III. Main areas of concern and recommendations

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

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.

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

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.

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 childrearing and discipline, including by means of awareness-raising programmes and campaigns, targeting children, parents and childcare professionals.

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, 1 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.

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:

...  
(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;

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:

   (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 asylumseeking 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:

   (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;

### Country Report

**CRC/C/BEL/5-6**  
16 March 2016  

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III. Principle areas of concern and recommendations

B. Specific rights (arts. 5–30)

Children with disabilities (art. 7)

15. The Committee is concerned that the State party is now among the European countries with the highest rates of children with disabilities placed in institutions, according to a 2013 European Union report on children with disabilities. The Committee is also concerned that children with disabilities are not systematically included in decisions which affect their lives and do not have the opportunity to express their opinion about issues that affect them directly.

16. The Committee recommends that the State party allocate the necessary resources to support families of children with disabilities, in order to prevent the abandonment and placement of those children in institutions and to ensure their inclusion and participation in the community on an equal basis with other children. The Committee recommends the adoption of measures to protect the right of children with disabilities to live in families.
disabilities to be consulted on all issues affecting them through the provision of age- and disability-appropriate support.

Freedom from exploitation, violence and abuse (art. 16)

30. The Committee is concerned about the lack of protection for women, children and girls with disabilities against violence and abuse. It is also concerned about the absence of protocols to register, monitor and track the conditions in institutions that care for persons with disabilities, particularly those that care for older persons with disabilities.

31. The Committee urges the State party to take measures to prevent and eliminate all forms of domestic or institutional violence against women, children and girls with disabilities. It also calls for the drafting and introduction of protocols to register, monitor and track the conditions in institutions that care for persons with disabilities, particularly those that care for older persons with disabilities.

Living independently and being included in the community (art. 19)

32. The Committee notes with concern the high rate of referral to institutional care for persons with disabilities in the State party and the lack of deinstitutionalization plans. It also notes that there is insufficient information on opportunities to continue living in society and the community, since institutional care is too often seen as the only lasting solution. Moreover, there are very few opportunities for persons with disabilities to live independently owing to a lack of investment and the inadequacy of personal assistance services. The Committee is concerned about the policy on registration of institutions that care for French persons with disabilities, in particular children with disabilities, in the State party and the lack of monitoring of such institutions.

33. The Committee recommends that the State party work towards deinstitutionalization by reducing investment in collective infrastructure and promoting personal choice. The Committee urges the State party to implement a disability action plan at all levels of the State to guarantee access to services and an independent life for persons with disabilities so that they are able to live in the community. The action plan must eliminate current waiting lists and ensure that persons with disabilities have access to sufficient financial resources and that communities are accessible for persons with disabilities. The Committee recommends that the State party devise international cooperation programmes that respect the right of
persons with disabilities to live in the community and involve disabled persons’ representatives and their families in their preparation.

Respect for home and the family (art. 23)

34. The Committee is concerned about the lack of support for parents of children with disabilities, particularly mothers, who often leave their jobs to care for their children. It is also concerned that the minimum requirements for protecting the private life of persons with disabilities living in institutions are not guaranteed. Similarly, it regrets that persons with disabilities do not have access to age-appropriate information and education on reproduction and family planning matters.

35. The Committee strongly recommends the establishment of a support mechanism for families of children with disabilities with a view to preventing their abandonment or institutionalization. The Committee recommends that the State party take adequate measures to ensure that service providers respect and protect the right of persons with disabilities to a private and family life. It also recommends that access to age-appropriate information and education on reproduction and family planning should be made available to all persons with disabilities.

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**Acronyms and Abbreviations:**

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