].

<sup>277</sup> Belgium, Brussels Observatory for Prevention and Security, Domestic violence in the Region Bruxelles-Capitale during lockdown (*Les violences intrafamiliales en Région de Bruxelles-Capitale en période de confinement*), June 2020, 36 pages [last accessed on 3 October 2020].

<sup>278</sup> Belgium, Ibid. p. 5.

<sup>279</sup> Belgium, Ibid. p. 14

<sup>280</sup> Belgium, Ibid. p. 30

<sup>281</sup> Belgium, Femmes CSC and ACV Gender, [List of proposals to the government](#), 31 March 2020 [last accessed on 3 October 2020].

and having police check on households with previous cases of domestic violence.<sup>282</sup>

In addition an inter-ministerial conference on women's rights has been set up, gathering Ministers and State secretaries, competent at federal and federated levels of governance on this matter. A first meeting took place in early April 2020, while the first lockdown was in force, and a series of measures were foreseen, such as an increase in the support and monitoring of helplines, proactive contacts with known victims and authors of domestic violence to ensure a follow up, or the dissemination of an operational directive to police services.<sup>283</sup> At the occasion of a second meeting, which took place on 29 June 2020, four working groups were created with the mission to address more long term policy objectives, such as the elaboration of an integrated policy, the prevention of violence, the protection and support to victims and the implementation of criminal justice measures.<sup>284</sup> An online meeting took finally place on 28 October 2020. It was the occasion to present to newly appointed cabinets the work of the Interministerial conference and reactivate the close monitoring of violence against women as Belgium entered its second lockdown (with the possibility to reactivate emergency measures). It was notably the occasion to communicate about the assistance mechanisms active 24/7<sup>285</sup> and the absence of prosecution for those violating curfew in order to escape violence at home.<sup>286</sup>

### **b) Focus on victims of sexual violence**

The Centres specialised in the reception of victims of sexual violence (*Centres de prise en charge des violences sexuelles*) (hereafter CPVS), firstly established as a pilot project, and now expanded throughout the Belgian

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<sup>282</sup> Summary of the measures in UNI Europa Global Union, [Women and their unions are battling a double crisis: COVID-19 and domestic violence](#), 20 April 2020 [last accessed on 3 October 2020].

<sup>283</sup> Belgium, Website of Bénédicte Linard, member of the Conference representing the Brussels-Wallonia Federation, Press release of 3 April 2020, Interministerial Conference Women Rights : A national coordination set up to combat violence against women ([Conférence Interministérielle droits des femmes : une coordination nationale se met en place pour lutter contre les violences faites aux femmes](#)) [last accessed on 19 November 2020].

<sup>284</sup> Belgium, Website of Christie Morreale, member of the Conference representing the Walloon Government, Interministerial Conference Women Rights : work continues after the end of lockdown ([Conférence Interministérielle droits des femmes : le travail se poursuit en période de déconfinement](#)), 29 June 2020 [last accessed on 19 November 2020].

<sup>285</sup> Belgium, Website of Nawal Ben Hamou, member of the Inter-ministerial Conference for the Brussels-Capitale Region, Press release of 25 October 2020, Violence against women during the health crisis : the Conference on Women Rights remains attentive ([Violences faites aux femmes durant la crise sanitaire : la CIM Droits des Femmes reste vigilante](#)) [last accessed on 19 November 2020]

<sup>286</sup> See e.g. Le Soir, Curfew : escaping violence is considered as an essential travel ([Couvrez-vous : fuir une situation de violence est considéré comme un déplacement essentiel](#)) 21 October 2020 [last accessed on 19 November 2020].

territory, have been the object of a first evaluation report, released in 2020.<sup>287</sup> Among the positive elements, the accessibility of the CPVS was highlighted, due notably to the absence of financial contribution to the victims (*gratuité*) to access the services offered, and the discretion granted. Efforts may nevertheless be necessary to increase the capacity of the centres, and their accessibility to disabled persons or persons who do not understand the official Belgian languages.<sup>288</sup> Their visibility should also be improved, and to that end, the Institute for the Equality between Men and Women is organising an online webinar on 23 October 2020, in order to provide detailed information about the CPVS.<sup>289</sup> These centres remained open 24/7 during lockdown, and the message was advertised through various channels.

The Law of 31 July 2020 on urgent provisions in justice matters<sup>290</sup> also introduces a reform of the Judicial Code (*Code Judiciaire*) imposing on magistrates a mandatory training on sexual and domestic violence. Depending on their position, magistrates will be under the obligation to follow a basic training or an in-depth training on sexual violence and domestic violence delivered by the Institute of Judicial Training. Basic training will for instance be mandatory for judges sitting in police tribunals, first instance tribunals or courts of appeal. In-depth training will be mandatory for those sitting in correctional tribunals, tribunals specialised on the enforcement of sentences, tribunals specialised in family and youth, and to prosecutors and investigative judges. The substance of the training evolved. It was initially focused on “sexual violence”, and then “sexual violence and violence between partners”, in order to signal that violence between partners may include not only sexual violence but also include other forms of physical and psychological violence. In the final version of the text, the expression “sexual violence and within the family” (*violences sexuelles et intrafamiliales*), which also brings the attention on violence between ex-partners and violence towards children.<sup>291</sup>

Such measures are to be welcomed and supported, considering the remaining importance of sexual violence in Belgium. An opinion poll published in March 2020 by Amnesty International and SOS Rape stressed that 47% of the persons interrogated had been exposed to at least of one

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<sup>287</sup> Belgium, Institute for the Equality between Men and Women, First evaluation of the CPVS ([Première évaluation of the CPVS](#)), 2020, 19 pages [last accessed on 3 October 2020].

<sup>288</sup> Ibid. p. 22.

<sup>289</sup> Belgium, Institute for the Equality between Men and Women, [Page presenting the programme of the Conference](#) [last accessed on 3 October 2020].

<sup>290</sup> Belgium, Law of 31 July 2020 on urgent provisions in justice matters ([Loi du 31 juillet 2020 portant dispositions urgentes en matière de justice](#)), Published in the Belgian Official Gazette on 7 August 2020. [Last accessed on 23 September 2020].

<sup>291</sup> See Belgium, C. Govaert, Une formation de base en matière de violences sexuelles et intrafamiliales obligatoire pour presque tous les magistrats (DD Justice, Art. 48 – 53), Jura Actualités, 10 August 2020.

form of sexual violence, and 20% of women had been victims of rape.<sup>292</sup> The report received significant public attention with the publication of newspapers articles or videos in the following days of its release.<sup>293</sup> It has also been referred to in the Note of Political Orientation on gender equality, equal opportunities and diversity, presented by the federal government on 6 November 2020, notably to support an increased attention to sexual violence.<sup>294</sup>

### **c) Legislative developments**

The agreement of government (*accord de gouvernement*) finalised in September 2020<sup>295</sup> also detailing the political priorities for the years to come. The reform of the Criminal Code shall include reflections about the inclusion of two new criminal offences ecocide and femicide.<sup>296</sup> The latter has been the subject of a legislative proposal introduced on 4 December 2019, still debated in the House of Representatives.<sup>297</sup>

The GREVIO also published in September 2020 its evaluation report on the implementation of the Istanbul Convention by Belgium. The experts noted the commitment of the federal, community and regional authorities to combat violence against women, also demonstrated by the political decisions that frame the work of law enforcement and judicial authorities. However, several elements could be remedied, such the abundance of coordination mechanisms leading to a lack of general coordination of policies, as well as the collection of data which remain insufficient, or the lack of visibility of the

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<sup>292</sup> Belgium, Amnesty International and SOS Rape, Polls on the Rape : 2020 Statistics ([Sondage sur le viol : chiffres 2020](#)), 4 March 2020 [last accessed on 3 October 2020].

<sup>293</sup> See e.g. Le Soir, One youth out of three has already been exposed to rape ([Un jeune sur quatre a déjà été exposé à un viol](#)) 5 March 2020 ; La Libre, In Belgium, rape affects one youth out of three ([En Belgique, le viol touche un jeune sur quatre](#)) 5 March 2020 ; or Brussels Times, [Many young Belgians unclear about sexual consent](#), 5 March 2020. RTBF, One Belgian out of two victim of sexual violence : the worrying statistics of Amnesty International and SOS Rape ([Un Belge sur deux victime de violences sexuelles : les chiffres édifiants d'Amnesty International et SOS Viol](#)) [last accessed on 19 November 2020].

<sup>294</sup> Belgium, House of Representatives, Note on Political Orientation on gender equality, equal opportunities and diversity ([Exposé d'orientation politique Égalité des genres, Égalité des chances et Diversité](#)), Doc. 55 1610/022, 6 November 2020, p. 5 and 9 [last accessed on 19 November 2020].

<sup>295</sup> Belgium, Report of the formateurs ([rapport des formateurs](#)), 30 September 2020, p. 48.

<sup>296</sup> Belgium, Ibid. p. 49.

<sup>297</sup> Belgium, House of Representatives, Legislative proposal aiming at inscribing femicide in the Criminal Code ([Proposition de loi visant à inscrire le féminicide dans le Code pénal](#)), Doc. 55K0846 [last accessed on 3 October 2020].

financial means devoted to the matter.<sup>298</sup> The Note of Political Orientation released on 6 November refers to the Istanbul Convention and the recommendations formulated by the GREVIO as the compass guiding political initiatives addressing violence against women.<sup>299</sup> However, civil society organisations organised under the Mirabal Platform have criticised the poor level of ambition and called for a national day of action on 22 November 2020.<sup>300</sup>

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<sup>298</sup> Belgium, GREVIO, Rapport d'évaluation (de référence) du GREVIO sur les mesures d'ordre législatif et autres 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 (Convention d'Istanbul), GREVIO/Inf(2020)14.

<sup>299</sup> Belgium, House of Representatives, Note on Political Orientation on gender equality, equal opportunities and diversity ([Exposé d'orientation politique Égalité des genres, Égalité des chances et Diversité](#)), Doc. 55 1610/022, 6 November 2020, p. 4 to 9 [last accessed on 19 November 2020].

<sup>300</sup> See e.g. CNCD 11.11.11, [Call for action on 22 November 2020](#) [last accessed on 19 November 2020].

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

## 1. CRPD policy & legal developments

On 26 March 2020, the **UN Committee on Economic, Social and Cultural Rights** published the Concluding observations on the fifth periodic report of Belgium. The Committee raised concerns regarding i) the lack of disaggregated statistical data on the employment of persons with disabilities and ii) the very low employment rate for persons with disabilities and the low employment rate for persons with disabilities in the public sector, which is well below the quotas and targets set by the public authorities. It was recommended that Belgium should take the necessary measures to facilitate access to employment for persons with disabilities by: (a) guaranteeing reasonable accommodation for persons with disabilities in the labour market; (b) ensuring compliance with the quotas set by the public authorities; and (c) supporting private companies to promote the recruitment of persons with disabilities. The Committee also recommends that the State party collect disaggregated statistical data on persons with disabilities in the labour market.<sup>301</sup> The Committee also lamented the lack of information on access to health-care services by persons with disabilities and recommended that Belgium strengthens the capacity of its health-care system to ensure that it can be accessed by persons with disabilities.<sup>302</sup>

In March 2020, **civil society** raised concerns about the impact of COVID-19 and the accompanying measures on persons with disabilities. The Belgian Disability Forum reiterated the need to ensure access to information of persons with disabilities and the impact of the measures taken by government to reduce COVID-19 on the daily life of persons with disabilities.<sup>303</sup>

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<sup>301</sup> Belgium, United Nations Economic and Social Council E/C.12/BEL/CO/5, 26 March 2020, paras 24-25.

<sup>302</sup> Belgium, United Nations Economic and Social Council E/C.12/BEL/CO/5, 26 March 2020, paras 52-53.

<sup>303</sup> Belgium, Belgian Disability Forum, Persons with disabilities: the forgotten of COVID-19 ([\*Les personnes handicapées, les oubliés du COVID-19 ?\*](#)), 13 March 2020.

On 30 March 2020, the **National High Council of Disabled Persons** issued an Opinion that outlined recommendations in order to limit the negative impact on persons with disabilities,<sup>304</sup> notably relating to: making public health communication accessible; ensuring access to accessible, inclusive and hygienic health services and other facilities, regardless of disability; investing in the provision of services and support; involving people with disabilities; ensuring that marginalised and isolated people are not left without essential goods, support and human contact; support networks and assistive devices; income protection; ensuring that public health communication messages are respectful and non-discriminatory; ensuring that persons with disabilities are accounted for; ensuring the protection of non-nationals.<sup>305</sup> On 25 May 2020, the National High Council of Disabled Persons also issued an opinion relating to the de-confinement strategy and made recommendations for ensuring the return to community life and that persons with disabilities were taken into account in all aspects of life and all sectors. A number of these were also taken into account by the Taskforce for Vulnerable Groups who monitor the measures taken to limit the spread of COVID-19.<sup>306</sup> The Task Force was created to support the system already in place and means to identify the impact of the pandemic and related containment and socio-economic measures taken on vulnerable groups in the short and long-term, to consult on proposals for further measures, to make recommendations and to facilitate coordination between federal entities.<sup>307</sup>

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<sup>304</sup> Belgium, National High Council of Disabled Persons, Opinion n° 2020/09 of the Conseil Supérieur National des Personnes Handicapées (CSNPH) on the measures taken following the crisis caused by COVID-19 ([Avis n° 2020/09 du Conseil Supérieur National des Personnes Handicapées \(CSNPH\) relatif aux mesures prises à la suite de la crise provoquée par le COVID-19](#)) 30 March 2020.

<sup>305</sup> Belgium, For more information on these recommendations see Belgium, FRC, [Coronavirus COVID-19 outbreak in the EU Fundamental Rights Implications](#), 23 March 2020, p. 12.

<sup>306</sup> Belgium, National High Council of Disabled Persons, Opinion n° 2020/13 of the Conseil Supérieur National des Personnes Handicapées (CSNPH) on the deconfinement strategy ([Avis n° 2020/13 du Conseil Supérieur National des Personnes Handicapées \(CSNPH\) relatif à la stratégie de déconfinement](#)) 25 May 2020.

<sup>307</sup> Belgium, Service Public Federal, Social Integration, Fight against Poverty, Social Economy and Urban Policy Taskforce for Vulnerable Groups (*SPP Intégration Sociale, Lutte contre la Pauvreté, Economie Sociale et Politique des Grandes Villes Taskforce Groupes Vulnérables*), Summary note of the work of the Task Force for Vulnerable Groups ([Note de Synthèse des Travaux de la Task Force Groupes Vulnérables](#)), 7 September 2020 [last accessed 23 November 2020].



The taskforce also reported on those who work in businesses with work adjustments were placed onto **temporary unemployment** due to the new coronavirus but were not entitled to unemployment benefits (and related benefits). This is because they receive sick pay, which they can supplement with their wages for the days they work there. The consequence was that these people, during the previous four to five weeks, fell back on their sickness benefit, which was often below the poverty line. A draft Royal Decree that temporarily revises the rules for calculating the integration allowance (AI) in the context of the COVID-19 health crisis was approved by the Council of Ministers. A draft law was approved, which now also grants workers in adaptive work companies an unemployment benefit for the days during which they are temporarily unemployed. The project prevents the negative effects of the temporary economic unemployment scheme following the COVID-19 health crisis by revising the rules for calculating the IA. In particular, people with IA who are temporarily unemployed may face a negative effect on their intervention because of the different exemptions that are in effect between work income and replacement income. The exemption that is in force for the temporary unemployment benefit for force majeure is therefore assimilated to the exemption that is in force for work income when calculating the IA. This measure will only apply to the temporary unemployment benefit for force majeure that the disabled person receives as a result of the COVID-19 health crisis. The assimilation is valid from March 1 to June 30 inclusive and can be extended if necessary.<sup>308</sup>

The Taskforce also called for the Opinions of the National High Council of Disabled Persons to be taken into consideration. For example, when it comes to those persons with disabilities who are also temporarily unemployed and the impact on the lives of those who require specific leave for caring responsibilities due to the closure of care facilities etc.<sup>309</sup> **Corona parental leave** was provided for and subsequently extended by Royal Decree<sup>310</sup> and

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<sup>308</sup> Belgium, For other financial support measures introduced see Belgium, FRC, [Coronavirus COVID-19 outbreak in the EU Fundamental Rights Implications](#), 5 June 2020, p. 17.

<sup>309</sup> Belgium, For information on conditions and visits in residential care institutions see Belgium, FRC, [Coronavirus COVID-19 outbreak in the EU Fundamental Rights Implications](#), 4 May 2020, p. 13-14; Service Public Fédéral, Social Integration, Fight against Poverty, Social Economy and Urban Policy Taskforce for Vulnerable Groups (*SPP Intégration Sociale, Lutte contre la Pauvreté, Economie Sociale et Politique des Grandes Villes Taskforce Groupes Vulnérables*), Table for monitoring TF measures Vulnerable groups ([Tableau de suivi des mesures de la TF Groupes vulnérables](#)), 1 July 2020.

<sup>310</sup> Belgium, Royal Decree no. 45 of 26 June 2020 executing article 5(1)(5) of the act of 27 March 2020 authorising the King to take measures to combat the spread of the coronavirus COVID-19 (II) for the extension of certain measures, clarifying certain modalities of the

offers more flexible access conditions, higher allowances to ordinary parental leave (the allowance is equal to the allowance for ordinary parental leave plus 25%) and the application procedure is faster. The age requirement of 21 years for a disabled child is not applicable in certain specific cases; and the reduction in working time can be up to half or 1/5th (not full time). Initially, it could only be requested from May 1 to June 30 inclusive, but it was decided at the Council of Ministers meeting on June 12 to extend the corona parental leave until the end of September and also to make it possible to work full-time; the allowance is also increased to 150 percent. In Flanders, day care for handicapped children is, under certain conditions, available again since May 18. Summer camps can also take place. The Walloon Region has sent a circular to restart the reception of young people and adults from May 18. Residential reception continued during the confinement period, with a more limited offer of activities. In some centres, young people were welcomed at home by their parents. Residential centres were asked at the end of May to resume activities and make visits possible again.<sup>311</sup>

In October 2020, the **National High Council for Persons with Disabilities** expressed its concern related to the Ethical Guidelines on triage during the COVID-19 crisis, stressing that the equal treatment and access to healthcare for persons with a disability without co-morbidities should be ensured.<sup>312</sup> In November, the National High Council for Persons with Disabilities followed up with a letter to the Prime Minister, Minister of Health, Minister for Persons with a Disability and the Chair of the Bio-ethics Committee, wherein it reiterated that a disability is not a disease that justifies that someone is not admitted to the intensive care.<sup>313</sup>

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corona parental leave and consumptioncheque ([Koninklijk besluit nr. 45 van 26 juni 2020](#) tot uitvoering van artikel 5, § 1, 5° van de wet van 27 maart 2020 die machtiging verleent aan de Koning om maatregelen te nemen in de strijd tegen de verspreiding van het coronavirus COVID-19 (II) tot verlenging van sommige maatregelen, tot verduidelijking van bepaalde modaliteiten van het corona ouderschapsverlof en van de consumptiecheque), 26 June 2020 [last accessed on 23 November 2020].

<sup>311</sup> Belgium Service Public Federal, Social Integration, Fight against Poverty, Social Economy and Urban Policy Taskforce for Vulnerable Groups (*SPP Intégration Sociale, Lutte contre la Pauvreté, Economie Sociale et Politique des Grandes Villes Taskforce Groupes Vulnérables*), Table for monitoring TF measures Vulnerable groups ([Tableau de suivi des mesures de la TF Groupes vulnérables](#)), 1 July 2020.

<sup>312</sup> Belgium, National High Council for Persons with Disabilities, Persons with a disability who do not have co-morbidity should be treated equal to other patients ([Personen met een handicap die geen comorbiditeit hebben, moeten op voet van gelijkheid worden behandeld met andere patiënten](#)), 28 October 2020 [last accessed 23 November 2020].

<sup>313</sup> Belgium, National High Council for Persons with Disabilities, Access to intensive care: A right to persons with a disability ([Toegang tot intensieve zorg: een recht voor personen met een handicap](#)), 3 November 2020 [last accessed 23 November 2020].

## 2. CRPD monitoring at national level

In April 2020, Belgium submitted the State party report under the 2<sup>nd</sup> and 3<sup>rd</sup> Periodic reporting cycle.<sup>314</sup> The drafting process included the involvement of civil society organisations Belgian Disability Forum and GRIP vzw, as well as representatives of the Belgian authorities on 5 March 2020.

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

Unia published a report on the participation of persons with disabilities in elections in May 2020, which investigated the political participation of persons with disabilities in practice.<sup>315</sup> The findings of the report draw on semi-structured interviews, focus groups and online questionnaires with persons with disabilities, professionals, family members and judges on practices related to the right to vote of people with intellectual disabilities or mental illness. The objectives of the study was to evaluate the concrete exercise of the right to vote by people with an intellectual disability or a mental disorder; to identify the difficulties encountered by these people and their family and friends in exercising this right; to propose possible improvements to promote the effective exercise of the right to vote. The results reveal varying experiences of political participation, for instance, a person's social environment has a significant influence on citizen participation, requiring a committed network to ensure participation in elections. Access to voting is hampered by a number of barrier including unclear language, difficult access to information, negative reactions and/or prejudices from some people, lack of time and resources to prepare the voter, and unsuitable voting conditions make voting considerably difficult. The report revealed that exercising the right to vote is greatly enhanced for persons with disabilities if they receive assistance and are well prepared.

In the context of COVID-19, Unia carried out a number of activities to determine the impact of the pandemic on persons with disabilities and to

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<sup>314</sup> Belgium, UN CRPD, *Convention des Nations Unies relative aux droits des personnes handicapées, Belgique, 2ème et 3ème rapports périodiques*, 14 April 2020, CRPD/C/BEL/2-3.

<sup>315</sup> Belgium, Unia, Report on the Participation in Election of persons with disabilities ([Rapport sur la participation aux élections des personnes en situation de handicap](#)) May 2020.

advocate for the continued commitment of public and private entities to ensure their continued access to services.

On 20 March 2020, following the suspension of assistance services to persons with disabilities and persons with reduced mobility by the Belgian Rail Operator SNCB (for reasons of not being able to maintain the 1,5 metres social distance measure), Unia intervened calling for the SNCB to identify an alternative solution that would both comply with COVID-19 safety measures and ensure access to public transport for those who had to undertake essential travel e.g. those who have no other means of transport, those who are essential workers. The inaccessibility of stations, platforms and trains means that assistance services are vital. Unia warned that any long-term or indefinite suspension of the assistance service could constitute direct discrimination of disabled people and a refusal of reasonable accommodation. Unia therefore requested the SNCB to reconsider its decision and to guarantee assistance to people with disabilities for essential journeys (travel to the workplace, an authorised business, etc.), either by providing assistance in combination with precautionary measures such as wearing gloves, masks and maintaining social distance or by providing for an undertaking the cost of alternative means of transport e.g. taxi.<sup>316</sup> The SNCB began to progressively reinstate its assistance services in May 2020, and requested the opinion of the National High Council of Disabled Persons, which was published on 15 May 2020.<sup>317</sup> However, the Taskforce for Vulnerable Groups notes that the service was not fully reinstated. For example, assistance for visually impaired persons was not initially reinstated.<sup>318</sup>

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<sup>316</sup> Belgium, Unia, Unia appeals to the SNCB following the suspension of its helpdesk service ([Unia interpelle la SNCB suite à la suspension de son service d'assistance](#)) 24 March 2020; For information on access to public transportation see Belgium, FRC, [Coronavirus COVID-19 outbreak in the EU Fundamental Rights Implications](#), 4 May 2020, p. 15.

<sup>317</sup> Belgium, Opinion n° 2020/15 of the National Superior Council of Disabled People (CSNPH) on the strategy of deconfinement of the SNCB in stations and stops after confinement due to the coronavirus crisis [Avis n° 2020/15 du Conseil Supérieur National des Personnes handicapées \(CSNPH\) relatif à la stratégie de déconfinement de la SNCB dans les gares et aux arrêts après le confinement en raison de la crise du coronavirus](#)

<sup>318</sup> Belgium, Service Public Federal, Social Integration, Fight against Poverty, Social Economy and Urban Policy Taskforce for Vulnerable Groups (*SPP Intégration Sociale, Lutte contre la Pauvreté, Economie Sociale et Politique des Grandes Villes Taskforce Groupes Vulnérables*), Table for monitoring TF measures Vulnerable groups ([Tableau de suivi des mesures de la TF Groupes vulnérables](#)), 1 July 2020.

Following reports of persons of disabilities (and elderly persons) not receiving the same access to healthcare as other COVID-19 patients e.g. under oxygen in institutions without medical supervision; a person with an intellectual disability was turned away from a hospital because he cried and screamed too much. Unia, on 10 April 2020, responded to reinforcing that decisions to treat patients can never be made on the basis of age or disability. Unia called for authorities to reiterate this essential message and to provide hospitals, accommodation and support structures with sufficient human resources to provide appropriate care for all COVID-19 patients. Unia reiterated the commitment of Belgium to the UNCCRPD and the measures that must be taken to guarantee access to health care for all patients, including means of protection and screening for the entourage of persons with disabilities (and elderly persons);<sup>319</sup> mandatory reasonable accommodation for persons with disabilities including human and logistical resources to accompany and care for them in their living spaces and in hospital with the necessary means of protection.<sup>320</sup>

In April 2020, Unia reported on the accessibility of supermarkets to persons with disability, and called on Comeos, the Belgian trade and services federation, to take into account the rights of disabled people and people in precarious situations. A number of significant barriers prevented persons with disabilities doing their food shopping since the introduction of COVID-19-related measures. In order to ensure access to supermarkets, Unia requested that persons with disabilities were given priority access to supermarkets, at the same time slots open to the elderly; allowed them to cut the queues when they do their shopping outside the reserved time slots; given priority for home deliveries; allowed to enter stores with an attendant; allowed to pay in cash (particularly for visually impaired or intellectually handicapped persons who do not have bank cards).<sup>321</sup>

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<sup>319</sup> Belgium, For more information on protective equipment and mouthmasks see Belgium, FRC [Coronavirus COVID-19 outbreak in the EU Fundamental Rights Implications](#), 5 June 2020, p. 16.

<sup>320</sup> Belgium, Unia, Persons with disabilities and the elderly have the right to be cared for ([Les personnes handicapées et les personnes âgées ont le droit d'être soignées](#)) 10 April 2020. For information on access to public transportation see Belgium, FRC, [Coronavirus COVID-19 outbreak in the EU Fundamental Rights Implications](#), 4 May 2020, p. 14.

<sup>321</sup> Belgium, Unia, Unia is concerned about the accessibility of supermarkets during the lockdown ([Unia s'inquiète au sujet de l'accessibilité des supermarchés pendant le](#)

In June 2020, Unia raised concerns about the prohibition of persons in wheelchairs from having access to a shop (a poster also stipulated that young persons could not enter). Unia contacted the store manager and the head office of the chain who agreed to withdraw the ban and issued an apology.<sup>322</sup>

In April 2020, Unia launched a public online consultation to determine the impact of the COVID-19 pandemic and the accompanying measures on the lives of persons with disabilities.<sup>323</sup> A total of 865 people responded, including 502 people with disabilities and 363 family members. The results show that persons with disabilities often feel abandoned, for instance, the lockdown measures have meant that many have not been able to receive care at home and protective clothing were not adapted for people with hearing or visual impairments. Other aspects made it difficult for people with disabilities during the lockdown period. The lack of clear information about corona measures, for example, caused additional stress for many people. The situation also put increased pressures on family members who had to undertake more caring responsibilities and had the added task of working from home. There were also concerns raised about access to education<sup>324</sup> and access to public spaces e.g. families who needed to go shopping with a disabled person (where the rules only allowed persons to enter shops alone). Unia states that better support should have been provided to families, with more forms of care maintained and special leave for carers.

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[confinement](#)) 1 April 2020. For information on access to public transportation see Belgium, FRC, [Coronavirus COVID-19 outbreak in the EU Fundamental Rights Implications](#), 4 May 2020, p. 14-15.

<sup>322</sup> Belgium, Unia, Allowing wheelchair access to a store during COVID-19 ([Permettre l'accès à un magasin en chaise roulante en période de COVID-19](#)) 29 June 2020.

<sup>323</sup> Belgium, Unia, COVID-19: an online consultation to learn more about the impact on people with disabilities ([COVID-19: une consultation en ligne pour mieux connaître l'impact sur les personnes avec un handicap](#)) 21 April 2020; Unia, COVID and rights human: impact about people disabled and their loved ones ([COVID et droits humains : impact sur les personnes handicapées et leurs proches](#)), July 2020; Unia, The coronavirus crisis has had a dramatic impact on people with disabilities ([La crise du coronavirus a eu un impact dramatique sur les personnes en situation de handicap](#)) 8 July 2020.

<sup>324</sup> Belgium, For more information on access to education see Belgium, FRC, [Coronavirus COVID-19 outbreak in the EU Fundamental Rights Implications](#), 5 June 2020, p. 16.

The findings of the survey were used to develop, in June 2020, guidelines for towns and local authorities during the COVID-19 pandemic.<sup>325</sup> In recognition of the important role played by towns and local authorities in taking measures to protect and support citizens, Unia's guidelines seek to assist these authorities to develop an adequate policy that takes into account the obstacles encountered by persons with disabilities and the most urgent needs. The guidelines also emphasise the new challenges that persons with disabilities have been confronted with and how towns and local authorities can respond in a way that respect human rights.

In November 2020, Unia published a report on the impact of the COVID-19 pandemic on human rights which identified a number of difficulties experienced by persons with disabilities.<sup>326</sup> It reported that certain measures applicable in shops (e.g. shopping alone, requirement of using a shopping-cart, distancing) caused difficulties for persons with disabilities. Furthermore, during the first lockdown, organisations for near-sighted or blind persons raised concerns that it would be impossible to adhere to the social distancing rules for such persons and the person accompanying them outside. Finally, concerns had been raised in connection to the obligation to wear a mask in various indoor and outdoor spaces by persons who, due to their disability, were not able to wear a mask. In all cases, Unia described how, in the course of the past months, they undertook action to raise awareness and to engage relevant stakeholders to address these concerns (some interventions described above).

In December 2020, Unia published the results of its large-scale survey of persons with disabilities, conducted between 3 December 2019 and 1 June 2020.<sup>327</sup> With the survey, Unia aimed to gain better insights into the obstacles experienced by persons with disabilities in the exercise of their rights. Based on the results of the survey, Unia concludes that in recent years, no major advancements have been made. For instance, of those participating in the survey, 60% stated that their disability stands in the way of a decent standard of living. The survey further highlighted that the extra costs connected to disability are exceedingly high, that the benefits they

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<sup>325</sup> Belgium, Unia, Recommendations for cities and towns during the COVID-19 crisis, in particular for persons with disabilities ([Recommandations pour les villes et les communes pendant la crise du COVID-19, en particulier pour les personnes en situation de handicap](#)) 3 June 2020.

<sup>326</sup> Belgium, Unia, COVID-19: A test for human rights ([COVID-19: Een test voor de mensenrechten](#)), 12 November 2020 [last accessed 23 November 2020].

<sup>327</sup> Belgium, Unia, Survey of persons with disabilities on the respect for their rights (2020) ([Bevraging van personen met een handicap over de naleving van hun rechten \(2020\)](#)), December 2020, [last accessed 7 January 2021].

receive enable them only to survive, and that the employment of persons with a disability in Belgium is low. The concerns identified by the survey prompted Unia to formulate a number of recommendations and to request the Belgian government to make greater effort to ensure full enjoyment of the rights as included in the CRPD.<sup>328</sup>

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<sup>328</sup> Belgium, Unia, No major advances in the life of persons with a disability ([Geen grote vooruitgang in het leven van personen met een handicap](#)), 3 December 2020 [last accessed 7 January 2021].



# Annex 1 – Promising Practices

<b>Thematic area</b>	<b>EQUALITY AND NON-DISCRIMINATION</b> Please provide one example of a promising practice to tackle discrimination against older people or LGBTI people such as awareness raising campaigns or ethical codes for healthcare staff held in your country in 2020. Where no such examples are available, please provide an example of an awareness raising campaign held in your country in 2020 relevant to equality and non-discrimination of older people or LGBTI people, preferably one conducted by a national equality body.
Title (original language)	Actieplan 2020-2022 voor inclusie en de strijd tegen discriminatie van LGBTQI+ personen
Title (EN)	Action plan 2020-2022 for inclusion and fighting discrimination against LGBTQI+ persons
Organisation (original language)	N/A
Organisation (EN)	N/A
Government / Civil society	Equal Opportunities Unit of the City of Brussels (Stad Brussel, Cel Gelijke Kansen)
Funding body	Equal Opportunities Unit of the City of Brussels
Reference (incl. url, where available)	Belgium, Brussels, Department of Equal Opportunities, Action plan for inclusion and fighting discrimination against LGBTQi+ persons ( <a href="#">Actieplan voor inclusie en de strijd tegen discriminatie van LGBTQI+ personen</a> ), 18 September 2020
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	The Plan was presented on 18 September 2020 and will be in place until 2022.
Type of initiative	Local Government Action Plan
Main target group	Local Government Departments and Agencies

Indicate level of implementation: Local/Regional/National	Local
Brief description (max. 1000 chars)	<p>The aim of the action plan is, through awareness raising and information, to introduce and/or continue measures that meet the specific needs of the members of the LGBTQI+ community, both at the level of Brussels citizens and relevant organisations, as well as the City's staff. The plan also aims to promote the acceptance of being different and increase the visibility and well-being of the members of the community. The action plan should facilitate:</p> <ul style="list-style-type: none"> <li>- The development of a policy containing a set of specific priorities in favour of LGBTQI+ persons and their integration in different municipal action areas;</li> <li>- The efficient coordination of such policies and actions resulting from them;</li> <li>- Monitoring by means of indicators in order to be result-oriented, correcting what does not work, and add new objectives to the action plan.</li> <li>- External communication, to pass on information on specific actions to the public in question and to raise awareness among every citizen.</li> </ul>
Highlight any element of the actions that is transferable (max. 500 chars)	<ul style="list-style-type: none"> <li>- Development of action plans regarding particularly vulnerable groups at the local level (in this case LGBTI, but Brussels had previously developed action plans on gender equality, and on disability and accessibility)</li> <li>- In cooperation with civil society and taking into account their proposals for activities</li> <li>- Based on previous initiatives where relevant</li> <li>- With evaluation foreseen after specific amount of time</li> </ul>
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	<p>For the preparation of the 2020-2022 Action Plan, existing actions in each department of the City were identified and complemented with new actions for the future in collaboration with the departmental and cabinet managers. Evaluation is foreseen after 2 years.</p>

Give reasons why you consider the practice as having concrete measurable impact	As noted above, the action plan aims to facilitate monitoring by means of indicators in order to be result-oriented, correcting what does not work, and add new objectives to the action plan. Specific goals and actions were defined for each local Government department, paired with specific indicators to monitor implementation as well as desired outcomes.
Give reasons why you consider the practice as transferable to other settings and/or Member States?	The concept and methodology (local action plan, goals per department, reference person appointed for each department ...) is easily transferable to other Member States for implementation at the local level.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	Local LGBTQI+ organizations were consulted to submit action proposals. Each proposed action was translated into a specific objective, which was assigned to the administrative department in question. One of the goals included in the Action Plan is to establish an advisory committee with the LGBTQI+ organizations
Explain, if applicable, how the practice provides for review and assessment.	The Action Plan will be evaluated after two years.

<b>Thematic area</b>	<b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b> Please provide one example of a promising practice to address racism and xenophobia in the context of the COVID-19 pandemic. Where no such practice exists, please provide one example of a promising practice related to combating racism, xenophobia and related intolerances.
Title (original language)	Improving equality data collection in Belgium
Title (EN)	Improving equality data collection in Belgium

Organisation (original language)	Unia, Interfederaal Centrum voor gelijke kansen en bestrijding van discriminatie en racisme, Cel Gelijke Kansen van FOD Justitie
Organisation (EN)	Unia, Interfederal Centre for Equal Opportunities and Opposition to Discrimination and Racism, Equal Opportunities Unit of the Federal Public Department of Justice
Government / Civil society	
Funding body	EC-programma (Rights, Equality and Citizenship) van de Europese Commissie, Federal Public Service of Justice and Unia
Reference (incl. url, where available)	<a href="https://www.unia.be/en/articles/a-new-project-to-improve-the-collection-and-processing-of-equality-data-in-belgium">https://www.unia.be/en/articles/a-new-project-to-improve-the-collection-and-processing-of-equality-data-in-belgium</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	June 2020
Type of initiative	Mapping of equality data and policy recommendations for improving equality data collection and processing in Belgium
Main target group	Policy makers, civil society
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	<p>The project aims to improve the collection and development of equality data in Belgium. Researchers will develop an accessible inventory of equality data that currently exist in the country, with a focus on three main groups of discrimination grounds: (1) racial criteria (race, colour, nationality, descent and national or ethnic origin); (2) religion or beliefs and; (3) Sexual orientation, gender identity (transgender) and intersex.</p> <p>Interviews will take place with experts in the field and a survey will be widely among civil society. In June 2021, Unia will publish a report and organise a conference with insights and recommendations on the collection and development of equality data.</p>

<p>Highlight any element of the actions that is transferable (max. 500 chars)</p>	<p>The project's methodology is easily transferable and can be used for data related to other discrimination grounds. The inventory can also be adapted and expanded over time.</p>
<p>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</p>	<p>The project has important long-term results, such as an increased capacity and awareness to use equality data as the basis for policymaking through the data hub. This applies to policymakers as well as to civil society in its role of advocacy and participation in the public debate. Another result is the development of a human rights-based approach in the field of equality data, by consulting and engaging with civil society.</p>
<p>Give reasons why you consider the practice as having concrete measurable impact</p>	<p>The project will provide public institutions and civil society a clear and complete overview of the sources of equality data in Belgium on the three main topics. It provides an easy access tool to be used by stakeholders.</p>
<p>Give reasons why you consider the practice as transferable to other settings and/or Member States?</p>	<p>The scope of the project and the discrimination grounds to be focused on can easily be modified depending on the Member State's available equality data and databases. The European Commission provided the mapping tool used for the project. A similar mapping exercise has already taken place in the UK and would ideally be undertaken in other EU countries.</p>
<p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p>	<p>The project includes consultations with the target groups, namely Belgian federal and state-level public institutions and civil society, throughout the project within the framework of a 'support committee'. A survey was sent out among stakeholders, which will be followed by interviews.</p>
<p>Explain, if applicable, how the practice provides for review and assessment.</p>	<p>A confidential evaluation report is to be drafted for use by the project's participants.</p>

<b>Thematic area</b>	<p><b>ROMA EQUALITY AND INCLUSION</b></p> <p>Please provide one example of promising practice in relation to the legal and policy developments in regard to Roma/Travellers (or any group covered by this term as per the Council of Europe definition) in 2020 that relate to the (1) application of the EU Framework on national Roma integration strategies and (2) the preparations for the new post-2020 initiative on Roma equality, inclusion and participation or in relation to any measures in your country in 2020 to address Roma inclusion and prevent discrimination, hate crime and hate speech with a particular focus on COVID-19.</p>
Title (original language)	Buurtstewards
Title (EN)	Neighbourhood Stewards
Organisation (original language)	
Organisation (EN)	various
Government / Civil society	various
Funding body	Flemish Government
Reference (incl. url, where available)	<a href="https://www.stedenbeleid.vlaanderen.be/Buurtstewards">https://www.stedenbeleid.vlaanderen.be/Buurtstewards</a> ; <a href="https://integratiebeleid.vlaanderen.be/projectoproepen">https://integratiebeleid.vlaanderen.be/projectoproepen</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	2012-2021
Type of initiative	Bridging the gap between majority and (Roma) minority populations
Main target group	Roma
Indicate level of implementation: Local/Regional/National	Local

<p>Brief description (max. 1000 chars)</p>	<p>The neighbourhood stewards are deployed in the central cities where there is a strong presence of Roma, especially Ghent, Sint-Niklaas, Antwerp and Brussels. The neighbourhood stewards form the bridge between the Roma population, the city services and social services. The annual subsidy for neighbourhood stewards amounts to 300,000 euros to the city of Ghent, 100,000 euros to the city of Sint-Niklaas, 200,000 euros to the city of Antwerp and 200,000 euros to the Flemish Community Commission.</p>
<p>Highlight any element of the actions that is transferable (max. 500 chars)</p>	<p>The neighbourhood stewards work closely with a number of schools with a large Roma population. The kind of support they offer to the school teams in their daily work, as well as their mediation between families, pupils and school staff are highly transferable elements that could be extended to other contexts and educational systems too.</p>
<p>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</p>	<p>The neighbourhood stewards projects have been implemented in four different cities in Belgium since 2012 and renewed already twice due to the persistent needs for mediation with Roma population groups at the local level and the positive results the action has reached so far.</p>
<p>Give reasons why you consider the practice as having concrete measurable impact</p>	<p>Both local NGOs and institutional bodies have identified the capability of the neighbourhood stewards to bridge the gap to education and other facilities through an adherent (outreaching) method. The position of trust also enables them to react quickly to possible social problems.</p>
<p>Give reasons why you consider the practice as transferable to other settings and/or Member States?</p>	<p>Bridging the gap between majority and (Roma) minority populations is a compelling necessity in most of the cities and countries where Roma people experience high levels of marginalisation and inferiorisation. The role of the 'mediator' can be very promising whether certain key conditions are respected – such as a previous assessment of the needs at the local level, etc.</p>
<p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and</p>	<p>The neighbourhood stewards projects are mostly implemented by local NGOs working at the grassroots and in close cooperation with local institutional bodies.</p>

implementation of the practice.	
Explain, if applicable, how the practice provides for review and assessment.	The neighbourhood stewards projects are regularly evaluated. A previous evaluation (2016) is available on the Flemish Government dedicated webpage: <a href="https://www.stedenbeleid.vlaanderen.be/sites/default/files/atoms/files/Buurtstewards_evaluationrapport_2016.pdf">https://www.stedenbeleid.vlaanderen.be/sites/default/files/atoms/files/Buurtstewards_evaluationrapport_2016.pdf</a> . Ongoing projects will be evaluated in the course of 2021.

<b>Thematic area</b>	<b>INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION</b> Please, provide one example of a promising practice related to any of the topics addressed in the chapter – i.e. in relation to data protection, and/or artificial intelligence systems - in 2020.
	No promising practice has been identified for this thematic area.

<b>Thematic area</b>	<b>RIGHTS OF THE CHILD</b> Please provide one example of a promising practice relating to the topics addressed in this chapter.
	No promising practice has been identified for this thematic area.

<b>Thematic area</b>	<b>ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS</b> Please provide one example of a promising practice relating to the topics addressed in this chapter.
Title (original language)	Publication de sites spécifiques à la disposition des victimes à la recherche d'informations, contenant des mises à jours spécifiques au confinement.



Title (EN)	Publication of websites containing detailed information for victims looking for contact details and assistance, including updated information during the lockdown.
Organisation (original language)	
Organisation (EN)	Various
Government / Civil society	Both (public services and NGOs receiving public subsidies)
Funding body	Various
Reference (incl. url, where available)	Examples of websites: <a href="https://www.ecouteviolencesconjugales.be/">https://www.ecouteviolencesconjugales.be/</a> , <a href="https://www.violencessexuelles.be/une-agression-sexuelle-est-un-d%C3%A9lit-0">https://www.violencessexuelles.be/une-agression-sexuelle-est-un-d%C3%A9lit-0</a> , <a href="http://www.victim.es.cfwb.be/">http://www.victim.es.cfwb.be/</a> , <a href="https://1712.be/home">https://1712.be/home</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	March/April 2020 – ongoing
Type of initiative	Communication campaign specifically reinforced during lockdown
Main target group	Women and children potentially exposed to domestic violence
Indicate level of implementation: Local/Regional/National	All levels of governance
Brief description (max. 1000 chars)	Belgian authorities and NGOs have set up various helplines and websites centralising information for victims, especially victims of domestic violence and victims of sexual violence. During the lockdown, as they noticed an increase in the number of calls to the helplines, they also increased their dissemination efforts via social media, press releases, etc. and they recruited additional persons to assist the victims and their relatives. As a way of example, the website for victims of sexual violence now automatically opens with a pop-up window, indicating that the centres specialised in the reception of victims of sexual violence remain open. As a second example, the Walloon public service on social action made available for download a series of documents in different languages (official

	Belgian languages, but also Russian, Arabic, Swahili, Albanese, Turkish, Pashto or Dari) centralising contact details of specialised helplines and emergency numbers, as well as the rights granted to victims.
Highlight any element of the actions that is transferable (max. 500 chars)	The design of dedicated websites, with key features (such as an escape to google button for the website of domestic violence), centralising key information for victims.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	These organisations and services all have websites that are active in the long term and constantly updated. Their reaction to the specific circumstances can be replicated, should another lockdown be imposed, or specific forms of violence be identified.
Give reasons why you consider the practice as having concrete measurable impact	It helps to spread awareness about the relevant emergency and assistance contacts, which is useful not only for the victims, but also for their relatives and the general audience who might be able to report suspicions and/or concrete cases. It also spread awareness to victims on their rights and the assistance they can get.
Give reasons why you consider the practice as transferable to other settings and/or Member States?	Online tools and diversity of languages is also encountered in other countries.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	N/A
Explain, if applicable, how the practice provides for review and assessment.	N/A

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

# Annex 2 – Case Law

<b>Thematic area</b>	<b>EQUALITY AND NON-DISCRIMINATION</b> Please provide one high court decision addressing discrimination against older people or against LGBTI people. Where relevant, always highlight any relevance or reference to multiple or intersectional discrimination in the case you report.
<b>Decision date</b>	23 July 2020
<b>Reference details</b>	Court of first instance of Dendermonde, Public Prosecutor’s Office, D.W.T and Unia vs. B.T., 23 July 2020 (Rechtbank van eerste aanleg te Dendermonde, Openbaar Ministerie, D.W.T en Unia t. B.T., 23 juli 2020) <a href="https://www.unia.be/files/Documenten/2020_07_23_Rb._Dendermonde.pdf">https://www.unia.be/files/Documenten/2020_07_23_Rb._Dendermonde.pdf</a>
<b>Key facts of the case</b> (max. 500 chars)	A man and his male partner organised a dinner at their house. As guests were leaving, a seemingly drunk man appeared outside and started shouting homophobic insults. The host told the drunk man to leave the private car park - which was private - otherwise he would call the police, to which the homophobic slurs continued. The drunk man then walked up to the host and gave him three punches in the face. He also tried to hit the man's partner. Two friends then held the attacker in check until the police arrived at the scene. The victim ended up seriously injured on his face and also had a concussion and a whiplash.
<b>Main reasoning/argumentation</b> (max. 500 chars)	The Court concluded that one of the motives of the defendant was hatred of, disdain for, or hostility towards the victim because of his sexual orientation. After the defendant had denounced the victim as a 'dirty gay', he entered the parking lot. There were several people in that car park. However, the defendant passed them all in order to get to the victim, who was standing at the front door, and punch him in the face. This confirms that he did not just want to hit any random victim, but that he specifically targeted the person he had just scolded with homophobic slurs.
<b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)	The main question was whether or not the physical assault was of a homophobic nature, thereby constituting an aggravated circumstance, and consequently stricter sanctions. The Court recalled that expression of abusive language based on a person's sexual orientation during a

	brawl does not automatically mean that the motive for the physical assault is of a homophobic nature. The use of such language may, however, be an indication of this.
<b>Results (sanctions) and key consequences or implications of the case</b> (max. 500 chars)	The accused was sentenced to twelve months' imprisonment with probation for five years.
<b>Key quotation in original language and translated into English with reference details</b> (max. 500 chars)	<p>“Beklaagde maakte zich schuldig aan zinloos geweld. Omdat hij vermoedde dat T. D. W. en zijn gezelschap zijn vriend hadden uitgelachten, stormde hij op dat gezelschap toe, Hij schold T. D. W. meermaals uit en bracht hem ernstige slagen toe. Het is nogal evident dat hiervoor geen enkele reden of verantwoording bestond.”</p> <p>“The accused committed acts of senseless violence. Suspecting that T. D. W. and his entourage had made fun of friend, he rushed at that entourage, scolded T. D. W. several times and inflicted severe blows on him. It is quite obvious that there was no reason or justification for this.” (Court of first instance of Dendermonde of 23 July 2020, Public Prosecutor’s Office, D.W.T and Unia vs. B.T., p. 5, section 3.3, § 2)</p>

<b>Thematic area</b>	<b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE.</b> Please provide the most relevant high court decision concerning the application of <u>either</u> the Racial Equality Directive <u>or</u> the Framework Decision on racism and xenophobia, addressing racism, xenophobia and other forms of intolerance more generally.
<b>Decision date</b>	15 June 2020
<b>Reference details</b>	Court of First Instance of Leuven, Public Prosecutor’s Office, A.M.E.M., Y.B.E, NMBS and Unia vs. S.H., C.A.H.V.G. and J.P.E.V., 15 June 2020 (Rechtbank van Eerste Aanleg te Leuven, Openbaar Ministerie, A.M.E.M., Y.B.E, NMBS en Unia t. S.H., C.A.H.V.G. and J.P.E.V., 15 juni 2020) <a href="https://www.unia.be/files/Documenten/Corr. Leuven 15062020.pdf">https://www.unia.be/files/Documenten/Corr. Leuven 15062020.pdf</a>

<p><b>Key facts of the case</b> (max. 500 chars)</p>	<p>The victim, a fifteen year old man, was attacked at a train station. One of the defendants asked what time the train would arrive and pushed him. When the victim refused to answer, the situation got heated. The defendants first pushed him several times, surrounded him and started shouting at him. The victim's sister started filming the incident on her smartphone. The footage showed the racist nature of several insults made towards the victim, telling him 'to return to his own country'. When the victim turned around to walk away, one of the defendants grabbed him by the wrists and threw him onto the train tracks. In doing so, the victim fell backwards and managed to grab his attacker and drag him with him on the tracks, where they continued fighting.</p>
<p><b>Main reasoning/argumentation</b> (max. 500 chars)</p>	<p>The video footage, medical reports etc proved the physical assault of the victim, who is a minor. One of the accused clearly started the brawl by pushing the victim. The Court also notes that the fact that the latter put the victim in a life-threatening situation (because a train was possibly approaching the tracks) reinforces the impact of the violence and the fact that the acts were committed intentionally. The Court also considered that the video footage proves the racist nature of the acts.</p>
<p><b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)</p>	<p>A key question was whether or not the actions of the accused had a racist motivation, potentially leading to an aggravated circumstance and stricter sanctions.</p>
<p><b>Results (sanctions) and key consequences or implications of the case</b> (max. 500 chars)</p>	<p>The three defendants were sentenced to effective prison sentences of between 9 months and 1 year plus a fine of 400 euros.</p>
<p><b>Key quotation in original language and translated into English with reference details</b> (max. 500 chars)</p>	<p>"De intensiteit van de discriminatoire drijfveer verschilt naargelang het haat, misprijzen of vijandigheid betreft. De wetgever neemt verschillende gradaties in aanmerking. De toepassing van de verzwarende omstandigheid ex artikel 405quater van het Strafwetboek vereist niet dat de discriminatoire drijfveer de enige drijfveer van de dader van het misdrijf is. (...) Racisme is één van de drijfveren maar niet het ultieme, een eenvoudig misprijzen volstaat."</p> <p>"The intensity of the discriminatory motive varies according to whether it is hatred, disdain or hostility. The legislator takes different degrees into account. The application of the</p>

	aggravating circumstance under Article 405c of the Penal Code does not require that the discriminatory motive be the sole motive of the perpetrator of the offence. (...) Racism is one of the motives, but not the ultimate, a simple disdain suffices.” (Court of First Instance of Leuven, Public Prosecutor’s Office, A.M.E.M., Y.B.E, NMBS and Unia vs. S.H., C.A.H.V.G. and J.P.E.V., 15 June 2020, p. 5)
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<b>Thematic area</b>	<b>ROMA EQUALITY AND INCLUSION</b> Please provide the most relevant high court decision addressing violations of fundamental rights of Roma and Travellers.
<b>Decision date</b>	14 May 2020
<b>Reference details</b>	Council of Europe, European Committee of Social Rights, <i>Decision on Admissibility and on Immediate Measures</i> , European Roma Rights Centre (ERRC) v. Belgium, Complaint No. 185/209.  <a href="https://hudoc.esc.coe.int/eng#%7B%22sort%22:%5B%22ESCPublicationDate%20Descending%22%5D,%22ESCDcIdentifier%22:%5B%22cc-185-2019-dadmissandimmed-en%22%5D%7D">https://hudoc.esc.coe.int/eng#%7B%22sort%22:%5B%22ESCPublicationDate%20Descending%22%5D,%22ESCDcIdentifier%22:%5B%22cc-185-2019-dadmissandimmed-en%22%5D%7D</a>
<b>Key facts of the case</b> (max. 500 chars)	On 7 May 2019, the <b>large-scale police operation ‘Strike’ took place in the fight against car scams, mainly targeting Roms</b> . 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.  On 12 July 2019, the <b>European Roma Rights Centre</b> (ERRC) submitted a collective complaint against Belgium with the European Committee of Social Rights that monitors compliance with the European Social Charter. Namely, the ERRC asked the Committee to request to the Belgian Government to indicate immediate measures with regard to (i) ceasing the sale of all caravans seized from Travellers in the context of the police operation and returning them to their owners who have been left homeless (or providing them with

	<p>adequate accommodation instead); (ii) ensuring full access to their bank accounts to all Travellers whose access had been blocked since the operation; (iii) stopping the seizure of belongings from Travellers and assisting those whose automobiles had been deregistered to re-register them again. On 27 August 2019, the Belgian Government submitted its observations on admissibility and the request for immediate measures, clarifying that the police operation was not intended to target any (ethnic) community – but rather aimed to dismantle an international criminal organization accused of fraud, which has ramifications in France, Germany, Switzerland and Norway – and that the requests for immediate measures should be rejected entirely. On September 2019, ERRC submitted its response<sup>19</sup> to the Belgian Government’s observations – including, among other things, the handwritten testimony taken by activists in June 2019 about the consequences of Operation Strike for individual families, as well as a statement from a representative of the ERGO network (European Roma Grassroots Organisation), who has been in close personal touch with Travellers in Anderlecht affected by Operation Strike. On 22 November 2019, the Belgian Government replied again on the admissibility and request for immediate measures, further clarifying and confirming its former position about rejecting <i>d’emblée</i> the requests for immediate measures.</p>
<p><b>Main reasoning/argumentation</b> (max. 500 chars)</p>	<p>On 14 May 2020, the <b>European Committee of Social Rights of the Council of Europe unanimously voted to issue an interim measure against Belgium</b>. The Committee has ordered the Belgian Government to immediately guarantee that those affected are not rendered homeless, and are given access to water, sanitation, electricity, necessary medical and social assistance, as well as legal aid. The declaration of the Committee recognises the violations of the affected people’s social rights particularly concerning vulnerable adults, elderly people, pregnant women, and children who were adversely affected by the police actions.</p>
<p><b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)</p>	<p>The European Committee of Social Rights of the Council of Europe has unanimously decided that it is necessary to indicate to the government immediate measures which should be adopted as follows:</p> <ol style="list-style-type: none"> <li>1. adopt all possible measures with a view to <u>avoiding serious, irreparable injury to the integrity of persons belonging to the Traveller community at immediate risk of being deprived of fundamental social rights</u>, in particular:</li> </ol>



	<ul style="list-style-type: none"> <li>- <u>to guarantee that persons whose caravans have been seized are not rendered homeless or forced to live in unacceptable living conditions;</u></li> <li>- <u>to ensure that all affected persons have due access to water, sanitation, electricity, necessary medical and social assistance as well as to legal aid, in particular taking into account the needs of the vulnerable groups concerned</u> (including children, persons with disabilities and elderly persons);</li> </ul> <p>2. ensure that all the relevant public authorities are made aware of this decision and inform the Committee without delay of the measures taken to implement it.</p>
<b>Results (sanctions) and key consequences or implications of the case</b> (max. 500 chars)	The Belgian Government had until 22 July 2020 to respond to the Committee about the other aspects of the complaint, including the ERRC's allegation that this operation amounted to ethnically targeted collective punishment. No response from the Government was received and/or made available so far. In the meantime, the interim measures to ensure the affected Roma are not homeless and have access to utilities and services are binding and must be carried out by the Belgian Government.
<b>Key quotation in original language and translated into English with reference details</b> (max. 500 chars)	N/A

<b>Thematic area</b>	<b>INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION</b> Please provide the most relevant high court decision related to the topics addressed in the chapter, i.e. in relation to data protection, and/or artificial intelligence systems.
<b>Decision date</b>	28 May 2020
<b>Reference details</b>	<a href="#">Arrêt n° 74/2020</a> du 28 mai 2020, Cour constitutionnelle

<p><b>Key facts of the case</b> (max. 500 chars)</p>	<p>The company 'Derby' SA, which operates gambling and betting agencies, claimed that it was unconstitutional for it not to be able to appeal a decision of the Commission for the protection of privacy (Commission de la protection de la vie privée) – the predecessor of the Belgian Data Protection Authority – that prevented Derby from accessing the national registry to verify the age of one of its potential clients.</p>
<p><b>Main reasoning/argumentation</b> (max. 500 chars)</p>	<p>'Derby' SA argues that the impossibility of appeal is disproportionate to the legitimate aim retained by the legislator especially considering the possibility of appeal that exists for other requests to access administrative documents. The disproportion is all the more obvious as the decisions of the body which succeeded the Commission for the protection of privacy in 2018, namely the Data Protection Authority, can be appealed.</p>
<p><b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)</p>	<p>The Court concluded that the impossibility to appeal the decision was contrary to the principle of equality and non-discrimination.</p>
<p><b>Results (sanctions) and key consequences or implications of the case</b> (max. 500 chars)</p>	<p>The Court found that there was indeed a lacuna whereby the contested provision does not provide recipients of a decision by the Privacy Commission refusing access to the national population registry the possibility to submit a request for annulment thereof before the administrative law section of the Council of State. Accordingly, it answers the preliminary question positively. The Court further notes that as the lacuna was expressed in sufficiently precise and complete wording, which permitted the contested provision to be applied in accordance with the reference standards on the basis of which the Court exercises its jurisdiction, it was for the referring judge to end the violation of those norms.</p>
<p><b>Key quotation in original language and translated into English with reference details</b> (max. 500 chars)</p>	<p>“En ce qu’il ne permet pas au destinataire d’une décision de la Commission de la protection de la vie privée en matière d’accès au Registre national d’introduire, auprès de la section du contentieux administratif du Conseil d’État, un recours en annulation d’une décision de refus, l’article 14, § 1er, alinéa 1er, 2<sup>o</sup>, des lois sur le Conseil d’État, coordonnées le 12 janvier 1973, viole les articles 10 et 11 de la Constitution.” Cour constitutionnelle, <a href="#">Arrêt n° 74/2020</a> du 28 mai 2020, p. 11.</p> <p>“In that it does not allow the addressee of a decision of the Commission for the Protection of Privacy regarding access to the National Register to lodge an appeal with the Administrative Jurisdiction Division of the Council of State for the annulment of a refusal decision, article 14, § 1, paragraph 1, 2<sup>o</sup>, of the laws on the Council of State, coordinated on January 12, 1973, violates articles 10 and 11 of the Constitution.”</p>

<b>Thematic area</b>	<b>RIGHTS OF THE CHILD</b> Please provide the most relevant high court decision relating to the topics addressed in this chapter.
<b>Decision date</b>	27 July 2020
<b>Reference details</b>	Belgium, Constitutional Court, Case No. 112/2020
<b>Key facts of the case</b> (max. 500 chars)	<p>The defendant was being prosecuted for rape and assault of a minor older than sixteen, with aggravating circumstances that the offences were preceded or accompanied by captivity. The defendant was a minor when the acts were committed. The Public Prosecutor requested the Juvenile Division of the Antwerp Court of First Instance to transfer the case so that the defendant could be tried as an adult. Prior to such transfer, the Juvenile Division submitted two preliminary questions for consideration to the Constitutional Court.</p> <p>The case concerned the question whether articles 87 and 88 of the Flemish Decree of 15 February 2019 "regarding juvenile delinquency law" (Decree of 15 February 2019) violated articles 12 and 14 of the Constitution, whether or not read in conjunction with articles 6 and 7 of the European Convention on Human Rights (ECHR) and article 15 of the International Covenant on Civil and Political Rights (ICCPR), because the Decree of 15 February 2019 applied to acts committed by minors prior to the promulgation and entry into force of the Decree of 15 February 2019.</p> <p>In a similar vein, the case considered the question whether articles 7, 10 and 11 of the Flemish Decree of 24 September 2019 "on amendments of the act of 8 April 1965 regarding child protection, the charging of minors who committed an act considered a crime and the reparation of the damage caused by this act and the Decree of 15 Februari 2019 regarding juvenile delinquency law, as it concerns the transitional provisions" (Decree of 24 September 2019) violated articles 12 and 14 of the Constitution, whether or not read in conjunction with articles 6 and 7 of the European Convention on Human Rights and article 15 of the International Covenant on Civil and Political Rights, because the aforementioned Decree</p>

	<p>retroactively from 1 September 2019 introduce a regulation on which basis persons who are suspected as minors to have committed a criminal act are transferred, while a transferral under the application of article 38 of the Decree of 15 February 2019 was not possible.</p>
<p><b>Main reasoning/argumentation</b> (max. 500 chars)</p>	<p>From contested articles 87 and 89 of the Decree of 15 February 2019, prior to their amendment by Decree of 24 September 2019, it followed that the amended regulation for transfer of juvenile cases entered into force on 1 September 2019 and that the minor that was brought before the transferring judge as a consequence of that entry into force was no longer eligible for transfer. From the aforementioned date, the transfer was only possible after the minor had previously been subject to closed orientation or supervision, though these measures have not yet entered into force. The first preliminary question asked whether these two provisions were a violation of the principle of legality as laid down in Articles 12 and 14 of the Constitution because the Decree applied to acts committed by minors prior to its promulgation and entry into force.</p> <p>The Court considered that a decision to transfer a juvenile case does not entail a criminalisation or penalty, but rather determines what law (whether juvenile delinquency law or criminal law) applies. It further found that the required foreseeability of criminal law as set out in Article 12 §2 of the Constitution did not preclude the immediate application of laws related to the administration of justice in criminal cases. Moreover, the measure of transfer of juvenile cases did not relate to evidentiary rules and determination of guilt, which, in principle, cannot be amended to the detriment of a person retroactively. Accordingly, the Court found that the contested provisions were compatible with articles 12 and 14 of the Constitution, thereby answering the first preliminary question in the negative.</p> <p>From contested articles 7, 10 and 11 of the Decree of 24 September 2019, it follows that the entry into force of the amended regulation related to the transfer of juvenile cases on 1 September 2019 is retroactively nullified and that the minors who have been brought before a transferring judge is therefore again eligible for transfer. The second preliminary questions asked whether these provisions violated articles 12 and 14 of the Constitution, because they retroactively introduce a regulation on the basis of which persons who are suspected as minors to have committed a criminal act are transferred, while a transferral under the application of article 38 of the Decree of 15 February 2019 was not possible.</p>

	<p>The Court recalled their reasoning in relation to the first preliminary question, finding that a decision to transfer a juvenile case does not entail a penalty, but rather determines the law that applies to the acts committed by a minor (criminal law rather than juvenile delinquency law). Accordingly, the Court found that the contested provisions were compatible with articles 12 and 14 of the Consitution, thereby answering the second preliminary question in the negative.</p>
<p><b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)</p>	<p>Articles 12 and 14 of the Constitution, whether or not read in conjunction with articles 6 and 7 of the ECHR and article 15 of the ICCPR, do not preclude the immediate application of laws related to the administration of justice in criminal cases. As the Court determined that a decision to transfer a juvenile case does not relate to evidentiary rules, determination of guilt or penalty, it does not fall within the scope of Articles 12 and 14 of the Constitution.</p>
<p><b>Results (sanctions) and key consequences or implications of the case</b> (max. 500 chars)</p>	<p>The first preliminary question, whether articles 87 and 89 of the Decree of 15 February 2019 were a violation of the principle of legality as laid down in Articles 12 and 14 of the Constitution because the Decree applied to acts committed by minors prior to its promulgation and entry into force, was answered in the negative by the Court.</p> <p>Similarly, the second preliminary questions, whether articles 7, 10 and 11 of the Decree of 24 September 2019 violated articles 12 and 14 of the Consitution, because they retroactively introduce a regulation on the basis of which persons who are suspected as minors to have committed a criminal act are transferred, while a transferral under the application of article 38 of the Decree of 15 February 2019 was not possible, was answered in the negative by the Court.</p>
<p><b>Key quotation in original language and translated into English with reference details</b> (max. 500 chars)</p>	<p><i>"B.11. De beslissing tot uithandengeving houdt op zich geen strafbaarstelling of straf in, maar bepaalt het recht dat op het als misdrijf omschreven feit, gepleegd door een minderjarige, van toepassing is, namelijk het strafrecht in plaats van het jeugddelinquentierecht. Aangezien de beslissing tot uithandengeving tot gevolg heeft dat de vervolging plaatsvindt volgens het gemeen strafrecht en de gemeenrechtelijke strafprocedure, houdt de maatregel verband met de strafrechtspleging.</i></p> <p><i>De in artikel 12, tweede lid, van de Grondwet vervatte vereiste van voorspelbaarheid van de strafrechtspleging verzet zich evenwel niet tegen de onmiddellijke toepassing van de wetten betreffende de bevoegdheid en de rechtspleging in strafzaken (artikel 3 van het Gerechtig Wetboek). Bovendien houdt de maatregel van uithandengeving geen verband met de regels</i></p>

	<p><i>betreffende de bewijsvoering van de schuld van een persoon, die in beginsel niet in het nadeel van die persoon kunnen worden gewijzigd met terugwerkende kracht (zie het arrest van het Hof nr. 153/2018 van 8 november 2018, B.24.2)."</i></p> <p>"B.11. The decision to transfer does not entail a criminalisation or penalty, but rather determines the law that applies to the act deemed an offense committed by a minor, namely criminal law rather than juvenile delinquency law. As the decision to transfer results in prosecution according to the common criminal law and common criminal procedural law, the measure is related to criminal justice.</p> <p>The in article 12, §2, of the Constitution included requirement of foreseeability of criminal law does not preclude the immediate application of laws related to the competence and administration of justice in criminal cases (article 3 of the Judicial Code). In addition, the measure of transfer is not connected to evidentiary rules and determination of guilt, which, in principle, cannot be amended to the detriment of a person retroactively (see ruling of the Constitutional Court no. 153/2018 of 8 November 2018, B.24.2)."</p>
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<b>Thematic area</b>	<b>ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS</b> Please provide the most relevant high court decision relating to the topics addressed in this chapter.
<b>Decision date</b>	12 June 2019
<b>Reference details</b>	Cour de Cassation, 2 <sup>nd</sup> Chamber, N° P.18.1001.F, Le Procureur Général près la Cour d'appel de Bruxelles / S.R., B.J., de S.O.; D'H.V. / S.R.; B.J-F.; L. E.D M., B.G., Le L.F., e.a. / S.R., Ogyen Kunzang Chôling le Domaine de la Claire Lumière; B.M., L.M. R. / S.R., de S. O. Full text available in <i>Revue belge de droit pénal et de criminologie</i> , 2020, vol. 6, p. 730f, Case note by S. Henrotte.
<b>Key facts of the case</b> (max. 500 chars)	The defendant, who resides abroad, considers that some of the proceedings against him are violating his right to a fair trial, protected by various European and national provisions. He considers notably that the public prosecutor has exceeded his obligations, by addressing a letter to a large number of potential victims regarding the forthcoming trial and the possibility

	to constitute themselves as civil parties, and to have access to the file. This led to leaks in the press and social medias.
<b>Main reasoning/argumentation</b> (max. 500 chars)	The Court of Appeal considered that this was contrary to a right to a fair trial. However, the Court of Cassation does not share such analysis. It considers that the obligation of the public prosecutor to inform potential victims applies even after the prosecution is closed. Hence the public prosecutor was not forbidden to send such letter and to authorise access to the file. The public prosecutor can indeed continue to submit evidence until the trial, as long as these elements are debated.
<b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)	The case clarifies the scope of the applicatin of the possibility provided by Article 21bis of the Code of Criminal Procedure ( <i>code d'instruction criminelle</i> ), under which are defined the obligation of the public prosecutor to informa potential victims and grant them access to the file.
<b>Results (sanctions) and key consequences or implications of the case</b> (max. 500 chars)	The Court considers that the Court of Appeal did not sufficiently motivated how the actions of the public prosecutor caused a violation of the right to a fair trial.
<b>Key quotation in original language and translated into English with reference details</b> (max. 500 chars)	<p>"Contrairement à ce qu'énonce l'arrêt, l'article 21bis précité n'a pas pour portée d'interdire au ministère public, auquel incombe un devoir d'information des victimes, après la clôture de l'information ou de l'instruction, d'aviser les parties susceptibles d'être intéressées, d'initiative et dans le respect du droit à la présomption d'innocence des prévenus, des suites de la procédure, et d'octroyer à cette occasion l'autorisation susvisée à l'ensemble des victimes potentielles des infractions. Ni cette disposition ni aucune autre n'interdit par ailleurs au procureur du Roi de déposer, durant les débats au fond, des procès-verbaux ou informations complémentaires, pourvu qu'ils puissent être débattus de manière contradictoire." (§ 17)</p> <p>Translation: Contrary to what is stated in the judgment, the aforementioned article 21bis does not have the effect of prohibiting the public prosecutor, which has a duty to inform victims, to inform the parties likely to be interested, after the closure of the information or the investigation and on its own initiative, and in respect of the right to the presumption of innocence of the defendants, of the consequences of the procedure, and to grant on this occasion the aforementioned authorization to all potential victims of offenses. Neither this nor</p>

	any other provision also prohibits the public Prosecutor from filing, during the trial on the merits, additional reports or information, provided that they can be debated in an adversarial manner.
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<b>Thematic area</b>	<b>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD)</b> Please provide the most relevant high court decision making reference to the CRPD or employing the CRPD in their reasoning.
<b>Decision date</b>	17 March 2020
<b>Reference details</b>	Belgium, Court of Cassation, Case No. P.19.1136.N, 17 March 2020
<b>Key facts of the case</b> (max. 500 chars)	<p>On 11 October 2019, the Court of Corrections West-Flanders, Bruges, dismissed an appeal that claimed that a city regulation that prohibited parking of vehicles of 3.5 tonnes or higher in a particular zone (the centre of Bruges) was contrary to the CRPD by not providing for an exception for specialised vehicles of persons with a disability.</p> <p>The applicant lodged a cassation appeal before the Court of Cassation on the basis of Articles 9, 19 and 20 of the CRPD and Article 159 of the Constitution, arguing, among others, that the city of Bruges, with its unnuanced prohibition on the parking of vehicles like that of the applicant in the city centre, deprived the applicant <i>de facto</i> of his right to park near his home with a vehicle adapted to his disability, and that the contested appeal cannot convict the applicant on the basis of a local regulation that is in conflict with the CRPD. On 17 March 2020, the Court of Cassation upheld the decision by the Court of Corrections West-Flanders, Bruges.</p>



<p><b>Main reasoning/argumentation</b> (max. 500 chars)</p>	<p>While the cited provisions of the CRPD do not directly address local government, the Court of Cassation considered that these provisions, read in conjunction with article 4.1 of the CRPD, entail a prohibition for local government to discriminate against persons with disabilities in the development of mobility and parking policies. The Court considered that it is then up to a judge to determine whether, in consideration of the circumstances of the case, prohibitions or restrictions of access for certain vehicles in a city centre discriminate against a person with a disability who lives in the city centre and wishes to park near their home. The Court examined whether the Court of Corrections, from its findings, inferred any outcomes that are unrelated thereto or, on the basis of its findings, cannot be justified. Upon such examination, the Court found that the Court of Corrections, on the basis of its findings, was in a position to determine that the prohibition violated by the applicant was not unlawful and thereby justified the judgement made in law.</p>
<p><b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)</p>	<p>The Court found that Articles 9, 19 and 20 of the CRPD apply directly to local government. Moreover, it found that it is up to a judge to determine whether, in consideration of the circumstances of the case, such local regulations and policies (in this case mobility and parking policies) discriminate against a person with a disability.</p>
<p><b>Results (sanctions) and key consequences or implications of the case</b> (max. 500 chars)</p>	<p>As the Court found that the Court of Corrections, on the basis of its findings, was in a position to determine that the prohibition violated by the applicant was not unlawful and thereby validates the judgement made in law, rejects the cassation appeal and convicts the applicant to cover the costs.</p>

<p><b>Key quotation in original language and translated into English with reference details</b> (max. 500 chars)</p>	<p><i>"4. Deze bepalingen leggen aan de verdragssluitende partijen de verplichting op passende en doeltreffende maatregelen te nemen ter realisering van de in deze artikelen vermelde doelstellingen. Hoewel zij zich niet richten tot een lokale overheid, volgt uit deze bepalingen, gelezen samen met artikel 4.1 van het verdrag, het verbod voor een lokale overheid om bij het ontwikkelen van een mobiliteits- en parkeerbeleid een persoon met een handicap te discrimineren.</i></p> <p><i>5. Het staat aan de rechter onaantastbaar te oordelen of in het licht van de concrete omstandigheden van de zaak een lokale overheid door in een toegangsverbod te voorzien in de binnenstad voor bepaalde voertuigen een gehandicapte inwoner die in de binnenstad woont en nabij zijn woning wil parkeren, discrimineert."</i></p> <p>"4. These provisions obligate the parties to the treaty to take appropriate and effective measures for the accomplishment of the aims as set out in these provisions. While they do not address local government, from these provisions, read in conjunction with article 4.1 of the treaty, follows a prohibition for local government to discriminate a person with a disability in the development of mobility and parking policies.</p> <p>5. It is for the judge to determine, in consideration of the circumstances of the case, whether a local government, by providing for a ban on certain vehicles to access the city centre, discriminates against a resident with a disability who lives in the city centre and wants to park near his home."</p>
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<p><b>Thematic area</b></p>	<p><b>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD)</b> Please provide the most relevant high court decision making reference to the CRPD or employing the CRPD in their reasoning.</p>
<p><b>Decision date</b></p>	<p>24 September 2020</p>

<b>Reference details</b>	Belgium, Constitutional Court, Case no. 122/2020, 24 September 2020
<b>Key facts of the case</b> (max. 500 chars)	The case considered the validity of the act of 15 October 2018 “concerning the voluntary termination of pregnancy, abolishment of articles 350 and 351 of the Criminal Code, amendment of articles 352 and 383 of the same Code and the amendment of several provisions”. Only one of the seven grounds related to the CRPD: under the second ground of the legal challenge, petitioners argued that articles 2 and 5 of the contested law were contrary to articles 4, 5 and 10 of the CRPD (as well as a number of other international provisions) as they violate the prohibition to eugenic practices, which results from the principles from the joint application of the principle of equality and non-discrimination, the right to life and the right to human dignity, in so far as the articles make it possible to end the life of unborn children with disabilities. Accordingly, the petitioners argue that articles 2 and 5 of the contested act would allow the selection of humans according to whether or not they suffer from a serious and incurable illness, which would violate the prohibition of eugenic practices and the rights of persons with disabilities.
<b>Main reasoning/argumentation</b> (max. 500 chars)	With regard to the second ground, the Court first recalled that, while some provisions do provide for some protections for the interests and health of unborn children, neither the Belgian Constitution nor the international provisions raised by the petitioners entail an obligation to legally treat an unborn child the same, in every manner, as a born and living person. Secondly, the Court considered that contrary to the arguments raised by the petitioners, the contested provisions do not intend to encourage termination of pregnancy or require it. Nor is it intended to organise a system of selection of humans. Rather, the contested provisions offer pregnant women the option to take a personal decision whether or not to terminate her pregnancy when it is determined that the unborn child would be born with a serious illness recognised as incurable at the time of its prenatal diagnosis.
<b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)	The Court found that the constitutions and international obligations do not entail an obligation to legally treat an unborn child the same, in every manner, as a born and living person. Furthermore, the Court considered that the contested provisions did not require or encourage termination of pregnancy in case of unborn children with prenatal diagnosed serious illness that is deemed incurable, but rather only offered pregnant women the option of making that decision for themselves.

<p><b>Results (sanctions) and key consequences or implications of the case</b> (max. 500 chars)</p>	<p>After finding the second ground unfounded, and subsequently finding the other grounds also unfounded, the Court rejected the appeal.</p>
<p><b>Key quotation in original language and translated into English with reference details</b> (max. 500 chars)</p>	<p><i>“B.5.1. Noch de artikelen 10, 11 en 23 van de Grondwet, noch de in het middel aangevoerde internationale bepalingen, bepalen als zodanig dat de mens al vanaf zijn verwekking de bescherming zou genieten die zij waarborgen. [...] De artikelen 10, 11 en 23 van de Grondwet houden niet de verplichting in om een ongeboren kind op juridisch vlak in elk opzicht gelijk te beschouwen met een geboren en levende persoon.</i></p> <p><i>B.10. In tegenstelling tot hetgeen de verzoekende partijen betogen inzake het verbod op eugenetische praktijken, strekt de bestreden bepaling niet ertoe zwangerschapsafbreking aan te moedigen of verplicht te maken. Zij strekt evenmin ertoe een systeem van selectie van mensen te organiseren.</i></p> <p><i>De bestreden bepaling bestaat alleen erin een zwangere vrouw de mogelijkheid te bieden individueel te beslissen om haar zwangerschap al dan niet te beëindigen indien vaststaat dat het kind dat geboren zal worden, zal lijden aan een uiterst zware kwaal die als ongeneeslijk wordt erkend op het ogenblik van de prenatale diagnose.”</i></p> <p>“B.5.1. Neither articles 10, 11 and 23 of the Constitution, nor the international provisions invoked in the grounds, as such, would provide that humans from the moment of conception enjoy the protections that they guarantee. [...] Articles 10, 11 and 23 of the Constitution do not entail an obligation, in a legal sense, to regard an unborn child in all respects as a born and living person.</p> <p>B.10. Contrary to what the petitioner argues regarding the prohibition of eugenic practices, the contested provisions do not seek to encourage or make termination of pregnancy compulsory. Nor is it intended to organise a system of human selection.</p> <p>The contested provision intends to offer pregnant women the option to make a personal decision as to whether or not terminate her pregnancy if it is established that the child to be</p>

	born will suffer from a serious illness recognised as incurable at the time of the prenatal diagnosis.”
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