

Unia 2024 parallel report – Focus

Unia's parallel report – addressed to the UN Committee on the Rights of Persons with Disabilities – covers two Belgian legislative terms (2014-2019 and 2019-2024) with different political authorities in power. Therefore, Unia updated the 2021 version of its report – which mainly covered the previous legislative term 2014-2019 – to best inform the UN Committee about the situation in Belgium ahead of its 2nd and 3rd review in August 2024.

During the last legislative term, there was progress in some areas, but also stagnation and even regression in others. In this focus, Unia highlights a few points that made a difference for persons with disabilities, for better or worse, and formulates some recommendations.

A major step forward was the development and implementation of the **federal disability action plan 2021-2024**, of which the renewal is embedded in the law for each new legislative term. Of course, the implementation of the action plan depends on the political will of each minister. Many measures have already been implemented with varying levels of ambition.

Unia recommends ensuring the effective renewal of federal and intergovernmental disability action plans, ensuring their proper implementation during the following legislative terms, including the continuation of the work of the Interministerial Conference and the involvement of the different authorities, as well as providing sufficient resources for coordination and monitoring by involving organisations representing people with disabilities and Unia.

With regards to the legislative framework, Unia welcomed the inclusion of article 22ter in the Belgian Constitution, which establishes the **right to inclusion and reasonable accommodation**. Most anti-discrimination laws were also reformed, with *discrimination by association* and *multiple discrimination*, including *intersectional discrimination*, explicitly introduced at both the federal and Brussels level. Brussels legislation is a pioneer by including an obligation to provide *reasonable accommodation by association* for informal carers of persons with disabilities.

Unia recommends harmonising the legal framework, where this has not been done yet, by (1) explicitly introducing *discrimination by association*, as well as the right to *reasonable accommodation by association* for relatives (2) allowing situations of *multiple discrimination*, including *intersectional discrimination*, to be taken into account with appropriate sanctions; adapting the legal framework, at all levels, to increase and index the compensation for moral damages of people with disabilities who are victim of discrimination, except for employment relations.

On the other hand, associations for persons with disabilities and Unia have denounced new legal texts that do not comply with the rights of persons with disabilities. One example is the decree "Territorial poles" of the French Community, which establishes a pooling of resources to support pupils with disabilities in ordinary education that **excludes certain categories of pupils, including those with intellectual disabilities**. In June 2023, the Belgian Constitutional Court annulled several provisions of the decree.

Unia recommends that all public policy and legislative work takes into account the situation of persons with disabilities, in all its diversity. Before adopting any measure, conduct a “handstreaming” test to evaluate the impact on persons with disabilities.

Unia recommends ensuring the participation and consultation of persons with disabilities and ensuring that all measures that impact persons with disabilities are taken in consultation with them, through their representative organisations and federal, regional, community and local advisory councils.

Although all entities in the country now have an advisory council, which Unia welcomes, it is regrettable that the Belgian government does not always have the reflex to consult them. The law of 28 March 2023 amending the law on legal protection measures is just one example. This law requires justices of the peace to systematically rule on the person’s ability to vote. The implications of this law are worrying ahead of the various elections in 2024, which, in addition, unfortunately still lack accessibility for persons with disabilities. Moreover, justices of the peace still lack the necessary resources to set up a truly personalised protection regime.

With regards to the law on legal capacity, Unia recommends that the necessary resources be made available to justices of the peace to ensure that the law is applied in accordance with its spirit and to develop support measures to make the right to assistance effective.

Unia calls for the repeal of the obligation for justices of the peace to systematically rule on the ability to vote.

The right to accessibility, an indispensable key to the exercise of other fundamental rights, has not made much progress. For instance, the cadastre of federal public buildings, which is supposed to enable the elaboration of an accessibility plan, has not even seen the light of day. The existing plans, if they exist at all, are neither ambitious nor binding due to the lack of a strong legal basis.

The digitisation of public and private services in Belgium has accelerated in recent years. This is generally accompanied by the gradual disappearance of many physical counters (e.g. public services, train stations, health insurance, post offices, bank offices). While digitisation can be a valuable help for people with disabilities in certain situations, it is also an obstacle for many, especially as the vast majority of public institutions’ websites do not meet European accessibility standards.

Unia recommends adopting a broad legal framework aimed at making all public buildings or buildings open to the public, roads and transport fully accessible in the medium term. Combine this with a concrete timetable, sanctions in the event of non-compliance and specific budgets.

Unia recommends providing a legal framework that obliges public institutions or institutions providing public services to offer adapted access and information accessible to all (including sign language and “easy to read”); legally guaranteeing different access options (written, telephone, remote interpretation, etc.) at no extra cost and at appropriate times, in particular physical access to all services of general interest (public services, banks, health insurance, school enrolment, transport, etc.).

Belgium continues to **perform poorly in terms of employment rate (41%) for people with disabilities**, which is below the European average. A recent study shows that deaf people are 42% less likely to be called for a job interview. Quotas in public services are barely met.

Unia recommends establishing an ambitious, clear and budgeted action plan to support the employment of people with disabilities in the mainstream sector, support and strengthen supported employment initiatives in both the public and private sectors, provide affirmative action for persons with disabilities and implement policies to prevent discrimination in the workplace.

Unia also recommends implementing policies with a reorientation from sheltered workshops to the mainstream labour market, creating inclusive workplaces.

Belgium has still not taken a decisive step towards deinstitutionalisation of living environments.

There are few or no inclusive projects, no vision and no training for staff on deinstitutionalisation. Budgets are mainly spent on building, renovating or expanding collective living arrangements, especially in Brussels and Wallonia, to meet the demands of families and relatives who have no other alternative and are in an emergency situation. At the same time, budgets for services supporting independent living arrangements, exercising the right to work and a social and political life remain limited or even blocked.

Given the current state of affairs, Unia recommends a gradual but planned deinstitutionalisation, both within the walls of institutions and within society (e.g. families and support services), by creating the following necessary conditions: a needs assessment, support services, training and valorisation of staff, a reallocation of budgets, a transition plan and the participation of persons without disabilities throughout this process.

In the short term, Unia calls for new standards for existing facilities in line with the rights of persons with disabilities; changes in laws and regulations to open up these institutions to the outside world as much as possible and enable persons with disabilities to live independently soon; a halt to the construction of new institutions, mainly for French persons with disabilities; stricter monitoring of all institutions to ensure that human rights are respected.

During the last legislative term, Unia carried out a **monitoring of internment facilities** for persons with psychiatric or intellectual disabilities. Belgium has been repeatedly condemned by the European Court of Human Rights. In the absence of places in the regular care sector, many internees are stuck in places where they are deprived of their freedom: at best in a placement facility, at worst in the psychiatric annex of a prison. Although Unia welcomes a series of reforms on internment, nearly 1,000 people still remain in prison illegally. The situation calls for urgent and priority action to end the violations of these people's fundamental rights. The solution cannot lie in legalising prison stays or expanding capacity in psychiatric annexes or facilities for the protection of society.

Unia recommends transferring interned persons currently detained to appropriate care facilities, with priority given to the regular care sector. Prevent social protection facilities and forensic psychiatric centres from becoming the dominant model and from being exploited at the expense of expanding (or a fortiori maintaining) access to the regular care circuit (outpatient care or more open residential care structures).

In her parallel report, Unia did not forget the period of the **COVID-19 pandemic**, with curfews and stricter, sometimes abusive restrictions on persons with disabilities and the elderly, both at home and in institutions. Unia denounced the interruption of assistance and care services, as well as the lack of reasonable accommodations in measures taken by governments. Unia also referred to the terrible floods that hit the Walloon Region in the summer of 2021. Although this was one of the measures proposed by the federal disability action plan 2021-2024, no **crisis plan** was established

that took into account the needs of persons with disabilities to remedy the lack of anticipation in the past.

Unia recommends establishing crisis plans that take into account persons with disabilities and their rights to reasonable accommodation; ensuring that medical and ethical criteria are respected in the prioritization rules for emergency departments and intensive care, not confusing the situation of disability with the state of health; guaranteeing respect for the rights of persons with disabilities and decent living conditions in the event of a crisis and rethinking the institutional model which has shown its limitations during this crisis.

Finally, Unia is concerned about the **fragmentation of the official and independent institutions with the mandate to protect and defend human rights**, namely the independent monitoring mechanisms 33.2 CRPD, the OPCAT-mechanism and the federal and regional human rights institutions. Unia demands to ensure that the coherence and coordination of these mechanisms is clear, effective and at the service of citizens.