



# Convention on the Rights of the Child

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**Committee on the Rights of the Child**  
**Fifty-fourth session**  
25 May–11 June 2010

## **Consideration of reports submitted by States parties under article 44 of the Convention**

### **Concluding observations: Belgium**

1. The Committee considered the combined third and fourth periodic reports of Belgium (CRC/C/BEL/3-4) at its 1521st and 1523rd meetings held on 2 June 2010, and adopted at its 1541st meeting, held on 11 June 2010, the following concluding observations.

#### **A. Introduction**

2. The Committee welcomes the submission of the State party's combined third and fourth periodic report and the written replies to its list of issues (CRC/C/BEL/Q/3-4/Add.1), which provided a better understanding of the situation in the State party. It further expresses appreciation for the presence of a multisectoral delegation as well as the frank and open dialogue with the delegation.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with its concluding observations adopted on the State party's initial report to the Optional Protocol on the sale of children, child prostitution and child pornography, as contained in document (CRC/C/BEL/OPSC/CO/1) and on the State party's initial report to the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/BEL/CO/1) on 9 June 2006.

#### **B. Follow-up measures undertaken and progress achieved by the State party**

4. The Committee notes with appreciation the adoption of:

(a) The Protocol to the Act of 25 February 2003 introducing the concept of "reasonable accommodation" into the legislation of the State party on 11 October 2006 to improve social and occupational inclusion of persons with a disability by ensuring

reasonable accommodation of the places to which they have access for the purpose of participating in the active and collective life of society;

(b) The new Act of 18 July 2006 promoting the shared custody of children whose parents have separated;

(c) The Act prohibiting the use, production and transport of fragmentation munitions in 2006; and

(d) The Act of 10 August 2005 on human trafficking.

5. The Committee also welcomes the ratification of:

(e) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 17 March 2006;

(f) The Convention on the Rights of Persons with Disabilities and its Optional Protocol on 2 July 2009;

(g) The 1993 Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, on 26 May 2005;

(h) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000, on 11 August 2004;

(i) The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women on 17 June 2004; and

(j) The 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition and Co-operation in respect to Parental Responsibility and Measures for the Protection of Children on 1 April 2003.

6. The Committee also welcomes the appointment of an ombudsperson in the German community on 17 May 2010, the establishment of the National Commission for the Rights of the Child in 2006 and the adoption of the 2005–2012 National Action Plan for the Children.

## **C. Main areas of concern and recommendations**

### **1. General measures of implementation (arts. 4, 42 and 44, para. 6, of the Convention)**

#### **Committee's previous recommendations**

7. The Committee welcomes efforts by the State party to implement the Committee's concluding observations on the State party's second report in 2002 (CRC/C/15/Add.178). However, some recommendations have not been given sufficient follow-up.

8. **The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations of the State party's second periodic report that have not yet been, or not sufficiently, implemented including those related in particular to coordination, data collection, discrimination against children living in poverty, the right of the child to be heard, corporal punishment and juvenile justice. In this context, the Committee draws the attention of the State party to its general comment No. 5 (2004) on general measures of implementation of the Convention on the Rights of the Child.**

### Reservations and declarations

9. The Committee notes that the State party has maintained its declaration on article 2 on the principle of non-discrimination, which restricts the enjoyment by non-Belgian children of the rights contained in the Convention, and on article 40 on the review of penal decisions by higher judicial body.

10. **The Committee, in line with its previous recommendation (CRC/C/15/Add.178, para. 7) and in the light of the Vienna Declaration and Programme of Action, recommends that the State party expedite the process to withdraw its declarations to articles 2 and 40 of the Convention.**

### Legislation

11. While noting the efforts made by the State party to harmonize its legislation with the principles and provisions of the Convention, the Committee notes that legislative developments vary among the three Communities, which creates situations where children in some Communities do not enjoy the full range of rights that other children enjoy in the rest of the country. In particular, the Committee is concerned that legislative development in the German-speaking Community has not kept pace with development in the other two Communities.

12. **The Committee recommends that the State party take all necessary measures to ensure that legislation and administrative regulations in all its Communities fully conform to the provisions and principles of the Convention.**

### Coordination

13. While welcoming the establishment in 2006 of the National Commission for the Rights of the Child, the Committee is concerned at the absence of national coordination of the implementation of the Convention.

14. **The Committee recommends that the State party set up an effective system of coordination of the implementation of the Convention and ensure cooperation of the coordination mechanisms established at federal and Community level so as to achieve a comprehensive and coherent child rights policy.**

### National action plan for children

15. The Committee deeply regrets that its recommendations (CRC/C/OPAC/BEL/CO/1, para. 9) regarding a national plan of action for children have not been implemented. In particular, the Committee is concerned that the National Plan of Action for Children 2005–2012 does not contain clear goals, targets, indicators or timetables, any mechanism to monitor progress in the achievement of goals or any specific budget allocated to the plan. Taking into consideration the need to advance with policies to reduce poverty and other disparities in the country which directly affect children, the Committee expresses further concern that the general development policy framework and planning environment of the State party make not take the National Plan of Action for Children into consideration.

16. **The Committee recommends that the State party ensure that:**

(a) **The National Plan of Action for Children forms an integral part of development planning, underpinned by children rights, and taking due account of the different regional environments;**

(b) **The National Plan of Action for Children defines specific goals, targets, indicators and timetables and a monitoring mechanism is set up to assess progress achieved and identify possible deficiencies;**

**(c) Adequate budget allocations are provided for the full implementation of the National Plan of Action; and**

**(d) The principles and provisions of the Convention, its Optional Protocols and the Plan of Action “A world fit for children” adopted by the General Assembly at a special session in May 2002, as well as the 2007 “World fit for children + 5” review declaration, be taken into account.**

#### **Independent monitoring**

17. While noting the existence of separate ombudsmen institutions in the Flemish, French and German Communities, the Committee is concerned that the varying legislations, mandates and capacities of these institutions, as well as the existence of two separate ombudsmen institutions at federal level, may deny children in all parts of the State party equal protection of their rights and response to their complaints.

18. **The Committee urges the State party to harmonize the mandates of all the ombudsmen institutions and to ensure adequate coordination of the ombudsmen institutions at Community level, as well as between ombudsmen institutions operating at federal and Community levels. It further urges the State party to ensure that ombudsmen institutions are accessible to children and empowered to receive and investigate complaints of violations of children’s rights in a child-sensitive manner and to address them effectively.**

#### **Allocation of resources**

19. The Committee is concerned that social expenditure in the State party is comparatively low in relation to other Organisation for Economic Co-operation and Development (OECD) countries and that the proportion of children living in poverty is high and has increased over recent years. The Committee also expresses concern at the absence of a consistent budgetary analysis and child-rights impact assessment in the State party which makes it difficult to identify the expenditure allocated to children at national and Community levels and to evaluate the impact of public investment on children’s lives.

20. **The Committee urges the State party, taking into account the Committee’s recommendations adopted following its day of general discussion in 2007 on resources for the rights of the child - responsibility of States (see CRC/C/46/3), to:**

**(a) Utilize a child-rights approach in the elaboration of the State budget by implementing a tracking system for the allocation and use of resources for children throughout the budget, thus providing visibility for investment in children. The Committee also urges that this tracking system be used for impact assessments of how investments in any sector can serve the best interests of the child, ensuring that the differential impact of such investment on girls and boys is measured;**

**(b) Ensure that priority budget lines for children are protected from changes in levels of resources,**

**(c) Ensure transparent and participatory budgeting through public dialogue and participation, especially by children, and for proper accountability by local authorities; and**

**(d) Define strategic budgetary lines for disadvantaged or children in particularly vulnerable situations and for those situations that may require affirmative social measures and ensure that those budgetary lines are protected even in situations of economic crisis, or other emergencies.**

### Data collection

21. While welcoming the statistical annexes provided with the replies to the list of issues, the Committee remains concerned about the fragmented approach to data collection, which does not cover all areas of the Convention and is carried out unevenly at the regional and community levels. The Committee is also concerned that the National Commission for the Rights of the Child has not been provided with the necessary resources to cope with its responsibility to coordinate data collection.

**22. The Committee urges the State party to expedite the process for the establishment of a permanent mechanism of data collection at the national level. The Committee also calls upon the State party to ensure that the National Commission for the Rights of the Child is provided with sufficient human and financial resources to coordinate the collection of data on children, especially to support the activities of the working group established in 2009 with a view to creating a uniform system of data collection that could serve as the basis for comparative studies in all the regions and Communities of the State party.**

### Dissemination and awareness-raising

23. While noting the initiatives taken by the State party to disseminate and raise awareness of the Convention, in particular the publication of a child-friendly version of the Convention, the Committee regrets that the State party is not undertaking dissemination and awareness-raising activities concerning the Convention in a systematic and targeted manner.

**24. In line with its previous recommendations (CRC/C/15/Add.178, paras. 17 and 26), the Committee recommends that the State party strengthen its efforts to ensure that all provisions of the Convention are widely known and understood by adults and children alike, and to this aim, to take into consideration the suggestions made by children and young people living in Belgium in their first report of February 2010 to the Committee.**

### Training

25. While noting that some training activities have been carried out, the Committee is concerned that this training does not include all professionals working for and with children and does not adequately include all the provisions of the Convention. The Committee also reiterates its concern that human rights education is still not explicitly part of school curricula throughout the State party.

**26. The Committee encourages the State party to undertake systematic education and training programmes on the principles and the provisions of the Convention for children, parents and all professional groups working for and with children, including judges, lawyers, law enforcement officials, teachers, health-care personnel and social workers. The Committee calls upon the State party to include human rights education, including children's rights, in the curricula of all primary and secondary schools.**

### Cooperation with the civil society

27. The Committee notes with appreciation the cooperation of the State party with the civil society, including their representation within and involvement in the work of the National Commission for the Rights of the Child. However, the Committee regrets that civil society's contribution to the State party's report has been insufficiently reflected.

28. **The Committee recommends that the State party strengthen its efforts to promote the active and systematic involvement of civil society, including NGOs and associations of children in the promotion and implementation of children's rights, and ensure that their contributions to the planning stage of policies, the follow-up to the concluding observations of the Committee and the preparation of the next periodic report are fully taken into consideration and reflected.**

#### **International cooperation**

29. The Committee welcomes the Belgian Development Cooperation Act of 2005 and the drafting of a strategic paper on child rights transmitted to Parliament in 2008. It regrets, however, that children's rights – other than some specific violations thereof such as the use of child soldiers – appear not to be mainstreamed into development cooperation. The Committee also notes that, in 2009, the State party devoted 0.55 per cent of its gross domestic product (GDP) to international assistance and that it has committed itself to reaching the internationally agreed target of 0.7 per cent of GDP by 2010.

30. **The Committee urges the State Party to meet and, if possible, surpass its commitment of reaching 0.7 per cent of GDP by 2010. It also encourages the State party to ensure that the realization of child rights becomes a top priority of the international cooperation agreements established with developing countries. In doing so, the Committee suggests that the State party take into account the concluding observations and recommendations of the Committee on the Rights of the Child for the recipient country in question.**

## **2. General principles (arts. 2, 3, 6 and 12 of the Convention)**

#### **Non-discrimination**

31. The Committee notes the initiatives taken at community level to combat discrimination, in particular in accessing education. However, the Committee reiterates its serious concern as to the multiple forms of discrimination to which children living in poverty are subjected in the State party, in particular regarding their access to education, health care and leisure. The Committee is also concerned at continuous discrimination suffered by children with disabilities and children of foreign origin.

32. **The Committee calls upon the State party to collect disaggregated data to enable effective monitoring of de facto discrimination and to adopt and implement a comprehensive strategy addressing all forms of discrimination, including multiple forms of discrimination against all groups of children in vulnerable situations and combating discriminatory societal attitudes, in particular towards children living in poverty, children with disabilities and children of foreign origin.**

#### **Best interests of the child**

33. While noting that the principle of the best interests of the child has been integrated into legislation concerning, notably, adoption and family allowances for employees, the Committee expresses concern that it is still not reflected as a general principle in all legislation regarding children.

34. **The Committee recommends that the State party take all appropriate measures to ensure that the principle of the best interests of the child, in accordance with article 3 of the Convention, is adequately integrated in all legal provisions, as well as in judicial and administrative decisions and projects, programmes and services that have an impact on children.**

**Respect for the views of the child**

35. The Committee welcomes the numerous initiatives taken to promote the participation of children in various domains, in particular the involvement of children in the work of the National Commission on the Rights of the Child and the creation of the “Students’ Parliament” in the German community in 2005. However, the Committee notes with concern that Belgium children feel that their opinions on matters which directly concern them are rarely taken into consideration. The Committee is also concerned that children in vulnerable situations, i.e., children living in poverty, children with disabilities, children in psychiatric institutions are often excluded from participatory initiatives. The Committee expresses further concern that children’s participation in the reporting process is no longer supported by the Federal Government or the Flemish Community.

36. **The Committee draws the State party’s attention to its general comment No. 12 (2009) on the right of the child to be heard and recommends that it continue to ensure the implementation of the right of the child to be heard in accordance with article 12 of the Convention and promote the participation of all children at all levels of government and within the family, schools, and the community – with particular attention to children in vulnerable situations. The Committee also calls upon the State party to continue supporting children’s participation in the reporting process.**

37. The Committee further notes with concern that the State party has not taken the necessary measures to implement its recommendation on the right of children to be heard in judicial and administrative proceedings, with implementation remaining largely discretionary. It is also concerned that the obligation for youth judges to hear children above 12 years of age regarding residence and visitation rights in divorce is not effective in practice.

38. **The Committee reiterates its previous recommendation (CRC/C/15/Add.178, para. 22) that legislation governing procedure in courts and administrative proceedings ensure that a child capable of forming his/her own views has the right to express those views and that they are given due weight.**

### **3. Civil rights and freedoms (arts. 7, 8, 13–17 and 37(a) of the Convention)**

**Corporal punishment**

39. The Committee is concerned that the State party has not taken the necessary measures to ensure that corporal punishment in the family and non-institutional childcare settings is explicitly prohibited by law.

40. **In light of its general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment and its previous recommendations (CRC/C/15/Add.178, para. 24(a)), the Committee urges the State party to prohibit corporal punishment of children in all settings, notably in family and in non-institutional childcare settings as a matter of priority. The Committee also recommends that the State party conduct awareness-raising campaigns and parenting education programmes to ensure that non-violent alternative forms of discipline are used, in a manner consistent with the child’s human dignity.**

### **Follow-up to the United Nations study on violence against children**

41. The Committee welcomes the adoption on 15 December 2008 of a new action plan against violence in the family 2008–2009 and the envisaged extension of its scope to other types of gender-specific violence, such as female genital mutilation, forced marriage and honour crimes. However, the Committee expresses further concern at the lack of shelters for accommodating women victims of violence and their children in urgent situations in the Brussels region.

42. **The Committee urges the State party to promptly develop a comprehensive and coordinated national strategy to combat all forms of violence against women and girls as recommended in 2008 by the Committee on the Elimination of Discrimination against Women (CEDAW/C/BEL/CO/6, para. 32). It also calls upon the State party to ensure the availability of specialized emergency accommodation to women and their children throughout its territory.**

43. **With reference to the United Nations study on violence against children (A/61/299), the Committee recommends that the State party take all necessary measures for the implementation of the recommendations contained in the report of the independent expert for the United Nations study on violence against children, while taking into account the outcome and recommendations of the regional consultation for Europe and Central Asia, held in Ljubljana from 5 to 7 July 2005. In particular, the Committee recommends that the State party pay particular attention to the following recommendations:**

- (a) **To prohibit all violence against children;**
- (b) **To promote non-violent values and awareness raising;**
- (c) **To provide recovery and social reintegration services;**
- (d) **To develop and implement systematic national data collection and research;**
- (e) **To use the recommendations as a tool for action, in partnership with civil society and in particular with the involvement of children, to ensure that every child is protected from all forms of physical, sexual and psychological violence and abuse and to gain momentum for concrete and, where appropriate, time-bound actions to prevent and respond to such violence and abuse;**
- (f) **To support the Special Representative of the Secretary-General on Violence against Children.**

#### **4. Family environment and alternative care (arts. 5, 18 (paras. 1–2), 9–11, 19–21, 25, 27 (para. 4) and 39 of the Convention)**

##### **Family environment**

44. While the Committee acknowledges that social services for families and children are widely available, it notes that many children requiring urgent assistance are put on long waiting lists to obtain appropriate social services. The Committee expresses concern that the existing supply of childcare services is far from meeting the needs, only 27.2 per cent of them being met in the French community owing mainly to the insufficient funding devoted to childcare. The Committee expresses concern that the shortage particularly affects children from the most disadvantaged families and children with disabilities. It is also concerned that, in Flanders, less than 80 per cent of childcare staff has followed training for childcare.



45. **The Committee recommends that the State party conduct comprehensive research on the reasons for the long waiting lists to obtain appropriate social services. The Committee also calls upon the State party to promptly establish more childcare services and ensure accessibility to all children regardless of their special educational needs or the socio-economic status of their families. The Committee calls upon the State party to provide children with disabilities in childcare structures with the special assistance they need and ensure that childcare services are provided by trained staff and promote early childhood development, in the light of principles and provisions of the Convention.**

#### **Children deprived of a family environment**

46. The Committee is concerned that childcare is still primarily focused on placing children in residential institutions and that the French Community has the highest rate of institutionalized children under 3 years of age in Europe. The Committee is further concerned about the long waiting lists for placement and the frequent changes of placement.

47. **The Committee recommends that the State party review its legal framework to prevent the placement of children in institutions and, to this aim, provide families with social and economical assistance for parenting and legal aid, if necessary. The Committee also recommends that the State party prioritize family-type care settings over institutionalized placements and periodically review placements as required under article 25 of the Convention. The Committee further draws attention to the Guidelines for the Alternative Care of Children contained in General Assembly resolution 64/142 adopted on 20 November 2009.**

#### **Abuse and neglect**

48. The Committee notes with serious concern the extent of child abuse in the State party. The Committee notes with particular concern that abuse is the second cause of infant mortality in Flanders and that mortality resulting from abuse of children in the State party is very high, higher than in most OECD countries. The Committee is also concerned that one third of all cases are cases of sexual abuse and that sexual abuse is still qualified by the Criminal Code as a crime against morality rather than as a violent crime.

49. **Given the extent of abuse and neglect throughout the country, the Committee urges the State party to urgently adopt the necessary measures to combat and prevent child abuse. In particular, the Committee calls upon the State party to elaborate a comprehensive national action plan against abuse and neglect and ensure that the necessary resources for a significant increase of the services that intervene directly in prevention and coordination of abuse prevention and provide specific care for maltreated children. The Committee calls upon the State party to qualify sexual abuse as a violent crime, as already recommended by the Committee on the Elimination of Discrimination against Women in 2008 (CEDAW/C/BEL/CO/6, para. 30)**

#### **Adoption**

50. While noting that the legislation amendments have been made to conform with article 21 of the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, the Committee expresses concern at the high rate of intercountry adoptions compared to domestic adoptions.

51. **The Committee urges the State party to encourage more domestic adoption of children, notably by facilitating domestic adoption procedures.**

52. While noting that the State party intends to adopt a law to guarantee the right of the child to know his/her origin, the Committee is concerned about the absence of clear modalities for gathering, conserving and accessing information contained in the adoption files, including the identity of the parents and medical information concerning children and their families.

53. **The Committee recommends that the State party promptly determine the specific modalities for gathering, conserving and accessing information on adopted children's origins.**

## **5. Basic health and health care (arts. 6, 18 (para. 3), 23, 24, 26, 27 (paras. 1–3) of the Convention)**

### **Children with disabilities**

54. While noting the adoption on 5 February 2009 of a decree in the French community on the integration of children with disabilities in to regular education, the Committee expresses serious concern that children with disabilities may be deprived from any schooling possibilities as the result of insufficient inclusive education and the shortage of places in special education. It is further concerned that children with disabilities experiencing the most difficult situations are often excluded from private day-care centres and residential care services, which select children according to their own criteria.

55. **In light of art 23 of the Convention and the Committee's general comment No. 9 (2006) on the rights of children with disabilities, the Committee urges the State party to take more practical actions to ensure inclusive education for children with disabilities and integration into day-care centres. The Committee also calls upon the State party to ensure that resources allocated to children with disabilities are sufficient – and earmarked so that they are not used for other purposes – to cover all their needs, including programmes established for training professionals working with children with disabilities, especially teachers working with children with disabilities, in mainstream schools.**

### **Health and health services**

56. The Committee expresses serious concern as to the state of health of children from the most disadvantaged families. In particular, the Committee notes with concern that the mortality rate in the first year of life of children from families without declared income is 3.3 higher than in families with two incomes. The Committee is also concerned that many children live in families without appropriate medical insurance coverage. The Committee expresses further concern at the paucity of information on the State party's efforts to enforce the International Code of Marketing of Breast-milk Substitutes.

57. **The Committee urges the State party to take urgent targeted measures to monitor the state of health of children from the most disadvantaged families in their first year of life, ensure access to health services to all children and encourage parents to seek the health services that are available for their children. The Committee also recommends that the State party review health insurance systems in order to lower the cost of health services for the most disadvantaged families. The Committee further recommends the State party to strengthen enforcement of the International Code of Marketing of Breast-milk Substitutes in all parts of the State.**

### **Mental health and children in psychiatric care**

58. While noting the efforts of the State party to improve the mental health and well-being of children, the Committee expresses serious concern about the situation of children in psychiatric care. It notes with particular concern that children in inpatient mental health services have limited possibilities to express their opinion and are often cut off from the outside world and have restricted opportunities to meet their families and peers regularly, without clear justification being given for these restrictions. Furthermore, the Committee is seriously concerned about reported ill-treatment inflicted on children in inpatient psychiatric services, such as common use of isolation and widespread administration of drugs which may restrict their integrity. The Committee is concerned that children in need of mental health-care services are placed on long waiting lists. Furthermore, the Committee is concerned about information that indicates a rapid increase within a short period of time of the prescription of psycho-stimulants to children diagnosed with attention deficit hyperactivity disorder (ADHD).

59. **The Committee urges State party to:**

(a) **Continue to develop all components of a mental health-care system for children and young people, including prevention and treatment of mental disorders in primary health care and specialized outreach services, so that demand for inpatient psychiatric facilities is reduced and children can receive needed services without being separated from their families;**

(b) **Allocate human and financial resources to all levels of the mental health-care system in order to shorten the long waiting list and ensure that children have access to the services they need;**

(c) **Ensure that children, when placed in inpatient mental health-care institutions, are provided with appropriate information about their situation, including duration of their stay in psychiatric care, that they remain in contact with their families and the outside world and that their views are heard and respected;**

(d) **Implement the mechanism of independent monitoring of rights of children in psychiatric care, in partnership with representatives of civil society and investigate in a transparent way all complaints and allegations of ill-treatment of children; and**

(e) **Investigate the phenomenon of over-prescription of psycho-stimulants to children and take initiatives to provide children diagnosed with ADHD, as well as their parents and teachers, with access to a wide range of psychological, educational and social measures and therapies.**

### **Adolescent health**

60. The Committee is concerned about drug and substance use among adolescents in the State party. It is also concerned at the rise in obesity among children, in particular adolescents, in the State party.

61. **The Committee recommends that the State party continue and strengthen efforts to combat drug and substance among adolescents and manage overweight and obesity among children, as well as pay close attention to child and adolescent health, taking account the Committee's general comment No. 4 (2003) on adolescent health and development in the context of the Convention. The Committee recommends that the State party take all necessary measures to prevent drug and alcohol abuse.**

### **Harmful traditional practices**

62. The Committee notes recent efforts by the State party to raise awareness and monitor the situation of harmful traditional practices and cooperate with States where the practices are prevalent in efforts to combat them. The Committee is nevertheless concerned that hundreds of girls living in the State party have been subjected to female genital mutilation and that the law prohibiting such practices remains unknown, even by health workers. The Committee also expresses concern at the lack of precise information gathered on the subject and the absence of convictions.

63. **The Committee urges the State party to:**

(a) **Take all necessary measures to implement the law prohibiting female genital mutilation;**

(b) **Undertake a study on the extent and nature of female genital mutilation practised in Belgium or abroad on girls who live in Belgium and involve in this work NGOs that are active in this field;**

(c) **Organize information and awareness-raising programmes, taking into account results of the study, to prevent this practice; and**

(d) **Strengthen its international cooperation on the eradication of harmful traditional practices.**

### **Standard of living**

64. The Committee takes note of the information provided by the State party that child poverty has been made a national priority and that a rights-based National Action Plan to Combat Poverty has been agreed at federal, Community and regional levels and that it contains a separate chapter on child poverty. However, the Committee expresses serious concern that over 16.9 per cent of children live below the poverty line and that this proportion is increasing, particularly affecting families of foreign origin and single parent families. While noting the efforts of the State party to house homeless children during the winter, the Committee expresses concern at reports of increasing number of homeless women and children, including unaccompanied children of foreign origin, and at the absence of an integral response to address their situation.

65. **The Committee recommends that the State party:**

(a) **Continue to focus on child poverty as a priority under its forthcoming European Union presidency;**

(b) **Conduct in-depth analysis of the complex determinants of poverty affecting children, its extent and impact, in order to develop evidence-based comprehensive poverty strategy underpinned by human rights;**

(c) **Adopt a multidimensional approach to strengthening the system of family benefits and child allowances, especially for disadvantaged families such as single-parent and families with many children and/or with unemployed parents; and**

(d) **Include homeless women and children and unaccompanied children of foreign origin as priority beneficiaries of its poverty strategy, including taking urgent and sustainable measures to provide them with appropriate housing and other services.**

## **6. Education, leisure and cultural activities (arts. 28, 29 and 31 of the Convention)**

### **Education, vocational training and guidance**

66. While noting the measures adopted by the State party to ensure the right to education, including the adoption in June 2002 of the decree on the equal opportunity in education in the Flemish Community and the 2006 circular on free education, the Committee expresses concern about the significant inequality in the enjoyment of the right to education among children in the State party, and particularly at the impact of socio-economic status on the education opportunities accessible to children and their school performance. The Committee notes with particular concern that:

- (a) Schools fees imposed in spite of the constitutional guarantee of free education greatly contribute to discrimination in the access to education;
- (b) Children from poor families and foreign children are likely to be relegated to special education programmes;
- (c) School dropout tends to be criminalized and young persons absent from schools reported to judicial authorities; and
- (d) Initiatives are being taken in the Flemish community to cut the school allowances of children who do not attend school.

67. **The Committee urges the State party to:**

- (a) Take the necessary measures to abolish school fees in accordance with its Constitution;**
- (b) Ensure that all children have access to education regardless of their socio-economic status and that children from poor families are no longer relegated to special education programmes;**
- (c) Strengthen efforts to reduce performance disparity, giving special attention to promoting education of children of foreign origin; and**
- (d) Refrain from taking repressive measures that will negatively impact on the most economically and socially disadvantaged families and are unlikely to contribute to their greater involvement in the school system and instead build coherent strategies involving teachers, parents and children to address the root causes of school dropout.**

68. The Committee is concerned at the prevalence of bullying in schools, particularly of children of foreign origin.

69. **The Committee strongly recommends that the State party develop comprehensive prevention and sensitization programmes to combat bullying and any other forms of violence in schools.**

### **Rest, leisure, recreation and cultural activities**

70. The Committee welcomes the initiatives taken at community level to improve children's access to rest, leisure and cultural and artistic activities. However, the Committee notes the insufficient availability of playgrounds and informal meeting and recreational areas for children, especially in rural and remote areas, and the limited involvement of children in the decisions taken in this regard at municipal level. The Committee expresses further concern that children from the most disadvantaged families, children in reception centres, children with disabilities and children in psychiatric care are often deprived access

to any leisure activities. The Committee notes with concern that the “sport cheques” in the French Community which benefitted families with a precarious income have been abolished.

71. **The Committee urges the State party to strengthen its efforts to guarantee the right of all children to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts and to fully involve children in any decision-making process in this regard. In particular, the Committee calls upon the State party to ensure that children in reception centres, children with disabilities and children in psychiatric care are provided with adequate and accessible playground spaces to exercise play and leisure activities. The Committee further calls upon the State party to provide disadvantaged families with the necessary resources to enable their children to fully exercise their rights in accordance to article 31 of the Convention.**

## **7. Special measures of protection (arts. 22, 30, 32-36, 37 (b)–(d), and 38-40 of the Convention)**

### **Children begging on the streets**

72. The Committee expresses concern about the 26 May 2010 decision of the Fourteenth Chamber of the Brussels Court of Appeals (Arrêt No. 747) not to prohibit the use of children for begging as long as the adults involved are parents.

73. **The Committee calls upon the State party to expressly ban the use of children for begging on the streets whether or not the adults concerned involved are parents.**

### **Unaccompanied children**

74. The Committee welcomes the initiatives taken to address the current reception crisis in the State party, in particular the establishment of a multidisciplinary task force on minors travelling alone and the opening of two centres for the reception of asylum-seeking unaccompanied and separated children in April 2007. The Committee is, however, concerned that:

(a) Unaccompanied and separated children older than 13 years of age who do not file an asylum claim are denied access to reception centres and find themselves on the streets;

(b) Owing to a lack of available places in reception centres, unaccompanied children may be housed in asylum centres for adults and, in some cases, excluded from any type of assistance;

(c) The Guardianship Act of May 2004 excludes European unaccompanied children from receiving the assistance of a guardian;

(d) Family reunification is hampered by lengthy and expensive procedures; and

(e) Recognized stateless children are not entitled to the right to residence in the State party.

75. **The Committee urges the State party to:**

(a) **Comply with its obligation to ensure special protection and assistance to all unaccompanied children regardless of whether or not they have applied for asylum;**

(b) **Guarantee that all asylum-seeking unaccompanied and separated children are appointed a guardian during their asylum procedure, regardless of their nationality;**

(c) **Ensure that family reunification is dealt with in a positive, humane and expeditious manner, in accordance with article 10 of the Convention and with due consideration of the best interests of the child; and**

(d) **Implement the governmental declaration of March 2008 on the new procedure for determination of stateless status and consider issuing residence permits to recognized stateless persons – including children – and acceding to the 1961 Convention on the Reduction of Statelessness.**

#### **Children of asylum-seeking families**

76. The Committee expresses concern that, in spite of a decision by the Minister of Migration Policy and Asylum that families with children would no longer be detained in closed centres as of 1 October 2008, some children and their parents are still being detained in precarious conditions in facilities unsuitable for children. The Committee is also concerned that social workers, non-governmental organizations and visitors do not have access to these facilities. The Committee is further concerned that families whose application for asylum has been rejected have to leave the facilities and often end up living on the streets.

**77. The Committee urges the State party to put an end to the detention of children in closed centres, create alternatives to detention for asylum-seeking families and take the necessary measures to urgently find temporary housing solutions for families whose asylum request has been rejected and who live on the streets.**

#### **Children in armed conflict**

78. The Committee welcomes the adoption by the Senate in April 2006 of a detailed resolution on children in armed conflicts. However, it regrets that the State party has not taken measures to repeal the law governing the conscripts, which allows for the recruitment of militiamen from January of the year in which they reach the age of 17, especially during wartime.

**79. The Committee recommends that the State party fully implement this resolution by integrating it into the Government policy. It also reiterates the recommendation made following the review of the State party's report under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/BEL/CO/1, para. 11) that the State party repeal all laws that allow the recruitment of persons under the age of 18 into the Armed Forces in time of war and in all types of emergency situations.**

#### **Sale, trafficking and abduction**

80. The Committee welcomes the significant efforts of the State party to combat trafficking of children for the purposes of forced labour and commercial sexual exploitation, in particular, the adoption of the National Plan of Action against Trafficking and Smuggling of Persons on 11 July 2008 and the specific anti-trafficking training provided to the Armed Forces deployed in international peacekeeping operations. However, the Committee expresses concern that child victims of trafficking are insufficiently protected in the State party. The Committee notes with particular concern that children are granted a residence permit only if they cooperate in the investigations against their traffickers. The Committee is also seriously concerned that child victims of trafficking are

often not adequately sheltered or protected, as a result of which they may disappear from reception centres and/or find themselves on the streets.

81. **The Committee recommends that the State party:**

(a) **Strengthen its efforts to reduce and prevent the occurrence of trafficking of children for sexual purposes, including through an assessment of the extent of the problem;**

(b) **Comply with its obligations to provide protection to all child victims of trafficking and grant them residence permits regardless of their nationality and willingness or ability to cooperate in legal proceedings;**

(c) **Create more residential structures to provide assistance to child trafficking victims and enhance knowledge of children's rights and skills of professionals in reception centres and shelters dealing with child victims to ensure that children taken into the care of social services receive adequate assistance and are not exposed to the risk of being trafficked or re-trafficked; and**

(d) **Take into account the outcome documents of the first, second and third World Congresses against Commercial Sexual Exploitation of Children, held in 1996, 2001 and 2008, respectively, and the Committee's general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin.**

#### **Administration of juvenile justice**

82. While noting the amendment to the juvenile justice system by the Acts of 15 May and 13 June 2006, the Committee is concerned that the adoption previously recommended of a holistic approach to addressing the problem of juvenile crime advocated in the Convention, including with respect to prevention, procedures and sanctions, has not been taken into sufficient consideration by the State party. The Committee expresses particular concern that:

(a) Offenders between 16 and 18 years old can still be tried in adult courts and, if sentenced, detained in a prison for adults;

(b) Children's right to legal counsel when being questioned by an investigating judge is not always respected and not recognized during police interrogation;

(c) Children cannot start legal proceedings themselves;

(d) Although detention should be used as a measure of last resort, the State party increasingly applies a severe detention policy as illustrated by the doubling of the capacity of closed centres for children;

(e) Owing to the distance between closed facilities and the main cities, families encounter difficulties in maintaining regular contact with detained children;

(f) Solitary confinement continues to be imposed in the federal closed centre for the temporary placement of minors at Everberg;

(g) Municipal administrative penalties may be imposed on children for anti-social behaviour outside the juvenile justice system.

83. **The Committee urges the State party to ensure that juvenile justice standards are fully implemented, in particular, articles 37(b), 40 and 39 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines) and the United Nations Rules for the**



**Protection of Juveniles Deprived of their Liberty (Havana Rules).** In particular, the Committee urges the State party to take into account the Committee's general comment No. 10 (2007) on children's rights in juvenile justice. It also urges the State party to:

- (a) Review its legislation, with the aim of eliminating the possibility that children can be tried as adults and detained with adults, and immediately remove children from adult prisons;
- (b) Ensure that children have a lawyer and a trusted adult present at all phases of a proceeding, including during questioning by a police officer;
- (c) Provide legal basis for children to start legal proceedings with the assistance of a juvenile law attorney;
- (d) Develop as a matter of priority a comprehensive policy of alternative sanctions for juvenile offenders to ensure that children are held in detention only as a measure of last resort and for the shortest period of time;
- (e) Explore ways of ensuring that children deprived of their liberty are held in facilities close to their place of residence and ensure that all such centres are served by public transport.
- (f) Ensure that sentences are reviewed on a regular basis;
- (g) Ensure that children are no longer subject to de facto isolation; and
- (h) Assess the compatibility of administrative penalties with the Convention.

## **8. Ratification of international human rights treaties**

84. The Committee recommends that the State party ratify the core United Nations human rights treaties and their optional protocols to which it is not yet a party, namely the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the International Convention on the Protection of all Persons from Enforced Disappearance, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment, and the Optional Protocol to the Covenant on Economic, Social and Cultural Rights.

## **9. Follow-up and dissemination**

### **Follow-up**

85. The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, *inter alia*, by transmitting them to the Council of Ministers, the Parliament (the Senate and the Chamber of Representatives), and to Governments and Councils at Community and regional levels, when applicable, for appropriate consideration and further action.

### **Dissemination**

86. The Committee further recommends that the third and fourth periodic reports and written replies submitted by the State party and related recommendations (concluding observations) that it adopted be made widely available in all official languages of the State party to the public at large, civil society, youth groups, media and other professional groups and children, in order to generate debate and

awareness of the Convention, its Optional Protocols and their implementation and monitoring.

## 10. Next report

87. In the light of the recommendation on reporting periodicity adopted by the Committee and described in its reports CRC/C/114 and CRC/C/124, and noting that the fifth periodic report of the State party is due within four years of the consideration of its combined third and fourth periodic report, the Committee invites the State party to submit a consolidated fifth and sixth periodic report on 14 July 2017 (i.e. 18 months before the date established in the Convention for the submission of the sixth periodic report). This report should not exceed 120 pages (see CRC/C/118) and should include information on follow-up to these concluding observations, as well as implementation of the Optional Protocol on the involvement of children in armed conflict and the Optional Protocol on the sale of children, child prostitution and child pornography. The Committee expects the State party to report every five years thereafter, as foreseen by the Committee.

88. The Committee also invites the State party to submit an updated core document in accordance with the requirements of the common core document in the harmonized guidelines on reporting, approved by the fifth inter-committee meeting of the human rights treaty bodies in June 2006 (HRI/MC/2006/3).

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