



Convention on the Rights of Persons with Disabilities

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Summary record of the 149th meeting

Held at the Palais Wilson, Geneva, on Thursday, 18 September 2014, at 3 p.m.

Chairperson: Ms. Cisternas Reyes

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 35 of the Convention (*continued*)

Initial report of Belgium (CRPD/C/BEL/1; CRPD/C/BEL/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Belgium took places at the Committee table.*
2. **Mr. de Crombrughe** (Belgium) said that the initial report of Belgium on the implementation of the Convention was the result of close collaboration among the various relevant government entities, and that non-governmental organizations (NGOs) and an independent mechanism, the Interfederal Centre for Equal Opportunities, had been involved in drafting the report. Through its composition, the Belgian delegation exemplified the plurality of the political, federal and federated authorities responsible for ensuring respect for the rights of persons with disabilities and reflected the structure of the Belgian State as shaped by a number of institutional reforms.
3. **Ms. Van Gool** (Belgium) said that Belgium had employed a “handistreaming” (disability mainstreaming) strategy to ensure that the disability perspective was taken into account in all policy areas and at all levels of government. Thus, at the federal level, a focal point had been appointed in every administrative department and for the strategic task forces of every minister and secretary of state, and a progress report on the implementation of the strategy was submitted to the Federal Government every six months. Flanders had adopted an open method of coordination through which members of the Flemish government, in close cooperation with civil society, reached a mutual agreement on equal opportunity objectives. Indicators were in the process of being developed. The Walloon government supported the implementation of a cross-cutting disability policy aiming, inter alia, to include persons with disabilities in the community by pursuing policies that incorporated the disability perspective. In May 2014, the German-speaking community had adopted an action plan on the rights of persons with disabilities. The Brussels-Capital Region had adopted a regional sustainable development plan establishing the strategic framework for regional efforts in favour of persons with disabilities. The plan was inclusive and established the obligation to provide reasonable accommodation as appropriate. The right to inclusion was also enshrined in a decree issued by the French Community Commission.
4. Given the specific structure of the Belgian State, which was described in the common core document (HRI/CORE/BEL/2012 and Add.1), a focal point for disability policies had been appointed at every level of government, and the Federal Public Service Social Security had been designated as a coordination mechanism to facilitate the exchange of cross-sectional information on policies being conducted. Moreover, interministerial conferences, which brought together members of the Federal Government, communities and regions, were conducive to flexible and effective cooperation among the authorities concerned. It had, for example, been the subgroup on persons with disabilities within the interministerial conference on well-being, sport and family that had designated the Interfederal Centre for Equal Opportunities as the independent mechanism.
5. A law to reform the systems of legal incapacity and establish a new protection status had entered into force on 1 September 2014. It enshrined the principle of autonomy of persons who were incompetent on account of their mental state. It consolidated rules on the protection of adults and laid down the principle whereby, unless a judge’s decision established that a protected person was incapable of performing a particular act, he or she was, in principle, entitled to carry it out. The law also established the principle of freedom of choice for the protected person with regard to the naming of one or more administrators.

6. Moreover, the governments of the federated entities promoted inclusion in all areas, particularly education and support. In Flanders, for instance, the right to support and appropriate care was guaranteed to the extent possible, and decisions on the kind of support provided were made by persons with disabilities themselves. In Wallonia, there had been a proposal to transform “institutional” places of residence into supportive housing. In the German-speaking community, an individualized approach to the analysis of needs and the diversification of inclusive services had made it possible to ensure that all persons with disabilities who had a strong need for support and care had access to daytime activities and custom-built housing. The move from specialized services to inclusive services was also taking place in the education system.

7. **Mr. Ben Lallahom** (Country Rapporteur) said that he was concerned about the considerable discrepancy between legislation on the rights of persons with disabilities and its implementation, the lack of a comprehensive plan to implement the Convention, and the fact that NGOs were not involved in decision-making processes relating to persons with disabilities. Moreover, the State party had not established a clear definition of the term “disability”. Whenever a person with a disability required a service, he or she had to undergo a fresh medical examination. It was regrettable that the prevailing medical model affected the implementation of legislation and hindered the reduction of stigma and exclusion faced by persons with disabilities, particularly in media and education. Not only had there been a failure to raise public awareness of the provisions of the Convention and provide training in inclusive education to teachers, but there was also a lack of accessibility to transport, employment and buildings, particularly school facilities.

8. Noting that 10 per cent of the prison population had mental disturbances or intellectual deficiencies, he pointed out that, thanks to the creation of two forensic psychiatry centres in Flanders and the Act of 5 May 2014 on committal, the rate should fall. As institutionalization appeared to remain a preferred option, he asked the delegation to specify what steps had been taken to propose alternative solutions, such as the creation of inclusive day centres or care units, and to reduce assistance waiting lists, which placed too much emphasis on residential and semi-residential care. It was also worrying that benefits did not seem to protect persons with disabilities from poverty as they failed to take account of additional costs associated with disability, and that persons who developed a disability after the age of 65 could not register with the competent agencies, such as the Walloon Agency for the Integration of Persons with Disabilities (AWIPH).

Articles 1–10 of the Convention

9. **Ms. Degener** enquired what measures were taken to help children deemed incapable of attaining legal majority owing to a mental disability to express their opinion freely in legal proceedings that affected them. She asked what impact the new law to reform the systems of incapacity was expected to have on medical practice.

10. **Mr. McCallum** invited the State party to provide statistics in its next report that would enable the Committee to gauge the effectiveness of measures to combat discrimination. Moreover, in order to tackle employment discrimination, he invited the State party to consider providing for special measures in its legislation that, once adopted, would help increase the percentage of persons with disabilities in employment and protect employers who took affirmative action in favour of employees with disabilities from being accused of discrimination by non-disabled candidates.

11. **Mr. Tatić** asked whether there were plans to expand the provision of reasonable accommodation, particularly with a view to enhancing access to education for students with disabilities. He wished to know how the authorities reconciled the implementation of existing accessibility standards with the autonomy of the regions and communities and the requirement of equal opportunities for all. He asked the delegation to present the results of

the initiatives mentioned in the periodic report, which dated back to 2011, and to explain the legal safeguards applicable to euthanasia to prevent persons with disabilities from being euthanized without their informed consent.

12. **Ms. Peláez Narváez** asked what mechanisms were in place to protect women and girls with disabilities from violence and sexual abuse, particularly in institutions and schools, and from what age birth control treatment was administered to young girls with disabilities. She enquired about the specific measures taken to protect children with intellectual disabilities, who were the most vulnerable, from ill-treatment. She also asked whether, since 2011, the State party had acted in response to the recommendation of the universal periodic review to prohibit all forms of corporal punishment of children. She further asked whether the principle of “extended minority” referred to in paragraph 26 of the report was still applied or had been abolished.

13. **Mr. Langvad** asked whether the State party was in a position to assert that the principle of respect for inherent dignity, individual autonomy and independence of persons (art. 3 (a)) was applied in policy and practice. He said he was surprised at the differing interpretations of disability from one region to the next, and asked whether the State party was taking measures to ensure consensus on the matter. He wished to know how complaints were handled in the event of a failure to provide reasonable accommodation. He also enquired about the support offered to disabled persons’ organizations to enable them to express the views of the persons they represented. He asked how many schools were truly fully accessible, and how much importance was given to sign language in the country. Lastly, he said he was surprised that Brussels remained one of the European citizens with the lowest accessibility level.

14. **Mr. Babu** pointed out that the many different definitions of disability in the State party made it impossible to adopt a harmonized approach to the matter. He requested further information on the policy and legal framework in place to promote the participation of civil society in the implementation of the Convention. He also asked what long-term strategies had been adopted to address problems linked to population ageing and the inherent increase in disabilities.

15. **Ms. Maina** asked what was done to ensure that, in the case of mental and intellectual disabilities, the medical model was set aside in favour of the social model based on human rights. She wished to know whether steps were taken to prevent persons with such disabilities from being institutionalized. She also asked whether the deeply shocking practice of euthanizing persons with disabilities had been ended.

16. **Mr. Ríos Espinosa** noted that it was imperative to raise awareness of social pluralism from a very young age, and asked to what extent schools in the State party were inclusive, and whether a policy was in place to make primary education in particular more inclusive.

17. **Ms. Mulligan** enquired about the representation of persons with disabilities (parents, children) in various spheres of life (particularly education and policy development). Noting the lack of an official consultative council for persons with disabilities in the French- and German-speaking communities, she asked what plans were in place to correct the situation.

18. **Mr. Buntan** asked whether the State party had already signed and ratified the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled and, if not, whether it intended to do so. He also wished to know whether the State party had taken steps to implement international web accessibility standards.

19. **The Chairperson**, speaking in her personal capacity, pointed out that the 2010–2014 action plan to combat gender-based violence did not refer to persons with disabilities, and asked how the State party planned to rectify the omission.

The meeting was suspended at 4.20 p.m. and resumed at 4.45 p.m.

20. **Mr. de Crombrughe** (Belgium) said he had the impression that the Committee members' questions were, in a way, casting doubt on the structure of the Belgian State, and noted that there were objective reasons for implementing the Convention differently according to the entities that made up the country.

21. **Ms. Van Gool** (Belgium) said that, although there was no single definition of disability in Belgium, just as there was no such definition in the Convention, it was the human rights model based on the interrelationship between disability and society that permeated the policies adopted at all levels. The Federal Government and the communities and regions, aware of the shortcomings with regard to statistics and indicators, were working together with input from the European Union to find an appropriate manner and means of obtaining usable data and statistics. As to euthanasia, she said that it was never carried out on account of disability. She also confirmed that Belgium applied international web accessibility standards.

22. **Mr. Foubert** (Belgium) said that an accessibility plan for roads and public spaces had been launched in the Brussels-Capital Region in partnership with the 19 constituent municipalities. It marked the first step towards achieving 100 per cent accessibility by the end of 2018 and was aimed at persons with all types of disabilities (motor, visual, hearing, mental or intellectual). A handbook specifically addressing pedestrian accessibility had been published. The Société de transports intercommunaux de Bruxelles (Brussels Intercommunal Transport Company) (STIB), in cooperation with disabled persons' organizations, was introducing measures to make the network more accessible: underground metro stations were being equipped with 75 lifts, tactile information underfoot and a voice announcement system, while the STIB management contract also provided for the complete refurbishment of five overground stops each year. In order to improve the treatment afforded to persons with disabilities, STIB staff members were trained to provide support, and the STIB management contract adopted the general principles of the Convention.

23. **Mr. de Bruijn** (Belgium) said that Flanders had a comprehensive action plan that aimed to make public transport in the region fully accessible to all persons with disabilities. The region had also taken steps to ensure that architects systematically applied universal design standards in all their projects.

24. **Mr. Hurdebise** (Belgium) said that AWIPH upheld the principles of "handistreaming" and worked in partnership with the various ministries of the Walloon Region to ensure that all policies adopted took into account disability issues. Regarding web accessibility, the Walloon government ensured that websites had been awarded the AnySurfer label. Since 2003, the websites of all the region's institutions had thus been accessible to all persons with disabilities, irrespective of their disability and the hardware that they used.

25. **Ms. Van Gool** (Belgium), referring to civil society participation, said that the National Higher Council of Persons with Disabilities was the preferred focal point at the federal level. Regular meetings were held with the Council to discuss a range of disability issues. There was scope, however, to develop a culture of consultation and dialogue with civil society in the various departments responsible for the mobility, health and employment of persons with disabilities.

26. **Mr. de Bruijn** (Belgium) said that the Flemish authorities had been striving for two years to find the most appropriate way of establishing a consultative council to express the views of persons with disabilities in Flanders. Disabled persons' organizations had participated in the development of the Flemish equal opportunity policy, and persons with disabilities were members of the consultative council in the Flemish Agency for Persons with Disabilities.

27. **Mr. Hurdebise** (Belgium) said that AWIPH ensured that persons with disabilities were consulted during the development of "handistreaming" policies at the local level. Persons with disabilities took part in the deliberations of the 13 subregional coordination commissions, accounting for a third of the participants. Moreover, each of the 253 municipalities of the Walloon Region had appointed a "handicontact" (disability focal point) responsible for liaising between public authorities, AWIPH and persons with disabilities.

28. **Mr. Heinen** (Belgium) said that there was a small group in the German-speaking community that brought together the various disabled persons' associations called upon to give their opinions on projects and initiatives proposed as part of the disability policy. The authority, which sent a representative to the Belgian Disability Forum and the Interfederal Centre for Equal Opportunities, operated as an official body despite having no legal status. It should, however, be recognized as a consultative council by the new Government in the near future.

29. He indicated that 92 per cent of young persons with disabilities under the age of 21 lived with their family, who consequently received various home assistance services. Six per cent of young persons with disabilities lived in family-style residences (or with foster families) that also received assistance services, while the remaining 2 per cent were in institutions as their disabilities required more intensive care.

30. **Mr. Monceau** (Belgium) said that persons with disabilities were represented in the francophone region in the Higher Council for Special Education.

31. **Mr. de Bruijn** (Belgium) said that the mission of the discrimination focal points appointed in large Flemish cities was to collect data on discrimination in the economic and social fields and develop indicators to determine the extent to which the Convention was implemented in Flanders.

32. **Ms. Gallant** (Belgium) said that the 2010–2014 national action plan to combat violence within couples and other forms of domestic violence did not explicitly cover persons with disabilities, but that the multi-year action plan to combat gender-based violence, which should be adopted in the near future by the Federal Government in collaboration with existing regional and community governments, should devote particular attention to vulnerable victims, including those with disabilities.

33. Although corporal punishment had not been criminalized, numerous laws related, inter alia, to assault and degrading treatment could be applied to punish perpetrators. A new law also provided for temporary restraining orders against persons posing a serious and immediate threat to children living under the same roof. The Belgian Government was nevertheless willing to consider adopting a new civil provision expressly prohibiting corporal punishment.

34. According to a report from the Interfederal Centre for Equal Opportunities, the number of complaints of discrimination had grown since 2010, peaking at 610 in 2013. Of those, 286 had led to a case being opened into discrimination on the basis of disability. Discrimination of that kind generally occurred in the goods and services, employment and education sectors.

35. The obligation to ensure reasonable accommodation did not apply only to the field of employment. A brochure published by the Interfederal Centre for Equal Opportunities

described what persons were entitled to expect in the field of education, for example. In accordance with a circular adopted in 2013, two new types of discrimination — on account of sex and disability — had been criminalized. Since then, three cases of discrimination on the basis of disability had been brought before a criminal court.

36. All minors deemed to be sufficiently mature had the right to be heard by a judge, or refuse to be heard, in cases affecting them, particularly in the event of their parents divorcing. Contrary to what had been stated by one Committee member, children with disabilities were heard on the same terms as others, without restriction. Lastly, the principle of extended minority had been abolished by the new law to reform the systems of incapacity and establish a new protection status consistent with human dignity, which had entered into force on 1 September 2014.

37. **Ms. Grisard** (Belgium) said that, pursuant to the law on euthanasia, competent and conscious patients whose medical condition was hopeless and who were experiencing constant, unbearable physical or mental suffering that could not be relieved could request that their life be ended. For that to occur, the request had to be voluntary, well-considered and repeated, and not the result of any external pressure. The patients concerned had to have discussed their health status and life expectancy with a doctor. They then had to consult a second doctor who was an independent specialist in the disorder in question about the serious and incurable nature of the illness. The Act of 28 February 2014 established that euthanasia could be extended to minors who were capable of discernment. In such cases, the minor had to consult a child psychiatrist or a psychologist, and the doctor responsible for treatment had to ensure that the minor's legal guardians had given their full consent, and that the minor's state of health was such that there might be only a short time left to live.

38. **Ms. Van Gool** (Belgium) said that Belgium had signed but not yet ratified the Marrakesh Treaty.

Articles 11–20 of the Convention

39. **Ms. Mulligan** requested further information on the project mentioned in paragraph 59 of the report, entitled “SMS Crisis Alert”, which was aimed at persons who were deaf or hard of hearing. She enquired whether, in the event of disasters, humanitarian aid was readily accessible to persons with disabilities.

40. **Ms. Degener**, supported by **Mr. McCallum**, asked whether the new Act of 1 September 2014 on legal capacity had in reality made it possible to replace substitute decision-making with supported decision-making, bearing in mind that, according to reliable sources, the State party did not appear to have allocated sufficient funding to the cause. She asked what budgetary amounts were spent on institutionalized services as compared with those spent on independent living services.

41. **Mr. Ríos Espinosa** asked whether the Act of 1 September 2014 had definitively abolished substitute decision-making, and what the minimum and maximum lengths of punishment for sex offenders were. He enquired whether the system of exemption from criminal responsibility existed in the State party, and whether persons who were legally incompetent were afforded due process. He also wished to know whether the State party had made the necessary adjustments in detention centres to guarantee that persons with disabilities who were deprived of their liberty did not suffer disproportionately as a result of their disability. Lastly, he wished to know why the State party allowed France to fund the construction of mental health-care facilities on Belgian soil with a view to placing French children there, and requested further information on the matter.

42. **Mr. Tatić**, noting that proportionately more persons with disabilities had been institutionalized than received personal assistance, and that the list of persons who had requested such assistance was particularly long, asked to what extent article 19 of the

Convention was applied in the State party, and what factors, if any, were hampering its full implementation.

43. **Mr. Langvad** asked how many people had submitted a request for independent living services, how many were still awaiting a response, and how many hours of home assistance were generally granted per day, week or month to persons with disabilities. He wished to know whether persons with disabilities living in institutions received benefits allowing them to take part in activities outside the institutions and thereby participate in community life, and whether forced sterilization was still performed in the State party despite being prohibited by law.

44. **Mr. Kim Hyung Shik** asked whether it was true that persons with disabilities experienced discrimination in the employment, education and leisure sectors and, if so, how the State party intended to redress the situation. Noting the frequent use of the term “social integration” in the report, he said he wished to know whether it was simply a problem of terminology, or whether the State party was struggling to guarantee respect for the principle of “social inclusion”.

45. **Ms. Peláez Narváez** asked whether the State party ensured that health professionals systematically obtained the free and informed consent of persons with disabilities before providing treatment, and whether children with disabilities could also call the free hotline available to minors. She wished to know what steps the State party had taken to reduce the lengthy waiting list for home assistance services, and whether special education was of a good standard in the State party, given that most children with disabilities were enrolled in special education institutions.

46. **The Chairperson**, speaking as a member of the Committee, said she wished to know what measures the State party was taking to prohibit the use of mechanical or chemical restraints, and whether a complaint mechanism had been put in place for reporting violations of the rights of persons with mental disabilities.

The meeting rose at 6 p.m.