



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### Concluding observations on the combined fifth and sixth periodic reports of Belgium\*

#### I. Introduction

1. The Committee considered the combined fifth and sixth periodic reports of Belgium (CRC/C/BEL/5-6) at its 2358th and 2359th meetings (see CRC/C/SR.2358 and 2359), held on 24 and 25 January 2019, and adopted the present concluding observations at its 2370th meeting, held on 1 February 2019.

2. The Committee welcomes the submission of the combined fifth and sixth periodic reports of the State party and the written replies to the list of issues (CRC/C/BEL/Q/5-6/Add.1), which allowed for a better understanding of the situation of children's rights in the State party. The Committee expresses appreciation for the constructive dialogue held with the multisectoral delegation of the State party.

#### II. Follow-up measures taken and progress achieved by the State party

3. The Committee welcomes the progress achieved by the State party in various areas, including its ratification, in 2014, of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of the Child and the Convention on the Reduction of Statelessness. The Committee also welcomes the establishment of national indicators on the rights of the child, the establishment of the family and youth court in 2014, the adoption of the Act on the rights of persons brought in for questioning (the "Salduz+ Act") in 2016, the decree to support inclusive education in the Flemish community (the "M Decree") of 2014 and the amendments made in 2014 and 2016 to the Penal Code strengthening the protection of children from sexual exploitation.

#### III. Main areas of concern and recommendations

4. The Committee reminds the State party of the indivisibility and interdependence of all the rights enshrined in the Convention, and emphasizes the importance of all the recommendations contained in the present concluding observations. It draws the State party's attention to the recommendations concerning the following areas, in respect of which urgent measures should be taken: children with disabilities (para. 30); mental health

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\* Adopted by the Committee at its eightieth session (14 January–1 February 2019).



(para. 33); standard of living (para. 37); education (para. 39); children in a situation of migration (paras. 42 and 44); and administration of justice (para. 47).

5. The Committee recommends that the State party ensure the realization of children's rights in accordance with the Convention and its Optional Protocols throughout the process of implementing the 2030 Agenda for Sustainable Development. It also urges the State party to ensure the meaningful participation of children in the design and implementation of policies and programmes aimed at achieving the 17 Goals as far as they concern children.

## **A. General measures of implementation (arts. 4, 42 and 44 (6))**

### **Reservations**

6. The Committee reiterates its previous recommendations (CRC/C/15/Add.178, para. 7 and CRC/C/BEL/CO/3-4, para. 10) to consider withdrawing its declaration regarding articles 2 and 40 of the Convention.

### **Legislation**

7. The Committee welcomes the adoption of the 2018 code on prevention, assistance to and protection of young persons in the French community. It also welcomes the fact that the new legislation and regulations regarding children in the Flemish community are subjected to a child rights impact assessment (JoKER) and poverty tests, and recommends that this practice be implemented systematically countrywide, for all laws and regulations that affect children directly or indirectly.

### **Comprehensive policy**

8. Noting that the 2015–2019 action plans on children's rights adopted by the Flemish and French Communities and the 2016–2019 action plan on children's rights adopted by the Walloon Region are about to expire, the Committee recommends that the State party continue its efforts to formulate updated plans for future years, and urges it to prepare a comprehensive policy on children at the federal level that encompasses all areas covered by the Convention and reflects regional dynamics.

### **Coordination**

9. The Committee recommends that the State party improve the coordination of the implementation of the Convention, including by:

(a) Strengthening the mandate of the National Commission for the Rights of the Child to coordinate relevant activities and mechanisms established at the federal, community, regional and local levels;

(b) Clearly defining roles and responsibilities of the mechanisms involved in the implementation of the Convention at these levels.

### **Allocation of resources**

10. While welcoming the State party's efforts to introduce "child budgeting", the Committee regrets that this approach is not used systematically, and remains concerned that budgetary allocations to children remain inadequate, specifically with regard to children in vulnerable situations, and lack transparency. It is also concerned at the persistently high level of child poverty, marked by regional disparities. Referring to its general comment No. 19 (2016) on public budgeting for the realization of children's rights, the Committee reiterates its previous recommendations (CRC/C/BEL/CO/3-4, para. 20) and urges the State party:

(a) To utilize a child-rights approach in the preparation of the State budget by implementing a tracking system for the allocation and the use of resources for children throughout the budget; such a tracking system should also be used for impact assessments of how investments in any sector may serve the best interests of

the child, ensuring that the different impact of such investment on girls and boys is measured;

(b) To ensure transparent and participatory budgeting through public dialogue, especially with children and for proper accountability of local authorities;

(c) To define budgetary lines for all children, with special attention to those in disadvantaged or vulnerable situations, and ensure that those budgetary lines are protected even in situations of economic crisis, natural disaster or other emergencies.

#### Data collection

11. While welcoming the establishment of 40 national indicators on children's rights, the Committee regrets that data collection remains fragmented and that children in the most vulnerable situations, such as children in poverty, children with disabilities and children separated from parents, have not been included in such indicators. With reference to its general comment No. 5 (2003) on general measures of implementation of the Convention on the Rights of the Child, the Committee encourages the State party:

(a) To improve its centralized data-collection system, including by reviewing the national indicators on the rights of the child that should cover all areas of the Convention and be disaggregated by age, sex, ethnic and national origin, urban or rural area, geographic location, disability, migration and socioeconomic status, in order to facilitate analysis of the situation of all children;

(b) To ensure that the data and indicators are shared among the ministries concerned and used for the formulation, monitoring and evaluation of laws, policies and programmes for the effective implementation of the Convention and the Optional Protocols thereto.

#### Independent monitoring

12. With reference to its previous concluding observations (CRC/C/BEL/CO/3-4, para. 18), the Committee recommends that the State party establish an independent human rights body at the federal level in compliance with the Paris Principles and ensure coordination between this institution and ombudspersons.

#### Dissemination, awareness-raising and training

13. While noting the measures taken to improve the children's knowledge of the Convention, in particular by its integration into education for citizenship in democratic society, the Committee encourages the State party to continue to ensure that the provisions of the Convention are widely known, understood and applied, in particular by:

(a) Strengthening training of relevant stakeholders, including teachers, law-enforcement officials, judges, lawyers, health-care professionals and social workers, and children;

(b) Integrating interdisciplinary children's rights education into curricula at all levels of education.

#### Children's rights and the business sector

14. The Committee welcomes the establishment of the national forum on the initiative of the United Nations Children's Fund, namely the Children's Rights and Business Principles, the State party's efforts to develop a national plan for business and human rights, and its support for the Children's Rights and Business Principles. With reference to its general comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights and to the Guiding Principles on Business and Human Rights, the Committee recommends that the State party:

(a) Establish and implement regulations to ensure that the business sector complies with international and national human rights, labour, environment and other standards, particularly with regard to children's rights;

(b) Establish a clear regulatory framework for the industries operating in the State party to ensure that their activities do not negatively affect human rights or endanger environmental and other standards, especially those relating to children's rights.

## **B. Definition of the child (art. 1)**

15. The Committee recommends that the State party amend its Civil Code to remove all exceptions that allow marriage under the age of 18 years.

## **C. General principles (arts. 2, 3, 6 and 12)**

### **Non-discrimination**

16. The Committee remains concerned that children living in poverty and children with disabilities remain subjected to discrimination, in particular with regard to access to health care, education, housing and leisure. It is also concerned at the prejudice, stereotypes and hatred of children with a migrant background witnessed, particularly since the terrorist attacks in 2014 and 2016. Taking note of target 10.3 of the Sustainable Development Goals, the Committee reiterates its previous recommendation (CRC/C/BEL/CO/3-4, para. 32) and calls upon the State party to adopt and implement a comprehensive strategy addressing all forms of discrimination and to strengthen its efforts to combat radicalization of children and hate speech, including with regard to children in vulnerable situations.

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

17. The Committee is concerned that, although the principle of the best interests of the child is integrated in the newly adopted laws, it is still not systematically considered in decisions regarding children in vulnerable situations. With reference to its general comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, the Committee therefore recommends that the State party:

(a) Strengthen its efforts to ensure that the principle of the best interests of the child is consistently interpreted and applied in decisions concerning migrant and refugee children, and children in alternative care, and in education and health measures;

(b) Develop procedures and criteria to provide guidance to all relevant persons in authority for determining the best interests of the child in all areas and for giving it due weight as a primary consideration.

### **Right to life, survival and development**

18. The Committee reminds the State party of the need to ensure the fullest possible review and control of decisions on euthanasia in relation to children, including by a judge, to guarantee that such decisions are not the subject of undue influence or misapprehension.

### **Respect for the views of the child**

19. In accordance with paragraph 21 of its general comment No. 12 (2009) on the right of the child to be heard, the Committee recalls that article 12 imposes no age limit on the right of the child to express her or his views, and discourages States parties from introducing age limits either in law or in practice that would restrict the

child's right to be heard in all matters affecting her or him. The Committee recommends that the State party:

(a) Improve participation of all children, in particular by abolishing any age limit on the right of children to express their views in all issues concerning them in legislation, and ensure that due weight is given to their views, in accordance with their age and maturity;

(b) Ensure that children in schools and in situations of migration are given enough opportunities to express their views, and that these views are taken seriously;

(c) Continue to involve children, particularly those in vulnerable situations, in local public consultations, and ensure the impact of the opinion of children on local policies.

#### **D. Civil rights and freedoms (arts. 7, 8 and 13–17)**

##### **Right to identity**

20. The Committee recommends that the State party carry out a legislative review to consider access to information of children born through assisted reproduction about their origins.

##### **Freedom of thought, conscience and religion**

21. The Committee is concerned at reports that schools are allowed to ban wearing religious symbols, such as Islamic headscarves, which stigmatizes and discriminates against children, particularly girls of Muslim faith, and may influence their choice of school, further studies and employment. The Committee recommends that the State party take all measures necessary to ensure the full implementation of the rights of the child to freedom of thought, conscience and religion and to non-discrimination.

#### **E. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39)**

##### **Corporal punishment**

22. Noting that, in Flanders, the Act on the status of minors in youth care (2004) already explicitly prohibits corporal punishment in alternative care, the Committee regrets that the bill to amend article 371/1 of the Civil Code has not been approved, and with reference to 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, it reiterates its previous recommendation (CRC/C/BEL/CO/3-4, para. 40) and urges the State party:

(a) To explicitly prohibit corporal punishment, however light, by law, at home and in alternative care throughout the country;

(b) To promote positive, non-violent and participatory forms of child-rearing and discipline, including by means of awareness-raising programmes and campaigns, targeting children, parents and childcare professionals.

##### **Abuse and neglect**

23. The Committee notes with regret that child abuse, including domestic violence, is underreported and insufficiently documented in the State party. With reference to its general comment No. 13 (2011) on the right of the child to freedom from all forms of violence and target 16.2 of the Sustainable Development Goals, the Committee recommends that the State party:

(a) Strengthen data collection in order to formulate a comprehensive strategy for preventing and combating child abuse and neglect;

(b) Allocate adequate human, technical and financial resources to implement long-term programmes addressing the root causes and reporting cases of violence against or abuse or neglect of children;

(c) Strengthen coordination between administrations and institutions at the federal, regional and community levels, and train the professionals concerned to identify and adequately respond to cases of child abuse and neglect, taking into account a gender perspective;

(d) Encourage community-based programmes aimed at preventing and combating domestic violence, child abuse and neglect, including by involving former victims, volunteers and community members and providing them with training and support;

(e) Ensure that support services, including shelter, are provided to child victims and, whenever appropriate, to their parents.

#### Sexual exploitation and abuse

24. While welcoming the measures taken to curb child exploitation and abuse, including the adoption of the law prohibiting sexism in public spaces in 2014, the National Action Plan to Combat All Forms of Gender-Based Violence (2015–2019) and the National Security Plan (2016–2019), the Committee is concerned that sexual harassment in public spaces is commonplace and that, according to the report of the Adriaenssens Commission, sexual abuse by religious personnel in the Catholic church is persistent. The Committee recommends that the State party:

(a) Establish a national database of cases of sexual exploitation and abuse with a view to formulating a national action plan for preventing and combating all forms of child sexual exploitation and abuse, and harmonize related action plans at the community and regional levels, and establish mechanisms to monitor and evaluate such action plans;

(b) Expedite the adoption of the new criminal legislation to combat all offences against the sexual integration and self-determination of children;

(c) Strengthen alternative measures to prevent sexual abuse of children by religious personnel and to support victims, such as by means of arbitration centres;

(d) Conduct awareness-raising activities to combat the stigmatization of victims of sexual exploitation and abuse, including incest, and ensure accessible, confidential, child-friendly and effective reporting channels for such violations;

(e) Ensure the development of programmes and policies for the prevention of child sexual exploitation and abuse, and the recovery and social reintegration of child victims;

(f) Protect children from further abuse by ensuring that persons convicted for abuse of children are deterred from having contact with children in their professional capacity.

#### Harmful practices

25. The Committee notes with concern that:

(a) Child marriage and female genital mutilation, prevalent among populations with a migrant background, remain underreported;

(b) Intersex children are subjected to medically unnecessary surgeries and other procedures.

26. With reference to joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2014) on harmful practices, and taking into account target 5.3 of the Sustainable Development Goals, the Committee urges the State party:

(a) To strengthen awareness-raising campaigns and programmes on the harmful effects of child marriage and female genital mutilation on the physical and mental health and well-being of girls;

(b) To provide training for civil servants, teachers, judges, law-enforcement officers and social workers on the identification of potential victims of child marriage;

(c) To establish protection schemes and care programmes for victims of child marriage and female genital mutilation, including those who file a complaint;

(d) To allocate adequate human, financial and technical resources to prevent and combat female genital mutilation, and ensure coordination of efforts among different levels of governance;

(e) To prohibit the performance of unnecessary medical or surgical treatment on intersex children where those procedures may be safely deferred until children are able to provide their informed consent; and ensure that intersex children and their families have access to adequate counselling and support and to effective remedies, including by lifting the relevant statute of limitations.

#### **F. Family environment and alternative care (arts. 5, 9–11, 18 (1) and (2), 20–21, 25 and 27 (4))**

##### **Family environment**

27. The Committee notes that the demand for day-care facilities, including for children with disabilities and for children from most disadvantaged families, remains unmet. The Committee recalls its previous recommendation (CRC/BEL/CO/3-4, para. 45) in which it called upon the State party to increase the capacity, flexibility and quality of childcare services while ensuring their accessibility to all children, including by increasing subsidized care and improving training of relevant staff, especially in the French-speaking community.

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

28. While welcoming the various programmes implemented in Flanders in the French-speaking community and in the Walloon region to prevent institutionalization, the Committee notes with concern that institutional care remains the first response for children in need of care, particularly for children with disabilities, children from socially or economically disadvantaged families and for very young children. With reference to the Guidelines for the Alternative Care of Children,<sup>1</sup> the Committee recommends that the State party:

(a) Support and facilitate family-based care for all children, including those from disadvantaged families;

(b) Revise the law of 19 March 2017 with a view to strengthening the position of parents whose child has been placed in foster care, and ensure the right of the child to maintain personal relations and direct contact with both parents on a regular basis, if in the child's best interests;

(c) Ensure that adequate human, technical and financial resources are allocated to alternative care centres and relevant child protection services in order to facilitate the rehabilitation and social reintegration of child residents and to improve and develop the skills of foster parents and families and professional specialized carers.

<sup>1</sup> General Assembly resolution 64/142, annex.

## **G. Disability, basic health and welfare (arts. 6, 18 (3), 23, 24, 26, 27 (1)–(3) and 33)**

### **Children with disabilities**

29. While welcoming the adoption in 2014 of a decree to support inclusive education (the “M decree”), which has resulted in a reduction in the number of children in segregated education, the Committee is concerned that:

(a) The State party lacks data on the exact number of children with disabilities and a coordinated approach to disability;

(b) The support for families to provide care for children is insufficient, thus leading to a high level of institutionalization, and that the PLF (Person Linked Financing) in Flanders will only be implemented for *mineurs* in 2020;

(c) In the French-speaking community there has been an increase in the number of children in specialized education, and mainstream schools critically lack adaptation;

(d) Waiting time for the allocation of a personal assistance budget (PAB) may take up to 10 years, and the amounts allocated do not meet care needs;

(e) Care waiting lists are long, and the offer of inpatient, specialist and multidisciplinary care does not meet the demand; in the Walloon and Brussels-capital regions, respite services are limited and lack quality.

30. **With reference to its general comment No. 9 (2006) on the rights of children with disabilities and reiterating its previous recommendations (CRC/C/BEL/CO/3-4, para. 55), the Committee urges the State party:**

(a) **To improve the collection of data on children with disabilities, in particular very young children and children with intellectual or psychosocial disabilities, in order to inform the policies in all regions in consultation with children with disabilities and their representative organizations;**

(b) **To provide inclusive education for all children with disabilities, including by ensuring the reasonable accommodation of school infrastructure and places for sport and leisure, school transportation, training and by assigning specialized teachers for individual support and all due attention to the individual needs of children;**

(c) **To take immediate measures to ensure that children with disabilities have access to quality and timely health care, including early detection and intervention programmes and respite services, in all parts of the State party;**

(d) **To encourage the introduction of the personal assistance budget countrywide in amounts adjusted to the child’s needs and with no waiting periods.**

### **Breastfeeding**

31. **The Committee recommends that the State party take measures to improve the practice of exclusive breastfeeding during the first six months of age, systematically collect data in accordance with World Health Organization definitions and indicators, ratify the Maternity Protection Convention, 2000 (No. 183) of the International Labour Organization and increase the number of hospitals implementing the Baby-Friendly Hospital Initiative.**

### **Mental health**

32. While noting the adoption of the national action plan (2015–2020) on a new mental health policy for children and adolescents, the initiatives focusing on prevention and early detection in Flanders, the Walloon region and Brussels and the order adopted in 2013 aimed at reducing mental health-care fees, the Committee is deeply concerned at the growing number of children suffering from psychological problems, such as stress, and at the high prevalence of suicide in children. The Committee is also concerned that:



- (a) There is insufficient timely and accessible primary psychological assistance, while medication and placement in psychiatric care are commonly used to treat psychological problems;
- (b) The prescription of psychostimulants for children diagnosed with attention deficit hyperactivity disorder has increased;
- (c) Seeking mental health care is negatively perceived;
- (d) There is a lack of psychological support and mental health care for refugee and migrant children.

**33. Taking note of target 3.4 of the Sustainable Development Goals, the Committee recommends that the State party:**

- (a) **Undertake studies on the causes and prevalence of stress, suicide and attention deficit hyperactivity disorder among children and, on the basis of the results of those studies, take comprehensive measures to effectively address these phenomena, including by means of psychological, educational and social measures and therapies;**
- (b) **Ensure that prescription of drugs for children with attention deficit hyperactivity disorder is used as a measure of last resort, and that children and their parents are properly informed about the possible side effects of such medical treatment and about non-medical alternatives;**
- (c) **Conduct awareness-raising programmes, including campaigns to promote a positive image of mental health care, and encourage children to seek psychological support whenever needed;**
- (d) **Ensure access to psychologists, psychiatrists and specialized therapists, as well as interpreters and intercultural mediators, for refugee and migrant children, including in shelter settings.**

#### **Adolescent health**

**34. With reference to its general comments No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child and No. 20 (2016) on the implementation of the rights of the child during adolescence, and taking note of targets 3.5 and 2.2 of the Sustainable Development Goals, the Committee recommends that the State party strengthen its efforts to prevent and combat obesity and the incidence of substance abuse, particularly of cannabis, tobacco and alcohol, in children and adolescents. The Committee urges the State party to raise the legal age for buying tobacco to 18 years.**

#### **Environmental health and climate change**

**35. The Committee notes a high level of air pollution, particularly from road transport, in the State party and its negative impact on the climate and on children's health, contributing to an increase in asthma and respiratory diseases, while their exact prevalence remains unknown. Taking note of targets 3.9 and 13.5 of the Sustainable Development Goals, the Committee recommends that the State party:**

- (a) **Conduct an assessment of the impact of air pollution on children's health and a study on the prevalence of asthma and respiratory diseases in children as a basis for designing a well-resourced strategy to remedy the situation, and regulate the maximum concentrations of air-pollutant emissions, including from road transport;**
- (b) **Develop a comprehensive national plan for reducing the level of greenhouse emissions to prevent dangerous climate impact, while ensuring that the special vulnerabilities and needs of children, as well as their views, are taken into account;**
- (c) **Strengthen awareness-raising of environmental health and climate change among children, with the active participation of schools.**

**Standard of living**

36. While welcoming the new model of family benefits adopted by the State party entities responsible, the Committee is seriously concerned that the measures taken by the State party have not had the desired impact on the reduction of child poverty, with up to 18.6 per cent of children at risk of poverty. It is also concerned at:

(a) The particularly high risk of poverty for families with two unemployed parents, single-parent families and families of origin outside the European Union;

(b) The extent of inadequate housing, homelessness and forced evictions, as well as the cuts in welfare benefits that make some children vulnerable to begging.

37. **Taking note of target 1.3 of the Sustainable Development Goals and recalling its previous recommendations (CRC/C/BEL/CO/3-4, paras. 65 and 73), the Committee urges the State party to intensify its efforts to eradicate child poverty, and in particular:**

(a) **To develop and implement a comprehensive rights-based poverty strategy for children, with a set of time-bound and measurable indicators and a particular focus on children from disadvantaged families;**

(b) **To ensure that all children in the State party enjoy the right to adequate housing, and that children from Roma families benefit from housing suited to their lifestyle;**

(c) **To take comprehensive measures to effectively address the root causes of begging, and to ensure that the children concerned are maintained in school;**

(d) **To review the system of welfare benefits for all children and disadvantaged families in all regions and communities, and to ensure that they guarantee a decent standard of living while taking into account different family situations and enable all children to have access to their rights under the Convention, without discrimination.**

**H. Education, leisure and cultural activities (arts. 28, 29, 30 and 31)****Education, including vocational training and guidance**

38. The Committee is seriously concerned that:

(a) Children from socially and economically disadvantaged families and children with a migrant background face barriers in their access to quality education, such as school fees and discrimination by peers and teachers, which leads to underperformance, overrepresentation in technical and vocational education, dropout, expulsions and failure to obtain a school diploma;

(b) Expenses for nursery, primary and secondary education and the withdrawal of the school allowances in case of frequent absences in Flemish schools have a negative impact on children from the most economically and socially disadvantaged families;

(c) Primary and high schools lack the capacity to accommodate a growing population of children;

(d) Bullying and violence in school by both peers and teachers remains pervasive.

39. **With reference to target 4.1 of the Sustainable Development Goals, the Committee urges the State party:**

(a) **To intensify its efforts to combat inequalities and to encourage equal opportunities in education, while fostering integration of children in disadvantaged situations;**

(b) **To prevent and combat discrimination at school, to effectively investigate discrimination allegations and to raise awareness of children and their parents about complaint mechanisms;**

(c) To strengthen teacher training in diversity, intercultural competence and conflict mediation to empower teachers as facilitators of integration of children with diverse backgrounds, in a cohesive and welcoming environment;

(d) To abolish school expenses in all regions of the State party;

(e) To review the Flemish anti-dropout policy and actively develop non-repressive measures to ensure that children in disadvantaged situations remain in education and have access to education paths of their choice;

(f) To increase the capacity of schools, and to raise the number of places in schools in the Brussels-capital region;

(g) To strengthen measures to combat bullying, including cyberbullying, that encompasses prevention, early detection mechanisms, the empowerment of children and professionals, intervention protocols and harmonized guidelines for the collection of case-related data.

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

40. With reference to its general comment No. 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts, the Committee recommends that the State party strengthen its efforts to guarantee the right of children, including children from disadvantaged families, children with disabilities, and refugee and migrant children, to rest and leisure and sufficient time to engage in play and recreational activities that are safe, accessible, inclusive, reachable by public transport, smoke-free and age-appropriate. The Committee also recommends that the State party maintain and ensure access to landscaped green areas and open spaces for children.

### **I. Special measures of protection (arts. 22, 30, 32–33, 35–36, 37 (b)–(d) and 38–40)**

#### **Unaccompanied children**

41. The Committee welcomes the measures taken to respond to arrivals of unaccompanied children, particularly the procedure to determine a “lasting solution” in the best interests of the child for unaccompanied children, regardless of their application for asylum, and the extension of guardianship to unaccompanied children from the European Economic Area. The Committee is, however, concerned that, reportedly:

(a) The three-phase test used to determine the age of unaccompanied children is intrusive and unreliable, and that the appeal procedure lacks effectiveness;

(b) A number of unaccompanied and separated children have been subjected to different forms of abuse, including physical violence by local police, unlawful detention for more than 24 hours and a lack of systematic referral to the guardianship service and other child protection authorities, while children are not aware of their rights and complaint mechanisms;

(c) The incidence of disappearances among unaccompanied children transiting Belgium is high;

(d) Unaccompanied children are housed in adult asylum-seeker centres, while children in transit do not have access to shelter.

42. With reference to the Committee’s general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin, the Committee recommends that the State party:

(a) Develop a uniform protocol on age-determination methods that is multidisciplinary, scientifically-based, respectful of children’s rights and used only in cases of serious doubt about the claimed age and in consideration of documentary or other forms of evidence available, and ensure access to effective appeal mechanisms;

- (b) **Effectively investigate cases of abuse with regard to unaccompanied children;**
- (c) **Strengthen immediate protection measures for all unaccompanied children, and ensure systematic and timely referral to the guardianship service;**
- (d) **Improve the provision of shelter to unaccompanied children, including by ensuring the availability of the youth welfare system and foster care for all unaccompanied children, regardless of their age.**

#### **Children in a situation of migration**

43. The Committee is deeply concerned that:

(a) Pursuant to the 2011 amendment to article 74/9 of the Aliens Act and the Royal Decree of 22 July 2018, the State party has resumed the practice of detaining families with children, including in closed centres;

(b) The best interests of the child are not given due consideration in the context of asylum procedures and family reunification.

44. **With reference to joint general comments No. 3 and No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 22 and No. 23 (2017) of the Committee on the Rights of the Child on the human rights of children in the context of international migration, the Committee reiterates its previous recommendation (CRC/C/BEL/CO/3-4, para. 77) and urges the State party:**

(a) **To put an end to the detention of children in closed centres, and to use non-custodial solutions;**

(b) **To ensure that the best interests of the child are a primary consideration, including in matters relating to asylum and family reunification;**

(c) **To develop and disseminate child-friendly tools to inform asylum-seeking children about their rights and the ways to seek justice.**

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

45. **While welcoming the adoption of the national action plan on human trafficking (2015–2019) and the 2016 directive on the policy for investigations and prosecution concerning the exploitation of begging, the Committee reiterates its previous recommendations (CRC/C/BEL/CO/3-4, para. 81) and recommends that the State party:**

(a) **Establish a centralized and comprehensive data system on human trafficking;**

(b) **Effectively document and address cases of child exploitation by “lover boys”;**

(c) **Take effective measures to safeguard children’s rights in its territory, in particular those of unaccompanied children, to ensure that children do not fall prey to traffickers, and expedite status determination procedures for children who may be victims of trafficking for the purposes of exploitation;**

(d) **Allocate sufficient financial, human and technical resources to identify and investigate cases of trafficking involving children, including the exploitation of begging, and to provide legal aid to child victims of trafficking;**

(e) **Systematically provide training on the identification and referral of child victims of trafficking, including exploitation of begging, to law-enforcement officers, border guards, civil servants, social and health workers;**

(f) **Conduct large awareness-raising campaigns to prevent trafficking.**

### **Administration of juvenile justice**

46. The Committee welcomes the extension of the right to legal assistance to every suspect from the first interrogation and the establishment of the family and youth court in 2014. It is nevertheless seriously concerned that its remaining recommendations (CRC/C/BEL/CO/3-4, para. 83) were not fully implemented. It is also concerned that, under the 2013 amendment to the act on municipal administrative penalties, the age for imposing such penalties was lowered from 16 to 14 years old, and that new penalties were introduced.

47. **With reference to its general comment No. 10 (2007) on children's rights in juvenile justice, the Committee reiterates its previous recommendations and urges the State party:**

(a) **To eliminate all possibility that a child is tried in an adult court or detained with adults;**

(b) **To ensure that accessible and qualified legal assistance is provided without delay;**

(c) **To promote recourse to non-judicial measures, such as diversion, mediation and counselling, for children accused of criminal offences and, wherever possible, the use of non-custodial sentences for children, such as probation or community service;**

(d) **To use detention as a measure of last resort and for the shortest period of time; in cases where detention is unavoidable, to ensure that detention conditions are compliant with international standards, including with regard to access to education and health services, and that children deprived of liberty are held in facilities close to their residence and served by public transport; and to ensure that detention is reviewed on a regular basis with a view to its withdrawal;**

(e) **To ensure that lawyers and judges are trained on children's rights and use child-friendly approaches;**

(f) **To review the act on municipal and administrative penalties with a view to ensuring that it is not applicable to children and that sanctions for antisocial behaviour can only be imposed within the juvenile justice system.**

### **Follow-up to previous concluding observations and recommendations on the Optional Protocol on the sale of children, child prostitution and child pornography**

48. While welcoming the 2014 and 2016 amendments to the Penal Code to strengthen protection of children from sexual exploitation and the commitment of the Flemish community to the Global Code of Ethics for Tourism, the Committee is concerned at the greater number of children exploited in prostitution and at the overall lack of thorough information on the implementation of its concluding observations on the State party's initial report submitted under the Optional Protocol, and therefore reiterates its previous recommendations (CRC/C/OPSC/BEL/CO/1).

### **Follow-up to previous concluding observations and recommendations on the Optional Protocol on children in armed conflict**

49. The Committee welcomes the legislative amendments of 2013 to suspend the military status for recruits under 18 years of age in times of war and to prevent them from participating in "certain military missions that could put them at risk". The Committee recommends that the State party ban the participation of children under 18 years of age in all military operations regardless of the risk involved, in compliance with its declaration made upon its ratification of the Optional Protocol on the involvement of children in armed conflict.

50. The Committee notes the State party's decision to provide assistance for the repatriation of Belgian children under the age of 10 years of foreign terrorist fighters located in the Syrian Arab Republic or Iraq, and recommends that the State party:

(a) **Develop and implement identification mechanisms for children who have been involved in or affected by armed conflict, including asylum-seeking and migrant children;**

(b) **Taking into consideration paragraph 26 of Security Council resolution 2427 (2018), promptly facilitate the repatriation of all Belgian children and, wherever possible, their families, regardless of age or the degree of suspected involvement in the armed conflict and in compliance with article 9 of the Convention;**

(c) **Ensure that the children concerned are treated as victims of trafficking in the context of armed conflict exploitation for criminal purposes, in accordance with Security Council resolution 2331 (2016), and are protected from retaliation and new recruitment and provided with the necessary assistance, rehabilitation and reintegration, including psychosocial support and legal aid;**

(d) **Ensure that the children who come into contact with the law enjoy all fair trial guarantees, in compliance with article 40 of the Convention, and are not stigmatized for their involvement in any unlawful activity in which they have been compelled to engage;**

(e) **Seek the assistance of United Nations entities, such as the United Nations Office on Drugs and Crime, the Office of the United Nations High Commissioner for Refugees and the International Organization for Migration, with identification of and assistance for child victims of trafficking in the context of armed conflict.**

## **J. Ratification of international human rights instruments**

51. **The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, consider ratifying the core human rights instruments 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 and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.**

## **K. Cooperation with regional bodies**

52. **The Committee recommends that the State party cooperate with the Council of Europe on the implementation of the Convention and other human rights instruments, both in the State party and in other States members of the Council.**

## **IV. Implementation and reporting**

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

53. **The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented. The Committee also recommends that the combined fifth and sixth periodic reports, the written replies to the list of issues and the present concluding observations be made widely available in the languages of the country.**

### **B. Next report**

54. **The Committee invites the State party to submit its seventh periodic report by 14 January 2024 and to include therein information on the follow-up to the present concluding observations. The report should be in compliance with the Committee's harmonized treaty-specific reporting guidelines adopted on 31 January 2014 (CRC/C/58/Rev.3) and should not exceed 21,200 words (see General Assembly resolution 68/268, para. 16). In the event that a report exceeding the established word**

limit is submitted, the State party will be asked to shorten the report in accordance with the above-mentioned resolution. If the State party is not in a position to review and resubmit the report, translation thereof for the purposes of consideration by the treaty body cannot be guaranteed.

55. The Committee also invites the State party to submit an updated core document, not exceeding 42,400 words, in accordance with the requirements for the common core document contained in the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (see HRI/GEN/2/Rev.6, chap. I and paragraph 16 of General Assembly resolution 68/268).

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