



## Belgian NGOs' additional submissions 80<sup>th</sup> Session of the Committee on the Rights of the Child

### Introduction

This document gathers the additional submissions of the Belgian NGOs regarding the Belgian government's answers to the List of issues (LOI).

The NGOs are represented by Coordination des ONG pour les droits de l'enfant (CODE)<sup>1</sup> on the Francophone side and Kinderrechtencoalitie Vlaanderen (KIRECO)<sup>2</sup> on the Flemish side.

The List of Issues tackles topics that were extensively addressed by both the governmental Report and the Alternative Reports. Therefore, this statement does follow the numbering system of the LOI but provides only for the information lacking in the governmental answers and for recent and new information since the Alternative Report was drafted. Regarding the questions that are not dealt with by this document, please refer to the "NGO Alternative Report on the implementation in Belgium of the Convention on the Rights of the Child".

### 1. Policies and measures of general application

*See Chapter 1 of the NGOs Alternative Report.*

Belgium does not take enough significant steps to efficiently implement the Convention on the Rights of the Child (CRC). At the national level, there is no Minister in charge of coordinating the implementation of the rights of the child. Yet, this position is essential since the ombudsmen do not have authority on national matters.

In the French Community, no structural plan is being implemented to ensure integration of the rights of the child within policies.

The Flemish government conducts an integrated policy on the rights of the child, but this policy has had no sufficient impact on key policy areas such as health care, education and housing policy.

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<sup>2</sup> Members of Kinderrechtencoalitie Vlaanderen ([www.kinderrechtencoalitie.be](http://www.kinderrechtencoalitie.be)) : Arktos vzw, Awel vzw, Bednet, Cachet vzw, Child Focus, Chirojeugd Vlaanderen vzw, Ecpat, GAMS, Gezinsbond, Grip vzw, HCA Oost-Vlaanderen, Jonge Helden, KIYO ngo, Liga voor Mensenrechten, Minor Ndako, Kind & Samenleving, Plan International België, SAM vzw, Tumult, tZitemzo, Uit de Marge, Unicef Belgium, vcov, Vlaams Welzijnsverbond, Welzijnszorg.

Belgium refuses to revoke its interpretative declaration relating to article 2 of the CRC. Such refusal disregards several requests made by the Committee. This declaration has a severe and daily impact on the implementation of laws and policies regarding the rights of migrant children.

## **2. Child-budgeting**

*See Chapter 1.3 of the NGOs Alternative Report.*

## **3. Data collection**

*See Chapter 1.2 of the NGOs Alternative Report.*

When collecting data, extra attention should be paid to the anonymity and privacy of children and their families. NGOs note that, in some specific contexts (e.g. national security), the protection of children's privacy is not guaranteed. Information about children is being shared without their knowledge or consent. Sometimes, NGOs themselves are required to share information with the police (see additional note 16).

Moreover, NGOs underline that certain types of data collection are experienced as intrusive by families, for instance by families living in poverty. At all times anonymity, confidentiality and privacy of children and families should be ensured.

NGOs stress that a vulnerable group, namely unaccompanied migrant children (UMC), is not well taken into account (data-wise). The Guardianship Service has been collecting data regarding UMC (registered for age determination) but does not make it public. The Aliens Office only publishes data regarding children who officially apply for asylum. A lot of UMC children do not even apply for asylum and disappear. NGOs stress the necessity to find and map out these children since they are especially vulnerable to abuse and violence.

## **4. Participation**

*See Chapter 3 of the NGOs Alternative Report.*

## **5. Violence**

*See Chapter 5 of the NGOs Alternative Report.*

Despite the advice of the National Commission on the Rights of the Child to legally ban all forms of corporal punishment against children, Belgium does not take any step in that direction.

The reception and support provided to child victims of sexual abuse remain uneven. It is essential to train police officers, healthcare assistants, nurses, psychologists, doctors, teachers, family workers, the justice sector... in order to ensure better detection as well as to avoid "revictimization" when victims are taken care of.

Child victims can feel very lonely and powerless when facing justice. They should be able to come with a reference person when filing a complaint (before or during a trial), as such event can be traumatic.

## **6. Early childhood care, family support and youth care**

*See Chapter 6 of the NGOs Alternative Report.*

The lack of early childhood care facilities for children aged 0-3 in the French Community is alarming. The steps taken to this day remain deeply insufficient to ensure quality early childhood care services for all.

## **7. Children with disabilities**

*See Chapter 7 of the NGOs Alternative Report.*

Budgets allocated to the implementation of the "M-decree" in Flanders are inadequate to provide inclusive education to all children with disabilities. Indeed, inclusive education requires allocated budgets for personal assistance, which are now not high enough. The waiting lists to receive a Personal Assistance Budget (PAB) are unreasonably long, on average 4 years.

The Flemish government pledged to allocate person-related budgets for children with disabilities within this legislature, but this promise was not kept.

In the French Community, education fails to be inclusive and reasonable accommodation is insufficient.

## **8. Health care, female genital mutilation, child marriage**

*See Chapters 5 and 9 of the NGOs Alternative Report.*

According to a recent study by Fondation Roi Baudouin<sup>3</sup> (see below), child deprivation risks increase when a household member suffers from chronic health problems.

## **9. Poverty**

*See Chapter 8 of the NGOs Alternative Report.*

After a first national Plan to combat child poverty, a second Plan should have been set up for 2015-2019 but has not yet been drafted. Coordination in this regard mostly takes place on the regional and local levels.

NGOs are still waiting for structural changes (minimum wage and replacement income increase, facilitated access to housing...) to be undertaken to fight against poverty. A recent study by Fondation Roi Baudouin<sup>4</sup> dealing with child deprivation in Belgium highlights the magnitude (15%) of child poverty in Belgium (especially high compared to neighbouring countries). It also underlines the strong differences between regions (Brussels being at the very bottom of the scale).

Belgium is currently suffering from a severe housing crisis. Affordable houses suitable for vulnerable and/or large families have become a rare item on the market. Increasing prices, owners buying a second house, project developers looking for middle-class buyers... worsen the problem. The Flemish government invests

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<sup>3</sup> Guio, A-C. et Vandenbroucke, F. (2018), « La pauvreté et la déprivation des enfants en Belgique. Comparaison des facteurs de risque dans les trois Régions et les pays voisins », Fondation Roi Baudouin, Brussels.

<sup>4</sup> Guio, A-C. et Vandenbroucke, F. (2018), op. cit.

84% of its housing budget to support owners whereas it only dedicates 2% of this budget to the rental market. The percentage of social housing in Flanders (5,6%) and in the French Community (around 6%) is way below what would be needed. This crisis intensifies a range of other issues: young people cannot leave youth care because they cannot find affordable housing, waiting lists become even longer, migrant families cannot leave shelters, overcrowding worsens as well as slumlords...

NGOs urge the government to invest into the building and rehabilitation of social houses to support vulnerable families; and to not lower down social benefits below the poverty threshold, in particular when it comes to co-housing.

## **10. School fees, inequalities, exclusions and bullying**

*See Chapter 10 and 5.4 of the NGOs Alternative Report.*

NGOs point out that government invests too little when it comes to fighting bullying at school. The network referred to by the governmental answers exists only because of the goodwill and efforts of NGOs. There is a clear need for a general knowledgeable contact point funded by the government. In addition, most schools underestimate the potential impacts of cyberbullying and do not know how to prevent it. Information and training are insufficient in this respect.

French-speaking NGOs regret that educational reforms have not yet been implemented by the French Community (“Pacte pour un Enseignement d’Excellence”).

## **11. Migrant and refugee children**

*See Chapter 12 of the NGOs Alternative Report.*

In August 2018, the first families with children were locked up in the new family units of the 127bis detention centre. This measure was undertaken despite heavy oppositions from organizations, brought together under the campaign “You don’t lock up a child. Period.” (“On n’enferme pas un enfant. Point.”).

Child detention violates the Convention. The Committee made clear that detaining children for reasons based on migration policies systematically goes against the best interest of the child. The profound and negative impact of detention on children’s health, development and wellbeing has been demonstrated on several occasions, even in the case of short-term detentions and even when children are said to have been treated with due care. In addition, detention is expensive – e.g. building detention centres costs, running costs (staff, maintenance)<sup>5</sup> – and does not foster collaboration with families when it comes to securing their return<sup>6</sup>. The budget invested in this regard is, therefore, disproportionate and unnecessary. It could instead be used to support migrant families to find sustainable means of living in Belgium or to help them in case of voluntary return.

The government’s written replies to the LOI suggest that the closed family units match the needs of children and families, and that detention is only applied as a last resort short-term measure. Nevertheless, NGOs

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<sup>5</sup> In 2017, detention costed 192 euros per person per day. Stays in “return houses” cost around half this price. In contrast, stays in reception centres cost less than a third of this price.

<sup>6</sup> See Sampson, R., Chew, V., Mitchell, G. & Bowring, L., 2015, *There are alternatives. A handbook for preventing unnecessary immigration detention (revised edition)*, International Detention Coalition.

strongly disagree with this statement. Up to now, 7 families (19 children in total) were locked up in these units. When visiting the centre, Belgian ombudsmen and human rights organizations have demonstrated that the physical and psychological health of children is deeply affected by their detention. In addition, the legally set maximum duration of 2 weeks of detention was extended on several occasions, due to administrative or judicial reasons. Several NGOs lodged an appeal before the Council of State against the royal decree of 22 July 2018 on child detention.

The Committee urged Belgium to release the first detained family. This request was wilfully ignored by the government. NGOs request that the government immediately stops the detention of families with children and call for the prohibition of child detention upon migration reasons to be enshrined in Belgian law.

The government justified the creation of a detention centre by noting the failure of alternatives to detention (preventive measures to prevent disappearances e.g. obligation to report to the municipality or the Aliens Office, security deposit, production of valid identity documents - these are very rarely implemented -, home-based care and “return houses”). According to the government, creating a detention centre was the only feasible solution to make migration policies effective. However, alternatives to detention never benefited from proper monitoring, evaluation or funding. It is therefore vital to evaluate those alternatives and to make them suitable for children, while respecting child’s best interest and family unit. It is equally necessary that the law ensures that such alternatives may not be enforced if it has not been established – on a case-by-case basis – that they are adapted, proportional, necessary and nonarbitrary.

As far as children in migration are concerned, NGOs also urge the government to pay the utmost attention to unaccompanied migrant children. A lot of UMC do not apply for asylum, often out of ignorance about protection mechanisms. As a consequence, they are not registered or are considered “transmigrants” (migrant children on their way to apply for asylum in another country). For months or years, they have to survive on the streets, out of sight of social services, which makes them especially vulnerable to abuse and violence. NGOs call for a specific budget to be dedicated to this group of children.

Belgium’s migration policy focuses on return and deterrence. The number of beds in reception centres severely decreased in 2017, which now causes a shortage every time the number of applications increases. NGOs ask for more “emergency beds” to be ready in case of increase, to prevent children from ending up on the streets.

## **12. Healthy environment**

NGOs are pleased to note that the Committee looks upon climate and air pollution issues. Surveys show that 98% of children are concerned with global warming. On 2 December, 75.000 people took part to a huge climate march in Brussels. On 10 January, 3.000 students organized an additional protest after Belgium voted against (and abstained from voting) the European guidelines on energy efficiency and renewable energies at the climate conference, in Katowice.

## **13. Belgian children in conflict areas**

*See the joint recommendation addressed to the Committee by the Belgian ombudspersons.*

#### **14. Children in a situation of prostitution, child sexual abuse material and child trafficking**

*See Chapter 5.5 of the NGOs Alternative Report.*

The Global Code of Ethics for Tourism is not binding. In this respect, the scale and content of awareness-raising campaigns are seriously insufficient. Besides, Wallonia and Brussels made no commitments regarding the Global Code of Ethics.

There is still no trafficking victims' shelter in Flanders, such as Espéranto in the French Community.

#### **15. New legislation**

*See Chapters 1.4 and 13.3 of the NGOs Alternative Report.*

NGOs are concerned that divestiture was maintained both by the new decree of the French Community (January 18, 2018) bearing the Youth Care and Protection Code ("Code de la prévention, de l'Aide à la jeunesse et de la protection de la jeunesse") and by the Flemish decree on youth crime ("Vlaams decreet jeugddelinquentierecht").

A draft decree on teachers' initial training is being finalized by the French Community: the training would now last 4 years instead of 3. NGOs very much regret that the rights of the child are not among the training's cross-cutting themes. It would have been a great opportunity to educate children on their rights and on the Convention.

#### **16. Additional note on professional secrecy and the right to privacy**

*See Chapter 6.5 of the NGOs Alternative Report.*

NGOs are concerned about breaches of professional secrecy introduced by the new Criminal Code (art. 458ter). There is a high risk that children, teenagers and families no longer trust support and care services knowing that their stories could be disclosed to other stakeholders (police officers, legal authorities...) without their consent. It is essential to recall that professional secrecy is the very basis for mutual trust and collaboration with both child victims and families. Professional secrecy should therefore be protected.

Social workers are granted the right to break professional secrecy in some specific situations. However, they now seem to believe that they systematically have to speak out. Consequently, the exception slowly becomes a rule. This seriously undermines the precautionary principle according to which silence and protection should be valued over suspicion.

In the same vein, local safety units dealing with radicalism, extremism and terrorism (CSIL/LIVC) have been created by the law of 30 July 2018. They are platforms bringing together professionals from social prevention, social local services and administrations to carry out "case discussions" ("concertations de cas") over individuals suspected of radicalism/terrorism. In this context, stakeholders have the right to disclose information otherwise protected by professional secrecy. However, social workers' primary purpose is to care and protect, not to fight terrorism. CSIL/LIVC therefore undermine professional secrecy and infringe the rights to privacy and family life of vulnerable children, teenagers and adults, on the sole basis of a vague possible radicalization. As local authorities are responsible for their structure, actions and objectives, it paves

the way for arbitrariness and ethnic profiling. Moreover, the rights of the individuals targeted by CSIL/LIVC are not specified by the law of 30 July.

The NGOs strongly ask that CSIL/LIVC are legally prohibited to target children.