



**LIGUE
DES DROITS
HUMAINS**

Shadow report of the Ligue des droits humains

to the Committee on Economic,
Social and Cultural Rights
with a view to the examination of the fifth
periodic report of the Belgian State

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with the support of



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Introduction

For more than 100 years, the Ligue des Droits Humains (hereinafter LDH) has been fighting violations of fundamental rights in Belgium, in complete independence from political powers. As a watchdog, the LDH observes, informs and calls on public authorities and citizens to remedy situations that infringe fundamental rights.

This contribution by the LDH is structured around the List of Issues drawn up by the Committee for the submission of Belgium's fifth periodic report on the International Covenant on Civil and Political Rights. The responses provided by the Belgian State in its official report have been taken into account in order to avoid any repetition. The LDH therefore aims only to supplement, moderate or criticize if necessary, the report submitted by Belgium and to formulate recommendations.

Furthermore, the list of issues drawn up prior to the submission of Belgium's fifth periodic report does not contain any questions directly related to access to justice. However, the fundamental right of access to a judge is a right that conditions the respect of all other rights included in the list of issues prior to submission established by the Committee. On this important subject, the LDH refers to the contribution of the Plateforme Justice pour tous and endorses its content.

A. Issues of particular relevance

Right to adequate housing¹

2. (a) The Brussels-Capital Region² has a very low social housing rate, around 7%³. On the January 1st, 2019, 44.307 households were registered as candidate tenants for social housing in the Brussels region. Waiting times for candidates on the list vary according to the size of the expected dwelling, but the average is around 10 years. The housing stock is not growing (110 additional housing units per year on average) despite plans for its development.

In 2005, the Brussels Government adopted a Regional Housing Plan (PRL), which is supposed to enable the production of 3.500 social housing units and 1.500 average rental housing units in 5 years. Ministers in charge at the time were counting on the availability of public land (Region, Public Service Real Estate Companies - SISP -, municipalities, Public social welfare center - CPAS -) to build and save on the cost of land. As of March 1st, 2019, almost 15 years after the start of the plan, only 2.132 social and average housing units had been built. This is due to the difficulties in finding and mobilizing public land for building housing, particularly social housing. There is strong reticence, especially in some municipalities that are reluctant to accept social housing on their territory.⁴

At the end of 2013, the Government reached an agreement to launch a second housing plan, the « Alliance Habitat », while the first one is far from being completed⁵. The amounts allocated by the Region were colossal : 953 million euros. This time, it is about building 6.720 public housing units (social and medium, rental and ownership). The balance sheet as of March 1st, 2019 also remains very meagre, with 835 housing units completed, of which only 42 are social housing units (and 10 moderate and 783 average housing units) in more than 5 years.

The government agreement for the 2019-2024 legislature promises a solution for 15.000 of the 43.000 households on the waiting list for social housing, to bring the two previous plans to fruition, but also to go further and achieve a 15% rate of social housing throughout the region. It foresees several measures : the obligation to produce a minimum of 50% social housing on each piece of land belonging to the Region and dedicated to construction, the possibility of buying housing produced by the private sector « key-on-door » or the creation of social housing through urban planning charges. If these are undoubtedly good intentions, they do not go far enough⁶.

As already underlined by the Committee, this effective right also requires an increase in the supply of social housing.⁷ The public authorities should accelerate the significant increase in the social housing stock, which is in great deficit in the Brussels and Walloon Regions.

It should also be pointed out that in the Brussels-Capital Region, there is no land available, either residential or transit, for the benefit of travelling people. Belgium is in serious breach of its obligations in this respect, as formalized by the European Committee of Social Rights of the Council of Europe (ECSR)⁸. Similarly, the UN Committee on the Elimination of Racial Discrimination (CERD) recommends, inter alia, that provision should be made for Travelers

to settle in communes with a certain number of inhabitants⁹.

In the Walloon Region, there is a positive evolution: the creation of the profession of social referent, which should make it possible to improve the coordination of support to citizens. However, insufficient (human) resources do not allow this personalized assistance to be offered to all tenants who need it in all public service housing companies.

The creation of the exemption for the allocation of housing in the context of social emergency or social cohesion allows adaptation to the most urgent situations. However, in the absence of sufficient housing, it creates above all a circumvention channel by delaying the allocation to other tenants.

As a result of deconstruction programs, the priority given to average housing and sales, the situation has worsened. The share of social housing has only decreased in 10 years with an absolute loss of nearly 3.500 units¹⁰. The proportion of social housing now represents only 5.8% of all Walloon housing: an increasingly limited supply in relation to demand, given the 39.315 applicant households¹¹. Moreover, the last Walloon public housing production program dates from 2014 and has not yet been renewed.

(b) The number of house evictions remains high in the Brussels-Capital Region, including illegal evictions¹². In the Walloon Region, there is no standardized collection of data on judicial evictions. Exploratory research has shown the critical increase in evictions in recent years (235% in 8 years) to be linked to the deterioration of households' socio-economic conditions¹³. It also highlighted the difficulties linked to illegal evictions, which are not well known but real (evictions without a court decision, with threats, violence, etc.), and the fact that there is no specific mechanism (at least preventive) to fight them. As for evictions due to insalubrity, they are not systematically recorded either, although they are « indicative of the ineffectiveness of the right to decent housing in situations of poverty »¹⁴.

Furthermore, in the Brussels and Walloon Regions, in cases of severe insalubrity and health risks, tenants may be subject to administrative eviction. In that case, even though they are victims of the situation and sometimes at the initiative of the procedure, they do not enjoy the minimum protection afforded by the law in the event of judicial eviction: absence of a judgment, absence of an incompressible time limit, absence of intervention by the bailiff, no obligation to inform the CPAS or for this CPAS to offer its help... The proposal for rehousing imposed on the municipal authorities is a simple obligation of means.

The Belgian legislation¹⁵ gives to the lessor the possibility to unilaterally and causelessly terminate a lease, and to require the following forced eviction of the lessee, without any proportionality test or justification analysis required by the law. In particular, the given legislation doesn't require any rehousing solution, thus constituting a violation to the right to decent housing¹⁶. The negative impacts are exacerbated when the given legislation is applied to disadvantaged groups such as low-income, foreign or aged people, single mothers and people at the intersection of different discrimination grounds¹⁷.

Certain provisions introduced in the lease decree¹⁸ could lead to further discrimination in view of the information that it authorizes the lessor to request from the prospective tenant - in particular based on wealth, sexual orientation, civil status, etc. Until now, there has been no plan to combat discrimination in housing, despite the fact that such practices are widespread and reports of discrimination are increasing¹⁹.

Regarding emergency accommodation and reference address, in practice, the

implementation of this reference address continues to pose many problems (refusals, minor interventions, referrals to other municipalities, restrictive interpretations of regulations) denounced by stakeholders.

Concerning the housing first project, this interesting system has since its creation only enabled only a few hundred homeless people to be rehoused, which remains largely insufficient to cope with the increase in the number of homeless people. Moreover, Belgium does not have a national plan to combat homelessness²⁰ or even a systematic and up-to-date count of the number of homeless persons, which cannot be accurately assessed²¹. The number of emergency and transit housing units is largely insufficient to deal with all the situations.

(c) In 2018, 4.097 applications for termination of gas or electricity supply contracts were submitted to courts, resulting in 970 effective cuts in electricity and 852 in gas supply. To these figures must be added 1.002 electricity cuts and 787 gas cuts due to non-renewal of the contract²². Suppliers have the option of not renewing the expiring contract of a customer whom they consider to be a « bad payer » or indebted. If the customer does not find another supplier, the supplier asks the system operator for an « end of contract » cut-off. This phenomenon is growing and very worrying, as some consumers can no longer find a supplier in the Brussels Region who is prepared to conclude a contract with them.

As regards water, in 2018 Vivaqua made 1.014 cuts (with the intervention of courts, without whom the interruption of supply is illegal)²³ out of a total of 363.179 water meters. In 2008, there were only 98 residential water cuts. It should be noted that the water supply is only re-established when the entire debt is discharged (thus including all costs related to the legal proceedings). The average duration of the cut-off is 40 days, for an average debt at stake of about 400 €²⁴. The water cut, which is not only undignified and traumatic, is therefore a totally disproportionate sanction. Moreover, the Brussels legislation does not provide for an exception to the disconnection for vulnerable groups, such as the disabled, the sick or families with minor children.

Between 2005 and 2017, the average water bill increased by 56%²⁵ and tariff increases are expected in the Brussels Region where access to water is already compromised for one in five households.

(d) As regards the situation of Roma and Traveler families, the provision of reception areas by local authorities is the exception, practices of mistrust or even rejection remain the norm.

On the other hand, a decree of May 2, 2019²⁶ introduces the recognition of light housing in the Walloon Code of Sustainable Housing, which should facilitate access to rights for the people who live there, particularly traveling people.

(e) A cooperation agreement concerning the fight against homelessness was indeed concluded in 2014 between the federated entities. Despite repeated requests from stakeholders, the Interministerial Conference on Urban Policy, Integration and Housing has never met since. However, it is essential to evaluate and coordinate the policies implemented, in particular to make them evolve towards more prevention.

Human rights and business

3. Too few resources are given to the judiciary to prosecute multinational companies that seriously violate fundamental rights in the course of their activities abroad. Thus, on February 28, 2017, a complaint with civil party status was lodged in Brussels by Palestinian victims of the installation of an Israeli settlement on their land (in occupied Palestinian territory, near Bethlehem), a settlement financed by a Belgian banking institution. Nearly 3 years later, very few investigative duties have been carried out...

In that respect, the LDH promotes the OHCHR project on accountability and remedies in cases of corporate involvement in human rights abuses²⁷ and endorses the position of the International Federation for human rights (FIDH) on this subject²⁸.

B. Implementation of the Covenant

National Human Rights Institution (NHRI)

4. On May 12, 2019 a law was passed establishing a Federal Institute for the Protection and Promotion of Human Rights with the declared objective of complying with the Paris Principles²⁹. The LDH is pleased with this progress but remains extremely reserved about the true scope of this evolution. Adopted at the end of the legislature without any real debate, legitimate questions on the extension of its powers, on its referral of complaints by individuals and on the means at its disposal have not yet been answered. For this point, the LDH refers to Unia and Myria's Shadow Report and endorses its content.

Maximum available resources

5. The Belgian State's response is contradicted by the increase of the rate of people living below the poverty line. This rate has been increased by 0,5% between 2017 and 2018 and by almost 1% between 2016 and 2018. Among the people concerned, there is a large proportion of children aged from 0 to 15 years (20,2%) and unemployed persons (49,4%)³⁰.

The argument on « tax progressiveness » is contradicted by the inequality of the scale on salaried income compared to other income that benefits from an advantageous and distinct regime, to the point that the country is described as a « tax haven »³¹.

There is a breach of equality between taxpayers when income benefits from a favorable regime - and escapes tax control and collection³². Such taxation is discriminatory and such discrimination is by its nature contrary to economic, social and cultural rights.

As the notion expresses it, « available resources » are necessarily assessed in concreto. This means that the State must use the maximum of available resources corresponding to the country's economic capacities³³.

The importance of tax fraud - 20 to 30 billion euros per year or 20% of GDP³⁴ - proves that it does not do so and that it deprives itself of « available resources ». A State cannot invoke « budgetary difficulties » if it does not recover a significant part of its public resources guaranteeing the effectiveness of human rights, in which case its « obligation to act » is understood.

The argument of « budgetary difficulties » is all the less acceptable in a context of economic growth. Official statistics show industrial production growth of more than 14%³⁵ and retail trade of more than 20%³⁶.

A State's failure to act effectively against tax evasion and the dismantling of anti-fraud services to combat tax fraud³⁷ undermine the « obligation to devote the maximum of available resources » ; which is an obligation of effectiveness of the State - since it has the positive obligation to guarantee the effectiveness of rights ; which obligation is assessed in concreto in the light of the economic situation and the tax policy implemented to recover the « available resources ».

On the basis of the contradictions set out, the Committee may make the material assessment in concreto. There is a fault on the part of a State to allow fraud to continue, evading a substantial part of the « necessary resources » when it has an « obligation to act » ; this creates a very serious doubt as to its respect and the fulfilment of its positive obligation to guarantee the effectiveness of human rights.

Right of refugees and asylum seekers to an adequate standard of living

7. The LDH confirms that in 2018-2019, Belgium has been through a new saturation of the reception network for asylum seekers³⁸. This saturation has clearly led to the violation of the applicant's right to live with dignity, to be housed and fed. However, this crisis is not caused by a massive arrival of asylum seekers, it is the direct result of political decisions to close down a lot of places of shelter³⁹. At the end of 2017, due to the decrease in the number of requests and the occupancy rate of the centers, the former Secretary of State for Asylum decided to close several centers opened in 2015 at a time when Europe was facing a massive migration influx. « A vision, even if only in the medium term, would have called for the retention of buffer reception places which can be very quickly put into operation and then closed, depending on the changes in context »⁴⁰, says the Coordination et Initiatives pour Réfugiés et Étrangers (CIRE)⁴¹, which also points to a lack of staff at the Commissariat Général aux Réfugiés et Apatrides (CGRA) as well as the difficult consequences of the daily quotas of applicants for protection⁴².

The LDH suggests asking the government how they will manage the next years in terms of reception. Will they continue to suppress reception places and reopen others, too late, when the need is acute ? A real long term policy in this matter is needed considering that we talk about people in danger who hold the right to live in dignity.

Non-discrimination

10. Wearing the Islamic headscarf and intersectional discrimination

The question of the wearing of conviction signs, both in public spaces (or in private spaces accessible to the public) and in workplaces and training centers, remains a tense and unresolved issue in Belgium. While the state of the law in this area is clear, at least as regards adults⁴³, there are still many instances of interference in the fundamental rights of the individuals concerned, as shown in particular by the recent conviction of Belgium by the European Court of Human Rights in the case of *Lachiri v. Belgium*⁴⁴.

In this respect, the LDH intervened three times in 2019 in injunctions for discrimination based on the wearing of the Islamic headscarf in two sports halls and at STIB, the main public transport operator in Brussels⁴⁵. In these cases, the LDH notes and highlights so-called « intersectional » discrimination : based on both religious belief and gender⁴⁶.

With regard to minors, let us note an interesting as well as recent jurisprudential evolution concerning the school framework⁴⁷.

For the LDH, it is important to respect freedom of expression, belief and religion, including in the sphere of employment. The wearing of a clothing attribute revealing a worker's adherence to a particular belief or religion cannot *ipso facto* be equated with an act of proselytism, a questioning of the neutrality of an institution or an attack on a company's

commercial image. In the event of conflict, pragmatic solutions should be encouraged in both the public and private sectors to keep workers who, out of religious conviction, wish to wear a particular clothing attribute in employment, while, where appropriate, taking into account the image concerns of an institution or company.

11. As a preamble, it should be noted that the reports of UNIA⁴⁸, the Institute for Equality of Women and Men (IEFH)⁴⁹ and the Commission for the Evaluation of Federal Anti-Discrimination Legislation⁵⁰ have all pointed to the lack of effectiveness of the laws adopted to combat discrimination. Two measures, in particular, appear to be particularly important to strengthen this effectiveness : 1) Improve the monitoring of compliance with this legislation ; 2) Increase the dissuasive nature of sanctions.⁵¹

(a) The registration of sex in civil status

The Constitutional Court⁵² followed the position of the associations defending the rights of LGBTQI+ persons who had lodged an appeal against the Act of June 25, 2017 on the amendment of the registration of sex in civil status⁵³, which entered into force on the January 1st, 2018. The Court partially canceled this law, which aims to facilitate the registration of sex on the identity card from « man » to « woman » and inversely⁵⁴. The Court considers among others that it is for the legislator, and the legislator alone, to adopt, in compliance with the principle of equality, a legislation intended to remedy the unconstitutionality found. Nevertheless, on the basis of a judgment handed down by the German Constitutional Court⁵⁵, the Court has listed among the possibilities to be considered (1) the creation of one or more additional categories making it possible to take account, both at birth and afterwards, of sex and gender identity for all persons⁵⁶, as well as (2) the possibility of abolishing the registration of sex or gender identity as an element of a person's civil status.

The second approach is the most popular among LGBTQI+ associations and groups⁵⁷ and is also welcomed by some legal doctrine⁵⁸. It makes it possible to avoid the disclosure of a person's gender identity as well as the constraints associated with a discrepancy between the gender identity experienced and the one recorded. It also relieves the social and legal pressures on intersex individuals to conform to the binary model of sex.

« Normalization » medical surgeries operated on intersex children

On the February 19, 2019, the UN Committee for the rights of the child⁵⁹ addressed to the Belgian State its concerns related to the medical unnecessary procedures performed on intersex children. The referred procedures are genital mutilations, surgeries or hormonal treatments operated on intersex children in pursuit of conforming them to the sex and gender social standards⁶⁰. Those treatments are most usually not justified by medical imperatives and operated without the autonomous children consent⁶¹. We therefore draw the Committee's attention on the violation of the children's physical integrity, autonomy and self-determination those treatments generate.

Right to work

12. Youth employment⁶²

Upon graduation, the young person must register as a job seeker. A so-called integration internship begins, which lasts a minimum of one year and lasts until the trainee has

obtained two positive evaluations of his or her job search efforts. The age limit for access to integration benefits at the end of the internship has been lowered from less than 30 years previously to less than 25 years since 2015. This does not give students the slightest right to make mistakes and is highly paradoxical for a government that constantly claims that lack of training is one of the main reasons for youth unemployment. Furthermore, the government has added a graduation requirement for those under 21. This is totally counterproductive since it makes it more difficult for young people who drop out of school to access the labor market. Although they can, on a voluntary basis, benefit from the support services of the regional employment agency (Actiris, Forem, VDAB), this is no longer automatic. Access to certain employment aids is also made more difficult. This massive non-admission of young people to unemployment benefits has given rise to a phenomenon of communicating vessels and explains, in addition to the ends of the law, the 37% increase in the number of young people under 25 in the CPAS between 2014 and 2017⁶³ and 47% of young people between 25 and 34⁶⁴. The provisional figures for 2018 only confirm the trend. This in a context where it is estimated that only about one third of the excluded or non-admitted unemployed actually receive assistance from the CPAS in replacement of their terminated or refused entitlement.

Employment of disabled persons

Belgium has a very low level of employment for disabled persons.⁶⁵ The Belgian Statistics Office underlines that about 9% of the Belgian population aged 15-64 suffers from some form of disability. Of those, only about a quarter (24%) were employed in 2018, compared with 65 % of the total population aged 15-64. The large majority (74%) of disabled people aged 15-64 in Belgium is inactive, compared with about 31% of the general population, with further discrepancies based on gender, social origins and ethnic backgrounds.

About 35.000 of the more heavily disabled persons work in sheltered workplaces across the 3 Belgian regions. Those working environments are not inclusive, in an apparent breach of Belgium's obligations under the UN Convention on the Rights of Persons with Disabilities, and yet are heavily subsidized by the authorities⁶⁶.

Lastly, Belgium has decided in 2007 to reach a minimal target of 3% of disabled individuals in the workforce of each public federal department. In 2017, only 5 of those institutions had reached that target and the total amount of disabled persons in the federal workforce was 1,37%, a 0.07% decrease from the prior year, and a far cry from the 9% of the general population.

Employment of elderly persons⁶⁷

Statistics from the Belgian Statistics Office - Statbel - shows a 2,5% increase in the employment of workers aged 55-64, at 52,9%. Yet, those numbers are still considerably lower than those of younger workers : 75,9% of workers aged 20-64 are employed. Several factors are likely to explain this difference : first, age-based discrimination is the most prevalent form of discrimination on the Belgian labor market and it disproportionately affects workers aged 45 and older. Second, Belgium has seen a dramatic increase in long-term absences due to illnesses, which has almost tripled in 20 years. Between 2014 and 2019 only, that number climbed from 340.000 workers to 430.000. Both the Belgian National Bank and Social Security Authority (INAMI/RIZIV) argues that this phenomenon is primarily due to the ageing of the workforce. The policies pursued by the government to tackle those issues have led to massive dismissals of sick workers through « reintegration » programs.

13. Access to residence permit through work

The CIRE⁶⁸ witnesses every day the enormous difficulties encountered by foreigners who wish to work in Belgium, given the drastic conditions of the procedure, whether from abroad or/and - in particular - from Belgium. Indeed, it is nearly impossible for a foreign person already present on the territory to apply for a residence permit by working from Belgium, even if there is a contract at stake and if the skills are in demand on the labor market. From abroad, there are also many obstacles, notably the costs related to the procedure and the difficulties, in many countries, to obtain the visa, even when work and residence permits are granted⁶⁹.

Access to diploma equivalencies

The CIRE notes that the procedure remains demanding and rigid, but also expensive since it is not free in the French Community (it is free for many categories, including job seekers, on the Flemish side). Moreover, there is a clear tendency in decisions to downgrade the diplomas presented, sometimes in a way that is unfounded.⁷⁰

Right to social security⁷¹

16. The time limitation for the benefit of integration revenues excluded 52.032 persons from the right to unemployment benefit between January 1st, 2015 and November 30, 2019. These are mainly Walloons (more than 60%) and women (more than 55%). About one third⁷² receive social assistance (from a CPAS). A significant proportion has disappeared from the radar and is no longer monitored in terms of socio-professional integration.

The degressivity of unemployment benefit means that all the unemployed find themselves on a flat-rate basis after a maximum of four years. The lump sum, like other benefits, is below the at-risk-of-poverty threshold. As the minimum amount is reached more often and more quickly than in the past, the impoverishment of these unemployed has both worsened and accelerated.

17. The two 2017 federal legislative⁷³ measures lifting professional secrecy are particularly challenging in regards to the respect of human rights.

First of all, because they operate in a sensitive context such as the fight against terrorism. This goal, which is certainly legitimate for a government, remains an argument of authority where security brandished to such an extent that nothing can no longer stand in the way of what would be done to try to prevent terrorism.

Secondly, those measures remain very broad and unclear on essential points. Therefore, from one organization to another, divergent practices could emerge to meet the same sensible measure. Fortunately, the Constitutional Court in its decision of March 14, 2019 has cancelled the active obligation for social workers to denounce suspicious activities of beneficiaries of social security services⁷⁴. The LDH is pleased with this victory but continues to affirm its opposition to the government's willingness to use the fight against terrorism as a pretext to substantially undermine the right to privacy and the cornerstone of social work: respect for professional secrecy. Today every social worker is forced to track down the recipient he or she is helping and it is not always clear whether the public prosecutor's office will contact him or her or what exactly he or she should say in that case.

In regard to article 458^{ter} of the penal code, it is also too imprecise, especially with regard to the services it is intended for. Who is concerned ? Any association ? Any official body ? Can we refuse to go to a case consultation when we consider that the conditions for sharing secrecy are not met because of the status of the present actors ?

In this context, these measures canceling professional secrecy are neither legitimate nor proportionate to the aim pursued⁷⁵. It is for this reason that an appeal has been lodged with the Constitutional Court against the law of July 2018, 30 on the creation of local comprehensive security units for radicalism, extremism and terrorism (CSIL). This legal action is still pending⁷⁶.

18. The previous federal government, Michel I, has also reviewed labor law with a view to providing a framework for the employment relationship between workers with a work disability and their employers. While an evaluation is currently under way, the first figures announced indicated a significant number of employment contract terminations due to medical force majeure, which raises questions in view of the announced objective and could also raise problems of discrimination if the employer has not sought a job suitable for the person.

Another problem concerns the existence of sanctions against workers who do not participate in reintegration programs. If the latter plan has been aborted, the situation of disabled and activated persons must remain under observation, especially if they become even more precarious than they are.

19. Since July 1st, 2019, a Royal Decree of 30 March 2018 further restricts the movement of persons benefiting from the GRAPA (a pension supplement). The postman passes to check whether the person is indeed present and this person can lose his allowances if he/she does not report to the pension service after the 5 days after receiving the postman's pass notice. This situation gives rise to many complaints from seniors⁷⁷.

Violence against women and children

20. Belgium's official report omits to mention one acute form of violence against women and children : the violence of the detention of migrant families in view of their expulsion. The law of December 15, 1980⁷⁸ provides that the detention of migrant families is allowed, under certain conditions, as a last resort, to allow the expulsion of families under an order to leave the territory.

Since September 2018 the Belgian government has taken the decision to lock up families who are staying illegally with their minor children⁷⁹. Between 2006 and 2011, when it was still placing children in detention, Belgium was condemned three times by the European Court of Human Rights for inhuman and degrading treatment⁸⁰. Following these judgments, the practice was stopped for ten years. The federal government's decision is a real regression.

In April 2019, the Council of State issued a decision suspending the Royal Decree which had organized the detention of migrants families before their expulsion⁸¹. Today, no family can be detained because of this judgement. But the decision of the Council of State did not prohibit detention, it suspended the Royal Decree because it allowed families to be locked up near the landing strips and thus subjected to high noise and atmospheric pollution. In that way, some work has been undertaken to soundproof the building and detain families again. Therefore, the State does not want to put aside this scandalous and

contrary to human rights politics of locking up families who have done absolutely nothing except exercise their freedom of movement.

The detention of children violates the rights of the child⁸² and is always against the principle of the best interest of the child⁸³. The negative and profound impact of detention on the health, development and well-being of children has been repeatedly demonstrated, even when it involves very short periods of detention in a relatively « humane » environment⁸⁴. Therefore, the UN Committee for the Rights of the Child has strongly recommended to Belgium to put a halt to this harmful practice⁸⁵.

The inclusion in the law of the general prohibition of the detention of children in closed centers, without any exception, is indispensable. The law of 16 November 2011 inserting an article 74/9 in the law of 15 December 1980 on the access to the territory, the stay, the establishment and the removal of foreigners⁸⁶ must be amended to this effect.

Poverty⁸⁷

21. In the framework of the Europe2020 strategy, the Belgian government pledged to lift 380.000 people out of poverty by 2020. According to the latest figures of 2018, there is no trend towards reaching this poverty target. The number of persons in poverty or social exclusion is even higher than its 2008 level, the starting point of the Europe2020 strategy (2.250.000 vs. 2.119.400 in 2008). A worrying trend is that the number of people living in monetary poverty is increasing significantly since 2015 and reached its highest level since the start of the observation period (16.4% vs. 14,8% in 2005).

Minimum income schemes (social assistance and minimum social security allowances) remain inadequate. The last two federal governmental agreements referred explicitly to increasing minimum incomes to the level of the European poverty threshold as one of the main measures to combat poverty. However, most minimum income levels, except for pensions and invalidity allowances for single persons, remain far below the European poverty threshold and at the same distance from it. A worrying trend is that social benefits are being made subject to more and more conditions, with more and more people being excluded from them. Furthermore, the adequacy of minimum incomes is particularly problematic for people who fall under the « cohabitant » regulation. The reduction of the social benefits for people who fall under this regulation is not in proportion with what they can save because of sharing costs by living together. In addition, the inspections with regard to this regulation are considered as very intrusive by people and constitute an infringement of the private life (home visits counting the number of toothbrushes, opening wardrobes, etc.).

In the framework of the fight against poverty, it is necessary to individualize economic and social rights. The financial stakes of the family option (differentiated allowances for singles and non-singles) or of cohabitation (regardless of family ties) for people in precarious situations are fraught with consequences : « social accumulation », far from showing solidarity with people already facing a fragile financial - and often social and emotional - situation, does not encourage the maintenance of the couple or the formation of a family and also penalizes non-family cohabitation. This is likely to place an even greater burden on the effective exercise of the cohabitants' private and family life. The Service for Combating Poverty, Precariousness and Social Exclusion has repeatedly pointed out that the non-individualization of rights leads people to break up family or friendly solidarity⁸⁸, as have women's rights associations⁸⁹, which stress the particularly penalizing nature of

cohabitation.

It is therefore necessary to individualize economic and social rights and suppress the « cohabitant » category from the Belgian social security legislation.

Right to physical and mental health

25. Urgent medical assistance

The current procedure for urgent medical assistance is extremely complex (and therefore difficult to understand for users and even care providers)⁹⁰. For this point, the LDH refers to Unia and Myria's Shadow Report and endorses its content.

Incarceration of mentally ill persons in penitentiary establishments

It is necessary to put an end to the incarceration of mentally ill persons in penitentiary establishments. This recommendation has already been made on numerous occasions⁹¹ and the Belgian authorities are frequently convicted on this matter, even in a pilot judgment of the European Court of Human Rights⁹². This again underlines the urgency of the matter. It is also essential, in the light of this, to improve the mental health care available within the prison institution and to provide appropriate treatment and care for persons with psychiatric disorders. In this connection, the CPT recommends « greater involvement of the Federal Public Health Service in the care of persons interned in prisons (...)» and to provide for the transfer of powers from the Justice administration to the Federal Public Health Service⁹³.

The use of psychiatric annexes of prisons as possible places of internment should be purely and simply prohibited. Furthermore, the Act of May 4, 2016 on internment and various provisions relating to Justice⁹⁴ must enter into force in its entirety.

Social assistance for applicants for medical stay⁹⁵

In Belgium, article 9^{ter} of the foreigners' law of 1980 allows a seriously ill foreigner to request the stay for medical reasons. But today even the most serious diseases do not seem to be sufficiently serious to allow people to obtain a stay for medical reasons. Article 9^{ter} is practically gutted⁹⁶. For this point, the LDH refers to Unia and Myria's Shadow Report and endorses its content.

- 1 For this section on housing rights, the Rassemblement Bruxellois pour le Droit à l'Habitat (RBDH) <http://www.rbdh-bbrow.be/?lang=fr> and the Rassemblement wallon pour le Droit à l'Habitat (RWDH) <http://www.rwlp.be/index.php/rwdh/rassemblement-wallon-pour-le-droit-a-l-habitat> associate themselves with this part of the report and endorse its content ; Having regard to the right to adequate housing, it is important not to forget the right to affordable housing, the European Committee of Social Rights has just sounded the alarm on this subject : <https://www.coe.int/en/web/commissioner/-/the-right-to-affordable-housing-europe-s-neglected-duty>.
- 2 Société du Logement de la Région de Bruxelles-Capital, Annual Report 2018, in <http://www.slr.birisnet.be/fr/particulier/publications/rapport-annuel-2018>
- 3 This represents 39.757 housings, of which only 35.887 are occupied.
- 4 RBDH, Logement social : Chronique d'une décennie pour presque rien, art. 23, n°67, December 2017 : <http://www.rbdh-bbrow.be/spip.php?article1869>.
- 5 Perspective Brussels, Monitoring des projets de logements publics, tableau de bord du référent bruxellois du logement, n°2, January 2019, in https://perspective.brussels/sites/default/files/documents/monitoring_des_logements_publics_ndeg2.pdf.
- 6 For more information, see <https://medium.com/@inforbdh/vervoort-iii-le-logement-un-pas-trop-timide-e3b5120faf5>.
- 7 « the Committee remains concerned about the chronic shortage of such housing for low-income households and other disadvantaged or marginalized individuals or groups, and about the continuing rise in rents in the private rental sector » : Observations finales du Comité des droits économiques, sociaux et culturels – Belgique, E/C.12/BEL/CO/3, January 4, 2008, § 20.
- 8 The Belgian State was condemned on March 21, 2012 by the European Committee of Social Rights of the Council of Europe (ECSR) for lack of social, legal and economic protection and for lack of protection against poverty and social exclusion of Travelers (Comité européen des droits sociaux, Fédération Internationale des Ligues des Droits de l'Homme (FIDH) c. Belgique, Reclamation n° 62/2010, March 21, 2012).
- 9 Observations finales du Comité pour l'élimination de la discrimination raciale – Belgique, CERD/C/BEL/CO/15, April 11, 2008, § 22.
- 10 From 103.470 in 2007 to 99.983 social housing units in 2017 : Numbers of social housing managed by Public Service Housing Companies, Anfrie MN (coord.), Majcher M., Kryvobokov M. (2019), « Chiffres-clés du logement en Wallonie - Quatrième édition », Centre d'Etudes en Habitat Durable de Wallonie (CEHD), Research Report, Charleroi, p. 146.
- 11 CEHD - Key figures for Housing in Wallonia 2019, p. 167.
- 12 For more information, see <https://www.ccc-ggc.brussels/fr/news/precarites-mal-logement-et-expulsions-domiciliaires-en-region-bruxelloise>.
- 13 « Les expulsions domiciliaires en Wallonie », Institut Wallon de l'Évaluation, de la Prospective et de la statistique (IWEPS), January 2015, in <https://www.iweps.be/publication/expulsions-domiciliaires-wallonie>.
- 14 Th. MOREL and H. VAN HOOTEGEM, Les expulsions pour cause d'insalubrité : révélatrices de l'ineffectivité du droit à un logement décent dans les situations de pauvreté ? in, *Echos du Logement*, n° 123, July 2018, pp. 56-58.
- 15 Art.3, § 4, Code civil - Livre III - Titre VIII - CHAPITRE II, Des règles particulières aux baux relatif à la résidence principale du preneur, February 20, 1991, *M.B.*, February 22, 1991.
- 16 N. BERNARD, De l'adéquation de la résiliation du bail sans motif à la situation particulière des personnes âgées, *obs. sous Civ. Bruxelles, 14 mars 2018*, in *Revue de jurisprudence de Liège, Mons et Bruxelles*, Vol. 2019, no.12, (2019), p.3.
- 17 Thereon, the individual communication n° 61/2018 - L.W./Belgium, pending before your Committee, and the related Third-Party Intervention submitted by the Equality Law Clinic from the Université Libre de Bruxelles (<https://equalitylawclinic.ulb.be>), provide an illustration to the indicated problem and an opportunity to clarify the given legislation's concordance with the Pact.
- 18 Décret du 15 mars 2018 relatif au bail d'habitation, *M.B.*, March 28, 2018.
- 19 « *Le nombre de nouveaux dossiers Logement continue d'augmenter (+3,7% sur 1 an et +48,1% sur 5 ans)* », Unia, Rapport annuel chiffre 2017, juin 2018, in https://www.unia.be/files/Documenten/Jaarrapport/Rapport_chiffres_2017_DEF.pdf, p 18.
- 20 See 2.e.
- 21 Research Measuring Homelessness In Belgium, HIVA-LUCAS KU Leuven, ULG, La Strada, 2018.
- 22 Brugel – Annual report 2018 – Cahier thématique 03 – Droits des consommateurs résidentiels et fonctionnement des marchés électricité et gaz, p. 63.

- 23 Annual Report from Vivaqua, 2019.
- 24 Report Sia Partners, pp. 47-50.
- 25 ZOOM Précarité hydrique en Belgique 2019, Fondation Roi Baudouin, https://www.kbs-frb.be/nl/Activities/Publications/2019/20190320Aj?gclid=EAIaIQobChMlvfGkntaR5wIVDOd3Ch3MkQgBEAAAYASAAEglosfD_BwE.
- 26 Décret modifiant le Code wallon du Logement et de l'habitation durable et le décret du 15 mars 2018 relatif au bail d'habitation en vue d'y insérer la notion d'habitation légère, *M.B.*, July 11, 2019.
- 27 <https://www.ohchr.org/FR/Issues/Business/Pages/OHCHRaccountabilityandremedyproject.aspx>.
- 28 <https://www.fidh.org/en/issues/globalisation-human-rights/negotiations-of-a-international-legally-binding-instrument-on>.
- 29 Law of May, 12, 2019 establishing a Federal Institute for the Protection and Promotion of Human Rights (M.B.21/06/2019).
- 30 Numbers delivered by Statbel, in https://statbel.fgov.be/sites/default/files/images/in%20de%20kijker/Chiffrescles_2019_r.pdf.
- 31 European Commission, *Study on Structures of Aggressive Tax Planning and Indicators*, pp. 73-75, in https://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/taxation/gen_info/economic_analysis/tax_papers/taxation_paper_61.pdf; see also in Belgian newspapers « La Belgique est un paradis fiscal en Europe » by François Mathieu in *Le soir*, in <https://plus.lesoir.be/43255/article/2016-06-01/la-belgique-est-un-paradis-fiscal-en-europe>; « Pourquoi la Belgique est-elle 19e paradis fiscal au monde selon Oxfam ? » by Marie-Laure Mathot in *l'Avenir*, in https://www.lavenir.net/cnt/dmf20161212_00929459/pourquoi-la-belgique-est-elle-19e-paradis-fiscal-au-monde-selon-oxfam; « Oui, la Belgique est un paradis fiscal » by Raphaël Meulders in *La Libre Belgique*, in <https://www.lalibre.be/economie/entreprises-startup/oui-labelgique-est-un-paradis-fiscal-51b8f985e4b0de6db9c9be48>.
- 32 Cf. infra tax evasion.
- 33 L. HENNEBEL, H. TIGROUDJA, *Traité de droit international des droits de l'homme*, Editions Pédone, 2016, n°1106 p. 1267.
- 34 Observatoire belge des inégalités, *Fraude fiscale et sociale : des chiffres pour une remise en perspective*, in <http://inegalites.be/Fraude-fiscale-et-sociale-des>.
- 35 Numbers delivered by Statbel, in <https://statbel.fgov.be/fr/themes/indicateurs-conjoncturels/chiffres-daffaires/chiffre-daffairesdans-lindustrie#figures>.
- 36 Numbers delivered by Statbel, in <https://statbel.fgov.be/fr/themes/indicateurs-conjoncturels/chiffres-daffaires/chiffre-daffaires-ducommerce-de-detail#figures>.
- 37 https://www.rtbef.be/info/societe/detail_la-fraude-fiscale-et-les-paradise-papers-au-centre-du-debat-d-a-votre-avis?id=9757688; <https://www.alterechos.be/la-fuite-enquete-sur-la-fraude-fiscale-en-belgique>
- 38 Following the CGRA, in 2015, 35.476 applications were registered, in <https://www.cgra.be/fr/actualite/statistiques-dasile-bilan-2015>; in 2016, the number increased to 18.710, in <https://www.cgra.be/fr/actualite/statistiques-dasile-bilan-2016>; in 2017 to 19.688, in <https://www.cgra.be/fr/actualite/statistiques-dasile-bilan-2017>; in 2018, to 23.443, in <https://www.cgra.be/fr/actualite/statistiques-dasile-bilan-2018>; and in 2019, to 25.499. For the first six months of 2019, the number stands at 10,844, in https://www.cgra.be/sites/default/files/statistiques_dasile_2019_novembre.pdf.
- 39 <https://www.cire.be/de-la-construction-politique-d-une-crise-de-l-accueil>.
- 40 Free translation, in https://www.rtbef.be/info/belgique/detail_asile-et-migration-la-crise-de-l-accueil-ne-vient-pas-d-un-afflux-mais-de-la-fermeture-de-place-selon-le-cire?id=10335231.
- 41 <https://www.cire.be>.
- 42 Council of State, Court verdict n° 244.833, June 18, 2019.
- 43 See J. RINGELHEIM, « Les interdictions de port du foulard visant des femmes adultes », analysis of the LDH, Bruxelles, octobre 2017 (http://www.liguedh.be/wp-content/uploads/2018/02/LDH_Note_Foulard_2017.pdf) and J. RINGELHEIM et V. VAN DER PLANCKE, « Neutralité de l'Etat et droits fondamentaux » (http://www.liguedh.be/wp-content/uploads/2016/03/voile_colloque%20du%20df_18.09.pdf).
- 44 CEDH, *Lachiri c. Belgique*, September 2018, 18. for a comment on this decision, see J. RINGELHEIM, « L'arrêt Lachiri : la Cour européenne des droits de l'homme condamne la Belgique pour l'interdiction de port d'un signe religieux par une partie civile dans un tribunal », *Justice en ligne*, November 2018, 26 (<http://www.justice-en-ligne.be/article1116.html>).
- 45 Affairs R.G. n°19/504/A and R.G. n°19/538/A before the Court of First Instance (French-speaking chamber) of Brussels; R.G. n°19/1755/A before the French-speaking Labor Court of Brussels.
- 46 The two sports halls in question prohibit the wearing of headgear on the basis of neutrality. Unfortunately, this principle is too often invoked to justify restrictive policies in a context of widespread suspicion towards Muslims, with a disproportionate impact of these restrictions on Muslim women. For several years now, bans on the wearing of Islamic headscarves for adult women have been increasing in various areas in Belgium (See for example H. MORMONT, « Discrimination et port du foulard au travail dans le secteur privé : la Cour de cassation dans le sillage de la Cour de justice de l'Union européenne », *Justice en ligne*, February 2018, 28 (<http://www.justice-en-ligne.be/article1034.html>)). The structural

dimension of this exclusion also has an impact on how society perceives Muslim women.

STIB, for its part, pursues a policy of « exclusive neutrality » applied to all its staff. This policy is referred to in particular in Article 9(3) of its working regulations : « the wearing of any badge other than that of duty is prohibited to uniformed personnel, as well as to those in civilian clothing during their period of duty ». STIB is the largest employer in Brussels, hiring many workers of foreign origin and low skilled, but whose staff is - according to their figures - only 10.75% women (<https://www.lalibre.be/economie/entreprises-startup/de-plus-en-plus-de-femmes-a-la-stib-5d0c8e727b50a62b5b1a5faa>). As a leading employer in the Brussels Region, such a ban on the wearing of headgear, which is apparently neutral but inexorably leads to the exclusion of certain people, is therefore likely to affect the Brussels labor market, particularly against women of the Muslim faith, generally of non-European origin, whose employment rate is already one of the lowest in Belgium (Among others : <https://www.unia.be/fr/articles/publication-du-monitoring-socio-economique-2017-emploi-et-origine> ; <http://www.actiris.be/Portals/43/CIJ%20-%20Rapport%20-%20Le%20rôle%20de%20l'Intersectionnalité%20dans%20la%20lutte%20contre%20les%20discriminations-compressed.pdf>).

47 UNIA, La politique du réseau scolaire flamand GO! en matière de symboles religieux est contraire à la loi, Brussels, August 2019, 27. (<https://www.unia.be/fr/articles/la-politique-de-go-en-matiere-de-symboles-religieux-est-contraire-a-la-loi>).

48 UNIA, Evaluation - Loi du 10 mai 2007 modifiant la loi du 30 juillet 1981 tendant à réprimer certains actes inspirés par le racisme ou la xénophobie (M.B. du 30-05-2007) (loi antiracisme) - Loi du 10 mai 2007 tendant à lutter contre certaines formes de discrimination (M.B. du 30-05-2007) (loi anti-discrimination), février 2016 (https://www.unia.be/files/Documenten/Evaluation_2016.pdf).

49 I.E.F.H., Réalisation d'un état des lieux sur l'application et l'effectivité de la loi genre. Analyse et recommandations, novembre 2016.

50 Premier rapport d'évaluation, février 2017 (www.unia.be/files/Documenten/Aanbevelingen-advies/Commission_dévaluation_de_la_législation_fédérale_relative_à_la_lutte_contre_les_discriminations.pdf).

51 For more information, see Ligue des Droits Humains, Mémoire - Elections 2019, Bruxelles, mars 2019, pp. 36-37 (http://www.liguedh.be/wp-content/uploads/2019/02/M%C3%A9morandum_LDH_2019.pdf).

52 Constitutional Court, Court verdict n° 99/2019 of June 19, 2019.

53 Act of 25 June 2017 reforming regimes relating to transgender persons with regard to the mention of a change in the registration of sex in civil status records and its effects, M.B., 10 July 2017.

54 Constitutional Court, judgment n° 99/2019 of June 19, 2019, Ruling n° 6813.

55 Bundesverfassungsgericht, judgment of October 10, 2017 1BvR 2019/16.

56 The first approach (creation of a third category) has the advantage of recognizing the existence of a gender identity beyond the traditional binary division. Nevertheless, several LGBTQI+ rights associations have pointed out that this is just another label designed to separate the persons concerned from the rest of society. They are also concerned that pressure may be put on parents to classify their child into one of the two traditional categories. The associations also denounce the incompatibility of this option with the right to self-determination since it does not allow for the variety of gender identities to be taken into account. The denomination of the category itself is also problematic.

57 OII-Europe, « Manifeste du Troisième Forum International Intersexe du 1er décembre 2013 », Malta, December 27, 2013, available online on <https://oiieurope.org/fr/conclusion-3eme-forum-international-intersexe> ; TGEU, « Position Paper : Gender Marker », June 13, 2018, available online on <https://tgeu.org/wpcontent/uploads/2018/07/Gender-Marker-Position-Approved-13-June-2018-formatted.pdf> ; « La Cour constitutionnelle suit notre position : la loi trans doit être adaptée », June 24, 2019, Genres Pluriels, available online on <https://www.genrespluriels.be/La-cour-constitutionnelle-suit-notre-position-la-loi-trans-doit-etre-adaptee> ; Londé Ngosso (founder member of the association Genres Pluriels), phone interview, Brussels, July 1st, 2019.

58 D. LOCHAK, « Dualité de sexe et dualité de genre dans les normes juridiques », in NOREAU, P. et ROLLAND, L., Mélanges Andrée Lajoie, Paris, Les Éditions Thémis, 2008 ; D. BORRILLO, « Pour une théorie du droit des personnes et de la famille émancipée du genre », in N. GALLUS (sous la direction de), Droit des familles, genre et sexualité, Limal, Anthemis, 2012, pp. 7-25 ; B. MORON-PUECH, « Le droit des personnes intersexuées », Socio, vol. 9, 2017, pp. 215-238 ; E. FRANCO, « L'autonomie au prisme de la binarité obligatoire », Exercices intégrés d'éthique économique et sociale, Chaire Hoover, Université Catholique de Louvain, 2019.

59 Committee on the Rights of the Child, *Concluding observations on the combined fifth and sixth periodic reports of Belgium*, pp. 6-7.

60 European Union Agency for fundamental rights, *The fundamental rights situation of intersex people*, pp. 5-7, available online on https://fra.europa.eu/sites/default/files/fra_uploads/fra-2015-focus-04-intersex_en.pdf.

61 Resolution 2191 of the Council of Europe's Parliamentary assembly, *Promoting the human rights of and eliminating discrimination against intersex people*, available online on <https://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?FileID=24232&lang=EN>.

62 <https://www.mi-is.be/en>.

63 43.766 instead of 32.010 as an annual average.

64 34.145 instead of 23.188.

65 SPF Economie, Direction Générale Statistique, « Enquête sur les forces de travail 2018 », www.statbel.be ; Commission d'accompagnement pour le recrutement de personnes avec un handicap dans la fonction publique fédérale, Rapport d'évaluation 2017, www.fedweb.belgium.be.

66 As an example, in Brussels, as in the other regions, the budget allocated to subsidize the 12 sheltered workplaces (about 29 million €) dwarfs the budget devoted to the transition and integration of the persons with a disability in an inclusive ordinary workplace (about 2 million €).

67 - INAMI, Facteurs explicatifs relatifs à l'augmentation du nombre d'invalides, régime des salariés et régime des indépendants, Période 2007-2016, 2018, https://www.inami.fgov.be/fr/publications/Pages/etude_incapacite_si.aspx.

- UNIA, Baromètre de la Diversité – Emploi, 2012, www.unia.be.

68 <https://www.cire.be>.

69 For more information : <https://www.cire.be/favoriser-la-migration-economique-que-peut-faire-le-gouvernement-federal>

70 For more information : <https://www.cire.be/linteret-des-equivalences-de-diplomes>

71 For 2018 : <https://www.onem.be/fr/documentation/publications/rapports-annuels/rapport-annuel-2018> and for 2019 <https://www.onem.be/fr/documentation/statistiques/chiffres>.

72 See § 12.

73 The 17 May 2017 law amending the Code of Criminal Investigation with a view to promoting the fight against terrorism (M.B. du 03-07-2017) containing, inter alia, an obligation for the staff of the Public Social Welfare Centers (CPAS) to provide the judiciary with any information that they deem worthy of constituting « serious indications of a terrorist offence » (with the possibility to be punished in the event of refusal) and the new article 458ter of the Criminal Code.

74 Cour Constitutionnelle, court decision n° 44/2019, March 2019, 14.

75 For more information, see http://www.liguedh.be/wp-content/uploads/2018/11/Etude_LDH_DOSSIER_458TER_avril_2018.pdf.

76 For more information, see Comité de vigilance en matière de terrorisme (Comité T), Rapport 2019, Bruxelles, mars 2019, pp. 23-25, available at http://www.liguedh.be/wp-content/uploads/2018/11/Etude_LDH_DOSSIER_458TER_avril_2018.pdf.

77 <https://www.lalibre.be/belgique/societe/en- quatre-mois-pres-de-2000-pensionnes-ont-ete-exclus-du-benefice-de-la-grapa-5df0f7d99978e272f970a299>

78 Art. 74, 9° of the Loi sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers, M.B., December 31, 1980.

79 Arrêté royal du 22 juillet 2018 modifiant l'arrêté royal du 2 août 2002 fixant le régime et les règles de fonctionnement applicables aux lieux situés sur le territoire belge, gérés par l'Office des Étrangers, où un étranger est détenu, mis à la disposition du gouvernement ou maintenu, en application des dispositions citées dans l'article 74/8, § 1er, de la loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers (M.B. 01-08-2018).

80 Voir notamment CEDH, *Mubilanzila Mayeka et Kaniki Mitunga c. Belgique*, 12 octobre 2006 et *Muskhadzhieva et autres c. Belgique*, 19 janvier 2010.

81 CE, l'ordre des Barreaux francophones et germanophones, LDH et autres c. Etat belge, court decision n° 244.190,4 avril 2019.

82 OHCHR, Convention on the Rights of the Child, September 1990, 2.

83 *Ibidem*, art. 40.

84 The state of research on the subject is compiled on the website of the campaign in which LDH participated : *On n'enferme pas un enfant. Point.*, in <http://www.onnenfermepasunenfant.be>.

85 Comité des droits de l'enfant, Observations finales concernant le rapport de la Belgique valant cinquième et sixième rapports périodiques, Genève, 28 février 2019, CRC/C/BEL/CO/5-6, para. 44, a).

86 M.B. 17-02-2012.

87 For this section on poverty, the Belgisch Netwerk Armoedebestriding (BAPN) <https://www.bapn.be/over-ons><http://www.rbdh-bbrow.be/?lang=fr> associates with this part of the report and endorses its content.

88 Service de lutte contre la pauvreté, la précarité et l'exclusion sociale, Rapport bisannuel 2012-2013, pp. 23 et suiv. (<http://www.luttepauvrete.be/publications/rapport7/versionintegrale.pdf>). Voir également http://www.luttepauvrete.be/publications/focus_FR_290108.pdf (pp. 5 et 7).

89 See, among others, <http://www.viefeminine.be/spip.php?article2333>.

90 <https://www.cire.be/wp-content/uploads/2018/03/20180313-redefinition-aide-medicale-urgente-1.4.pdf>.

91 Rapport au Gouvernement de la Belgique relatif à la visite effectuée en Belgique par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT), 8 mars 2018, CPT/Inf (2018) 8, § 107. Voir également CAT/C/CR/30/6, § 5, k) et CPT/Inf (2010) 24, § 132 et suiv.

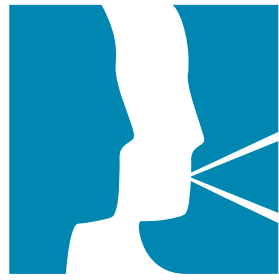
92 CEDH, *arrêt W.D. c. Belgique*, 6 septembre 2016.

93 Rapport au Gouvernement de la Belgique relatif à la visite effectuée en Belgique par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT), 8 mars 2018, CPT/Inf (2018) 8, § 107.

94 M.B. du 13-05-2016.

95 To go further, see : <https://www.altea.be/fr/news/379-la-procedure-9ter-autorisation-de-sejour-pour-raisons-medicales-n-est-pas-effective.html>.

96 To go further, see : http://www.liguedh.be/wp-content/uploads/2016/05/livre_blanc_9ter.pdf.



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