

Standing and operational space of non-governmental organisations (NGOs) in contributing to respecting and promoting fundamental rights in EU Member States

Belgium 2017

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1 Regulatory environment for the work of non-governmental organisations

Belgium is a federal state composed of communities and regions.¹ Considering the transversal character of human rights, the responsibility to ensure the respect, the protection and the application of fundamental rights falls under the competence of each level of governance: the federal level, the community level (the Flemish community, the French community and the German speaking community) and the regional level (the Flemish Region, the Brussels-Capital Region and the Walloon Region).

There is no general regulatory framework for the work of non-governmental organisations (NGOs) in Belgium.²

Title of legislation and reference	Topic (please make reference to categories A-F see guidelines)	Effect on civil society (positive or negative) Please include reference to source of information
1. Belgium, Law to amend the Criminal Code in order to criminalise the act of entering or intruding a port facility or immovable or movable property within the boundaries of a port, without authorisation or permission (Wet tot wijziging van het Strafwetboek met het oog op het strafbaar stellen van het zonder machtiging of toestemming binnenkomen of	A, B, C	Negative. On 20 May 2016, a law was introduced that renders the (attempt to) access of a port's infrastructure punishable with fines and prison sentences. The idea is to target clandestine migration, but the new provisions in the Criminal Code could also be used to prosecute activists or demonstrators, such as Greenpeace, in ports. ³

¹ Belgium, Constitution, Art. 1.

² Federal Public Service (FPS) Justice (*Federale Overheidsdienst Justitie / Service public federal Justice*), Information obtained via email on 2 February 2017.

³ Belgium, House of Representatives, [Bill to amend the Criminal Code in order to criminalise the act of entering or intruding a port facility or immovable or movable property within the boundaries of a port without authorisation or permission \(Westvoorstel tot wijziging van het Strafwetboek met het oog op het strafbaar stellen van het zonder machtiging of toestemming binnecomen of binnendringen in een havenfaciliteit of onroerend dan wel roerend goed binnen de grenzen van een haven / Projet de loi modifiant le Code penal en vue d'incriminer l'entrée ou l'intrusion de toute personne non habilitée ou non autorisée dans une installation portuaire ou dans un bien immobilier ou mobilier situé à l'intérieur du périmètre d'un port\)](#), 25 April 2016.

<p><u>binnendringen in een havenfaciliteit of onroerend dan wel roerend goed binnen de grenzen van een haven / Loi modifiant le Code penal en vue d'incriminer l'entrée ou l'intrusion de toute personne non habilitée ou non autorisée dans une installation portuaire ou dans un bien immobilier ou mobilier situé à l'intérieur du périmètre d'un port</u>), 20 May 2016.</p> <p>Belgium, Criminal Code, Art. 546/1 to 546/3.</p>		
<p>2. Belgium, <u>Law concerning the Belgian Development Cooperation (Wet betreffende de Belgische Ontwikkelingssamenwerking / Loi relative à la Coopération belge au Développement)</u>, 19 March 2013. As amended by Belgium, <u>Law to amend the law of 19 March 2013 concerning the Belgian development cooperation (Wet tot wijziging van de wet van 19 maart 2013 betreffende de Belgische ontwikkelingssamenwerking / Loi modifiant la loi du 19 mars 2013 relatif à la Coopération belge au</u></p>	C	<p>Positive and negative.</p> <p>On 19 March 2013, the Law concerning the Belgian Development Cooperation was adopted to enhance the quality of development aid. The law gave rise to a new legal framework on the funding of NGOs. The Law of 16 June 2015, which amended the Law of 19 March 2013 concerning the Belgian Development Cooperation, entered into force on June 2016. One of the main changes is the drastic reduction in the number of subsidy instruments used to rationalise and simplify the government funding and the alleviation of administrative</p>

<p>Développement), 16 June 2016.</p> <p>Belgium, Royal Decree concerning the funding of the actors of the non-governmental cooperation (<i>Koninklijk besluit betreffende de subsidiëring van de actoren van de niet-gouvernementele samenwerking / Arrêté royal concernant la subvention des acteurs de la coopération non gouvernementale</i>), 25 April 2014. Replaced by Belgium, Royal Decree concerning the non-governmental cooperation (Koninklijk besluit betreffende de niet-gouvernementele samenwerking / Arrêté royal concernant non gouvernementale), 11 September 2016.</p> <p>FPS Foreign Affairs, Foreign Trade and Development Cooperation (<i>FOD Buitenlandse Zaken, Buitenlandse Handel en Ontwikkelingssamenwerking / SPF Affaires Etrangères, Commerce Extérieur et Coopération au Développement</i>), Royal Decree concerning the non-governmental cooperation – Report to the King (Koninklijk Besluit betreffende de niet-gouvernementele samenwerking –</p>		<p>requirements. From now on, government funding of development cooperation goes through programme financing. It is logical to assess the quality of NGOs receiving funding and to submit them to financial screening. The funding applications are, however, also assessed on the basis of a number of political criteria, such as how they contribute to the fight against illegal migration. Such political criteria turn it into a political instrument that instrumentalises civil society.</p>
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<p><u>Verlag aan de Koning / Arrêté royal concernant la coopération non-gouvernementale – Rapport au Roi</u>), 11 September 2016.</p> <p>11.11.11 (2014), <u>Jaarrapport van de ontwikkelingssamenwerking 2013. De federale, Europese en regionale ontwikkelingssamenwerking</u>, p. 25.</p> <p>11.11.11, Information obtained during an interview on 28 February 2017.</p>		
<p>3. Belgium, House of Representatives, <u>Amending the Constitution – Proposal to renew article 12 of the Constitution (Herziening van de Grondwet – Voorstel tot hernieuwing van artikel 12 van de Grondwet / Révision de la Constitution – Proposition de revision de l'article 12 de la Constitution)</u>, 28 September 2016.</p>	<p>A and B</p>	<p>Negative.</p> <p>In the Parliamentary Committee for Counterterrorism (<i>Kamercommissie Terrorismebestrijding / Comité parlementaire pour la lutte antiterroriste</i>) a proposal is being discussed to extend the maximum duration of an arrest. It currently stands at 24 hours for judicial arrests, which can be extended only on the order of the investigation judge.⁴ The proposals make it 48 hours, which could be extended to 72 hours by order of the judge and for offences determined by law. The proposal refers to crimes related to terrorism, but</p>

⁴ Belgium, Constitution, Art. 12.

		<p>leaves it up to the legislator to determine the exact nature of the offences. This means that in the future, the duration of an arrest for other offences and crimes can easily be extended by a simple parliamentary majority. Peace Action (<i>Vredesactie</i>) fears that the constitutional amendment will make it possible to arrest non-violent protesters for 48 or even 72 hours, since the police may arrest people who “participate in public meetings which pose an actual threat to public order”.⁵</p>
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On 24 September 2013, the criminal court of Dendermonde convicted 11 protesters of the Field Liberation Movement for gang formation, destruction and in submission for removing and replacing genetically manipulated potatoes with biological ones at an open test field in Wetteren in May 2011.⁶ NGOs, lawyers and academics considered the conviction for criminal conspiracy to be unreasonable and disproportionate for an act of civil disobedience involving material damage.⁷ It criminalises a political act and allows the criminalisation of peaceful actions by the most divergent groups.⁸

On 23 December 2014, the court of appeal of Ghent cleared the criminal gang formation because it did not consider intent to be proven.⁹ It stated that the violent attack of the test field did not constitute freedom of speech or civil disobedience and that the activists did not need to resort to

⁵ Peace Action (*Vredesactie*) (2016), [Wordt binnenkort elke actievoerder behandeld als een terrorist?](#) (accessed 17 February 2017), 20 December 2016.

⁶ Mast, T. (2013), [Straffen tot 6 maanden met uitstel in aardappelproces](#) (accessed on 17 February 2017), *De Morgen*, 24 September 2013.

⁷ 11.11.11 (2013), [Vonnis in rechtszaak aardappelactivisten criminaliseert politieke actie op zich](#), 25 September 2013. Het Nieuwsblad (2014), [Verminderde straffen voor Field Liberation Movement](#) (accessed on 17 February 2017), 23 December 2014.

⁸ 11.11.11 (2013), [Vonnis in rechtszaak aardappelactivisten criminaliseert politieke actie op zich](#), 25 September 2013.

⁹ Knack (2014), [Field Liberation Movement krijgt lichtere straf](#) (accessed on 17 February 2017), 23 December 2014.

violence to express their opinion in an appropriate manner. The decision was not appealed and is thus final.¹⁰

On 10 September 2014, a bill was submitted to exclude activities of a political, union, humanitarian, philosophical or religious nature or with any other lawful purpose from the scope of article 322 of the Criminal Code.¹¹ This article stipulates that each association with the intent to commit an attack on persons or property, constitutes a crime or an offence by the mere fact of forming the gang. The bill was not supported as it was considered too broad, thereby leaving too much room for abuse. Lobbying efforts of NGOs with the Minister of the Justice have failed.¹² The risk thus remains that NGOs and demonstrators can be prosecuted and convicted for gang formation.

2 EU Member State government funding for non-governmental organisations – trends and developments 2011-2016

2.1 Overall amount of government funding

There is no specific subsidy programme for human rights' organisations in Belgium.¹³ No information is available on the overall amount of government funding for NGOs promoting fundamental rights in Belgium at the federal and regional levels.¹⁴

The financing of human rights' organisations is mainly dependent upon the communities and regions.¹⁵

- Nationally

¹⁰ De Redactie (2015), [Lichte straffen in aardappelproces definitief](#) (accessed on 17 February 2017), 13 January 2015.

¹¹ Belgium, House of Representatives, [Bill to amend the Criminal Code in order to exclude activities of political, union, humanitarian, philosophical or religious nature or any other lawful purpose from the scope of the Criminal Code](#) (*Wetsvoorstel tot wijziging van het Strafwetboek, teneinde activiteiten van politieke, vakorganisatorische, menslievende, levenbeschouwelijke of religieuze aard dan wel met enig ander rechtmatig oogmerk, uit te sluiten van het toepassingsgebied van de strafwet / Proposition de loi modifiant le Code penal en vue d'exclure du champ d'application de la loi pénale les activités d'ordre politique, syndical, philanthropique, philosophique ou religieux ou qui poursuit exclusivement tout autre but légitime*), 10 September 2014.

¹² Peace Action (*Vredesactie*), Information obtained via email on 7 February 2017.

¹³ Interfederal Centre for Equal Opportunities (*Interfederaal Gelijkekansencentrum / Centre interfédéral pour l'égalité des chances, UNIA*), Information obtained via email on 6 February 2017.

¹⁴ FPS Finances (*Federale Overheidsdienst Financiën / Service Public Fédéral Finances*), Information obtained via email on 7 February 2017. FPS Budget and Management Control (*FOD Budget en Beheerscontrole / Service Public Fédéral Budget et Contrôle de la Gestion*), Information obtained via email on 6 February 2017. Flemish Budget Service (*Vlaamse Begrotingsdienst*), Information obtained via email on 8 February 2017.

¹⁵ UNIA, Information obtained via email on 6 February 2017.

Between 1 October and 16 November 2015, 700 directors of organisations involved in social, health care, cultural, environmental and development cooperation sectors, were interviewed for the sixth barometer on the financial situation of associations. Irrespective of their size, all associations stated that the situation of associations deteriorated in Belgium in 2015.¹⁶ 38 % of the organisations reported a decrease – ranging from 1 % to 10 % for most – in structural government funding, compared to 18 % of the organisations in 2014. It concerns 47 % of the organisations in Flanders and 30 % of these in Wallonia. The decrease-trend has been ongoing for five or six years.¹⁷ Every year, there is a reduction by some percentage points, which means that the decrease in subsidies is sometimes subtle yet enough to shut down associations.¹⁸ Since 2012, the share of government subsidies of the total revenues of associations has decreased: from 57 % in 2012, to 54 % in 2013, 53 % in 2014 and 48 % in 2015.¹⁹ The number of organisations that expect a further decrease in permanent government funding remains stable compared to 2014 (seven out of ten associations).²⁰

Organisations state, in the sixth barometer on the financial situation of associations, that the government increasingly funds NGOs through projects, but that the subsidies do not go up despite the decrease in structural government funding.²¹ Project subsidies force organisations to focus more on short-term thinking and to recruit on a project basis.²² Organisations feel that the government uses such subsidies to realise its own societal goals by making them compete in order to find the cheapest way to obtain results.²³ This creates unhealthy competition that negatively affects the realisation of the NGOs' own goals.²⁴ As in 2014, four out of ten organisations reported a decrease of project subsidies in 2015.²⁵ 31 % of the organisations interviewed in 2015 expect a decrease in project subsidies the coming year, compared to 40 % in 2014.²⁶

¹⁶ Fontaine, B., *Koning Boudewijnstichting* (2015), [Barometer van de Verenigingen](#), Ipsos, p. 13.

¹⁷ Fontaine, B., *Koning Boudewijnstichting* (2015), [Barometer van de Verenigingen](#), Ipsos, p. 17.

¹⁸ Fontaine, B., *Koning Boudewijnstichting* (2015), [Barometer van de Verenigingen](#), Ipsos, p. 16.

¹⁹ Fontaine, B., *Koning Boudewijnstichting* (2015), [Barometer van de Verenigingen](#), Ipsos, p. 22.

²⁰ Fontaine, B., *Koning Boudewijnstichting* (2015), [Barometer van de Verenigingen](#), Ipsos, pp. 31-33.

²¹ Fontaine, B., *Koning Boudewijnstichting* (2015), [Barometer van de Verenigingen](#), Ipsos.

²² Fontaine, B., *Koning Boudewijnstichting* (2015), [Barometer van de Verenigingen](#), Ipsos, p. 19.

²³ Cession, C. (2015), 'Qu'est-ce que le sociocultural aujourd'hui? S'Adapter benoîtement?', *Le Journal de Culture & Démocratie*, No. 40, pp. 4-5. Fontaine, B., *Koning Boudewijnstichting* (2015), [Barometer van de Verenigingen](#), Ipsos, p. 19.

²⁴ Fontaine, B., *Koning Boudewijnstichting* (2015), [Barometer van de Verenigingen](#), Ipsos, pp. 19-20.

²⁵ Fontaine, B., *Koning Boudewijnstichting* (2015), [Barometer van de Verenigingen](#), Ipsos, p. 18.

²⁶ Fontaine, B., *Koning Boudewijnstichting* (2015), [Barometer van de Verenigingen](#), Ipsos, p. 31-33.

- Federal level

Since 1991, the Federal Impulse Fund for Migration Policy (*Federaal Impulsfonds voor het Migrantenbeleid, FIM / Fonds d'Impulsion pour la Politique des Immigrés, FIPI*) has supported projects encouraging the social integration of persons of foreign origin, contributing to the prevention of discrimination and promoting intercultural communication. In 2011, the budget of € 8 million was used to fund 551 out of 825 grant applications.²⁷ In 2012, it concerned € 7,937,000 for 558 out of 919 grant applications.²⁸ In 2013, € 7,284,486.66 for 516 out of 943 grant applications.²⁹ In 2014, € 6,966,032.58 for 516 projects.³⁰ The five large cities of the country and their agglomerations (Antwerp, Brussels, Charleroi, Ghent and Liège) received at least 75 % of the available funding.³¹ On 1 January 2015, it was reformed and discontinued within the framework of the sixth state reform.³²

Part of the FIM/FIPI subsidies, although not all, were taken over by the regions and the communities, but not all.³³

The Belgian Refugee Council (*Belgisch Comité voor Hulp aan Vluchtelingen, BCHV / Comité Belge d'aide aux Réfugiés, CBAR*) ceased all its activities at the end of 2016 due to the termination of different government and project funding.³⁴ Having existed for almost fifty years, the NGO acted as a bridge figure between the government and civil society organisations and provided free legal aid to asylum seekers, recognised refugees and beneficiaries of subsidiary protection, their lawyers and social workers. Until 2015, the Belgian Refugee Council received half of its yearly budget from the European Refugee Fund. Since the reform of that fund to the Asylum, Migration and Integration Fund (AMIF), it is up to the Member States to decide how they spend the European money. In relation to asylum procedures, the government opted to finance several asylum offices that deal with the procedures. Additionally, the BCHV/CBAR lost the money it received from the Federal Impulse Fund for Migration Policy (see above). The Director of the Belgian Refugee Council states that the

²⁷ UNIA (2012), [The Centre in 2011 – Annual activity and management report for 2011](#), pp. 22-23.

²⁸ UNIA (2013), [Het Centrum in 2012 – Voorrang aan debat en dialoog. Jaarverslag algemene werking](#), p. 24.

²⁹ UNIA (2014), [Het Centrum in 2013 – Jaarverslag algemene werking 2013](#), p. 20.

³⁰ UNIA (2017), [Eindrapport van het Federaal Impulsfonds voor het Migrantenbeleid – FIM](#), p. 5.

³¹ Belgium, Federal Public Service Social Integration, Poverty Reduction and Social Economy and Large Urban Policy (*Programmatorische Federale Overheidsdienst Maatschappelijke Integratie, Armoedebestrijding en Social Economie en Grootstedenbeleid / Service Public Fédéral de Programmation Intégration sociale, Lutte contre la Pauvreté, Economie sociale et Politique des Grandes Villes*), [Impulsfonds voor het Migrantenbeleid Projectoproep](#), 24 February 2014.

³² UNIA, [Sensibilisering & Preventie](#) (accessed on 17 February 2017).

³³ UNIA, Information obtained via email on 6 February 2017.

³⁴ BCHV-CBAR, [Aankondiging](#) (accessed on 17 February 2017). De Morgen (2015), [Belgisch Comité voor Hulp aan Vluchtelingen moet boeken neerleggen](#), 10 December 2015.

termination of the funding is partly the result of the asylum crisis: providing legal support to asylum seekers is no longer a priority for European and federal funds.

The subsidies of so-called north-south organisations that are active in the area of development cooperation are dramatically being cut back, thereby resulting in a deterioration of the situation of this sector.³⁵ While NGOs in this sector were largely saved from the government's austerity policy over the past few years, this is no longer the case from 2017 onwards and further budget cuts are expected in the coming years.³⁶ The amount of the Belgian development aid decreased by € 123 million from 2014 to 2015, thus standing at € 1,723 or 0.42 % of the gross national income compared to 0.46 % in 2014.³⁷ While the aid has decreased since 2010, the trend is reinforced by the austerity policy of the current government, which turns development cooperation into the main variable of budgetary changes. The north-south organisation 11.11.11 states that the main beneficiary of Belgian development aid is the Belgian State: the budget for the reception of asylum seekers, which represents 12 % of the total budget of development aid in 2015, was spent in Belgium rather than in the partner countries.

Each year, SPF Justice grants subsidies to various NGOs working on the promotion of children's rights, migrants' rights and the fight against human trafficking.³⁸ Both in 2015 and in 2016, this concerned € 46,000. No information was provided on previous years. SPF Justice also grants subsidies to associations employing guardians for unaccompanied foreign children. It concerned € 130,000 in 2016 for the supervision and training of tutors and € 245,000 for the payments of tutors of unaccompanied children in Belgium. For 2017, this concerns more than € 600,000, meaning that the latter amount more than doubles.

- Flemish Community

The Human Rights and the Flemish (international) policy 2012-2016 and 2017-2020 (*Mensenrechten en het Vlaams (international) beleid 2012-2016 en 2017-2020*) from January 2017 contains a non-exhaustive overview of human rights' projects financed by Flanders between 2011 and 2016.³⁹ It is not possible to assess the evolution of the overall amount of government funding during this period, because the information is not always broken down per year. In addition, it includes, not only the funding of Belgian NGOs, but also of projects and NGOs abroad, UN bodies and

³⁵ UNIA, Information obtained via email on 6 February 2017. Fontaine, B., *Koning Boudewijnstichting* (2015), [Barometer van de Verenigingen](#), Ipsos, p. 14.

³⁶ 11.11.11, Information obtained during interview on 28 February 2017.

³⁷ 11.11.11 (2016), [Rapport 2016 sur l'aide belge au développement. Peut-on faire mieux avec moins ?](#), p. 2.

³⁸ SPF Justice (*Federale Overheidsdienst Justitie / Service public federal Justice*), Information obtained via email on 2 February 2017.

³⁹ Belgium, Flemish government, *Mensenrechten en het Vlaams (Internationaal) beleid 2012-2016 en 2017-2020*, 2017, pp. 34–39.

independent inter-federal public institutions such as the Equality Body: the Interfederal Centre for Equal Opportunities (*Interfederaal Gelijkekansencentrum / Centre interfédéral pour l'égalité des chances, UNIA*).

In the Flemish Community, there have been many budget cuts in the migration and asylum sector.⁴⁰ Almost the entire sector faces financial difficulties.⁴¹ For instance, the survival of the non-profit organisation Intact is threatened by the lack of structural funding and has only managed to survive thanks to continuously applying for specific projects.⁴² Without structural funding, Intact will have to considerably reduce its fields of activities from 2018 onwards. This is due to the fact that it will no longer be able to provide legal assistance to magistrates, politicians and professionals in various sectors involved in efforts connected to asylum and the protection of girls and women exposed to or victims of female genital mutilation or related violence in Belgium.⁴³ The Refugee Work Flanders (*Vluchtelingenwerk Vlaanderen*) recently also thoroughly reformed and reduced its operation because of the termination of different government and project subsidies.⁴⁴ The organisation reports a decrease of its available budget by half from 2012 to 2016, thereby threatening its reception of and support to asylum seekers and its legal services. The federal government prefers working with large scale centres that are managed by the government and supplemented by local reception by Public Welfare Centres (*Openbare Centra voor Maatschappelijk Welzijn, OCMW / Centres Publics d'Action Sociale, CPAS*), thereby increasingly abandoning cooperation with NGOs on these matters.⁴⁵

No information has been identified in the other communities/regions.

2.2 Distribution of government funding

No general information is available on the distribution of government funding for NGOs promoting fundamental rights in Belgium.⁴⁶

- Federal level

⁴⁰ UNIA, Information obtained via email on 6 February 2017.

⁴¹ Federal Migration Centre (*Federaal Migratiecentrum / Centre federal Migration, MYRIA*), Email, 13 February 2017.

⁴² La Libre Belgique (2017), 'Un centre d'expertise sur les mutilations génitales en mal de subsides', 5 February 2017.

⁴³ La Libre Belgique (2017), 'Un centre d'expertise sur les mutilations génitales en mal de subsides', 5 February 2017.

⁴⁴ Refugee Work Flanders (*Vluchtelingenwerk Vlaanderen*) (2015), [Budgettaire hakbijl politiek treft Vluchtelingenwerk. Management in vooropzeg uit voorzorg](#), Press release, 7 July 2015.

⁴⁵ UNIA, Information obtained via email on 6 February 2017.

⁴⁶ FPS Finances (*Federale Overheidsdienst Financiën / Service Public Fédéral Finances*), information obtained via email on 7 February 2017. FPS Budget and Management Control (*FOD Budget en Beheerscontrole / Service Public Fédéral Budget et Contrôle de la Gestion*), information obtained via email on 6 February 2017. Flemish Budget Service (*Vlaamse Begrotingsdienst*), information obtained via email on 8 February 2017.

In 2014, the federal support for humanitarian help and rehabilitation greatly reduced from € 27 million to € 5.5 million, while the co-funding of projects and programs of NGOs involved in development cooperation amounted up to almost € 136 million.⁴⁷

- Flemish Community

The Human Rights and the Flemish (international) policy 2012-2016 and 2017-2020 (*Mensenrechten en het Vlaams (international) beleid 2012-2016 en 2017-2020*), which was communicated to the Flemish government at the end of January 2017, contains a non-exhaustive overview of human rights' projects financed by Flanders between 2011 and 2016.⁴⁸ While the information is divided by topic (rights of the child, Roma, equal opportunities, etc.), no distinction is made according to the distribution of government funding across different types of activities.

Not all NGOs promoting fundamental rights in Belgium accept government funding. For instance, the Flemish section of Amnesty International Belgium does not accept any funding from the federal government in order to safeguard its political independency.⁴⁹ It does receive subsidies from the Flemish government for human rights' education and for local support groups. It concerns approximately 12 % of Amnesty International Flanders' yearly income.⁵⁰ The amount of this funding has remained more or less stable between 2011 and 2016.⁵¹

On 20 January 2012, the Flemish government approved the amended Decree concerning a renewed youth and children rights' policy (*Decreet houdende een vernieuwd jeugd- en kinderrechtenbeleid*).⁵² The decree provides a subsidy for so-called information and participation associations (*verenigingen informatie en participatie*).⁵³ Yearly, approximately € 3 million in subsidies is attributed to associations that aim to make or transfer a qualitative information offer for or about the rights of the child.⁵⁴

⁴⁷ NGO Openboek (2015), [Cijfers van 2014 – Publieke giften blijven op peil](#) (accessed on 17 February 2017), 2015.

⁴⁸ Belgium, Flemish government, *Mensenrechten en het Vlaams (Internationaal) beleid 2012-2016 en 2017-2020*, 2017, pp. 34–39.

⁴⁹ Amnesty International Flanders (*Amnesty International Vlaanderen*) (2012), [Acties & Resultaten van Amnesty International Vlaanderen VZW – Duurzaamheidsverslag 2011](#), p. 42.

⁵⁰ Amnesty International Flanders (*Amnesty International Vlaanderen*) (2012), [Acties & Resultaten van Amnesty International Vlaanderen VZW – Duurzaamheidsverslag 2011](#), p. 42.

⁵¹ Amnesty International Flanders (*Amnesty International Vlaanderen*), information obtained via email on 8 February 2017.

⁵² Belgium, Flemish government, [Decree concerning a renewed youth and children rights' policy \(Decreet houdende een vernieuwd jeugd- en kinderrechtenbeleid\)](#), 20 January 2012.

⁵³ Belgium, Flemish government, [Decree concerning a renewed youth and children rights' policy \(Decreet houdende een vernieuwd jeugd- en kinderrechtenbeleid\)](#), 20 January 2012, art. 8§2.

⁵⁴ Belgium, Flemish government, *Mensenrechten en het Vlaams (Internationaal) beleid 2012-2016 en 2017-2020*, 2017, p. 7.

2.3 Restrictions (or other changes) on NGO funding from other sources

NGOs in Belgium are free to organise their own funding. There are no limitations to the funding of NGOs through other sources than the government, except that it must be done in a lawful manner and that they do bookkeeping.⁵⁵ Considering the decrease of government funding in the last few years, private funding is gaining more and more importance.⁵⁶ NGOs can receive funding from sources other than the government, such as gifts from private donors and patrons, membership fees, money collected through actions and events organised by volunteers, and other sources such as licences and sponsorship agreements with companies and other organisations.⁵⁷

The sixth barometer on the financial situation of associations (*barometer*) demonstrates that organisations increasingly appeal to the private sector for their funding.⁵⁸ As a result, they must become more professional. While Flemish organisations consider this to be a positive and interesting challenge, Walloon organisations feel that it takes them further away from their core values and that quantitative results are put above qualitative results.⁵⁹ Younger organisations are also more flexible and open to this change than associations which were established in the 70s or 80s.

Inheritances are an upcoming source of income for NGOs in Belgium. Both for big and smaller organisations, it concerns about a quarter or more of their revenues.⁶⁰ For instance, the revenues from inheritances of Doctors Without Borders rose from € five million to € 10 million from 2012 to 2015.⁶¹ Between 2011 and 2016, the amount of inheritances for charities in Flanders almost doubled.⁶² In 2015, the Flemish people gave € 187,746,940 in inheritance money to charities, which is the highest number ever.⁶³ An online questionnaire from HoGent with 8,500 active

⁵⁵ FPS Foreign Affairs, Foreign Trade and Development Cooperation (*Federale Overheidsdienst Buitenlandse Zaken, Buitenlandse Handel en Ontwikkelingssamenwerking / Service Public Fédéral Affaires étrangères, Commerce extérieur et Coopération au Développement*), Information obtained via email on 8 February 2017.

⁵⁶ UNIA, Information obtained via email on 6 February 2017.

⁵⁷ Amnesty International Flanders (*Amnesty International Vlaanderen*) (2012), [Acties & Resultaten van Amnesty International Vlaanderen VZW – Duurzaamheidsverslag 2011](#), p. 42.

⁵⁸ Fontaine, B., *Koning Boudewijnstichting* (2015), [Barometer van de Verenigingen](#), Ipsos, p. 23–24.

⁵⁹ Fontaine, B., *Koning Boudewijnstichting* (2015), [Barometer van de Verenigingen](#), Ipsos, p. 24.

⁶⁰ Hendrix, D. and Mayeur, T. (2015), [Vroeger erfde de Kerk, nu het goede doel](#) (accessed on 17 February 2017), *De Standaard*, 29 December 2015.

⁶¹ Hendrix, D. and Mayeur, T. (2015), [Vroeger erfde de Kerk, nu het goede doel](#) (accessed on 17 February 2017), *De Standaard*, 29 December 2015.

⁶² Testament.be (2016), *'Legaten barometer'*, Press release, 2016. Deceunynck, F. (2016), [Legaat of duolegaat](#) (accessed on 17 February 2017), *De Standaard*, 24–25 December 2016.

⁶³ Het Nieuwsblad (2016), [Schatkist verdient fortuin aan erfenissen voor goede doel](#) (accessed on 17 February 2017), 28 December 2016.

NGOs in Belgium appears to confirm this positive trend: for the participating NGOs, the average amount received from inheritances rose from € 118,129 in 2010 to € 403,157 in 2015.⁶⁴ Of the 196 charities that received donations from inheritances, 35 % was benefitted through the fiscally beneficial system, dual legacy.⁶⁵

The dual legacy is a formula allowing people to benefit a charity and other legatees in their will: the charity pays inheritance taxes on the whole legacy (different rates for different heirs and a reduced rate for its share), while the other legatees receive their share without having to pay inheritance taxes, thereby increasing the net amount of the legacy.⁶⁶ In 2013, the inheritance tax for legacies to charities and non-profit organisations was reduced from 8.8 % to 8.5 % in Flanders.⁶⁷ In Wallonia it stands at 7 % and in Brussels at 12.5 % or 25 %, depending on whether or not the organisations can deliver tax certificates for gifts.⁶⁸ Testament.be, a campaign that groups 120 charities to finance awareness raising campaigns on the dual legacy, argues that the tax for charities should be removed, because many of the tasks performed by charities no longer need to be performed by the government. Hence, it makes no sense that the Flemish government profits from the taxes on dual legacies (€ 15,800,000 in 2015).⁶⁹ Considering that NGOs benefitting from a dual legacy must pay all possible debts and costs attached to the inheritance on top of all inheritance taxes, small NGOs may have difficulties to act as a general legatee and to fulfil all the formalities attached to it.⁷⁰ The upcoming reform of Belgian inheritance law is likely to further benefit charities, considering that one of the proposals concerns the expansion of the freely available part of the inheritance to 50 % irrespective of the number of children a person has.⁷¹ Currently, the freely available part varies depending on how many children one has: 50 % when there is one child, one third of the inheritance when there are two children, one quarter when there are three children and so on.

⁶⁴ Deceunynck, F. (2016), [Legaat of duolegaat](#) (accessed on 17 February 2017), *De Standaard*, 24–25 December 2016.

⁶⁵ Deceunynck, F. (2016), [Legaat of duolegaat](#) (accessed on 17 February 2017), *De Standaard*, 24–25 December 2016.

⁶⁶ Belgium, Inheritance Tax Code (*Wetboek der Successierechten / Code des Droits de Succession*), Art. 59 and 64§2.

⁶⁷ Belgium, [Decree amending the Inheritance Tax Code and the Code of Registration, Mortgage and Registry Law, with regard to the rate on death duties and gifts for charities \(Decreet houdende wijziging van het Wetboek der Successierechten en het Wetboek der Registratie-, Hypotheek- en Griffierechten, wat het tarief inzake successie- en schenkingsrechten voor goede doelen betreft / Décret portant modification du Code des droits de succession et du Code des droits d'enregistrement, d'hypothèque et de greffe, en ce qui concerne le tarif en matière de droits de succession et de donation pour les bonnes causes\)](#), 6 December 2013, Art. 3.

⁶⁸ Royal Federation of the Belgian Notary (*Koninklijke Federatie van het Belgisch Notariaat / Fédération Royale du Notariat belge*), [Tarief vzw's en \(private\) stichtingen](#) (accessed 17 February 2017).

⁶⁹ Het Nieuwsblad (2016), [Schatkist verdient fortuin aan erfenissen voor goede doel](#) (accessed on 17 February 2017), 28 December 2016.

⁷⁰ Van Dorsselaer, I. (2010), [Maak het verschil – Een goed doel in uw testament](#), Brussels, *Koninklijke Federatie van het Belgisch Notariaat*, p. 6.

⁷¹ Dujardin, D. (2016), *Revolutionaire hervorming van erfenisrecht*, *Het Laatste Nieuws*, 23 December 2016.

3 Access to the decision-making process for non-governmental organisations working on fundamental rights

Title of legislation/policy	Reference	Short summary (max 500 characters)
Law concerning the Belgian Development Cooperation.	<p>Belgium, Law concerning the Belgian Development Cooperation (Wet betreffende de Belgische Ontwikkelingssamenwerking / Loi relative à la Coopération belge au Développement), 19 March 2013.</p> <p>Belgium, Law to amend the law of 19 March 2013 concerning the Belgian development cooperation (Wet tot wijziging van de wet van 19 maart 2013 betreffende de Belgische ontwikkelingssamenwerking / Loi modifiant la loi du 19 mars 2013 relatif à la Coopération belge au Développement), 16 June 2016.</p> <p>Belgium, Royal Decree concerning the non-governmental cooperation (Koninklijk besluit betreffende de niet-gouvernementele samenwerking / Arrêté royal concernant non</p>	<p>On 30 June 2016, the new law on the Belgian development cooperation entered into force. The law was adopted after an in depth consultation with representatives of the non-governmental cooperation. Most changes relate to the latter, which includes NGOs, unions and institutional actors like universities, in order to render it more efficient in times of budgetary restrictions. One of the aims of the law is to attune the three forms of cooperation, namely governmental, non-governmental and multilateral.</p> <p>During the consultations for the new law, the non-governmental organisations and the institutional actors drew up a renewed partnership framework agreement with the Minister of Belgian Development Cooperation. The agreement entered into force in 2017 and</p>

	<p>gouvernementale), 11 September 2016.</p> <p>Kingdom of Belgium Foreign Affairs, Foreign Trade and Development Cooperation (<i>Kingdom of Belgium Foreign Affairs, Foreign Trade and Development Cooperation / Royaume de Belgique Affaires étrangères, Commerce extérieur et Coopération au Développement</i>) (2016), Niet- gouvernementele samenwerking vernieuwt, 30 July 2016.</p> <p>Belgium, Framework agreement between the vice Prime Minister Alexander De Croo and the representatives of the non-governmental cooperation (Raamakkoord tussen vice-eersteminister Alexander De Croo en de vertegenwoordigers van de niet- gouvernementele samenwerking / Un partenariat renouvelé pour les acteurs de la coopération non gouvernementale au sein de la Coopération belge), 7 July 2015, http://www.acodev.be /system/files/ressourc es/20150707_angs_ac</p>	<p>explicitly mentions the key importance of a strategic and mature dialogue between the non-governmental organisations and the government. Yearly, each organisation is guaranteed a bilateral institutional dialogue with the administration. Additionally, at least every three months, a consultation must be held between the administration and the structures that represent the civil society organisations and the institutional actors. This is to discuss the legislation and the general strategy of the Belgian non-governmental cooperation.</p>
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	cord_v4_fr-nl1.pdf , para. 5d and 14–17.	
Bill to amend the Law of 15 December 1980 concerning the access to the territory, residence, establishment and removal of aliens in order to protect the public order and to reinforce national security	<p>Belgium, House of Representatives, Bill to amend the Law of 15 December 1980 concerning the access to the territory, residence, establishment and removal of aliens in order to protect the public order and to reinforce national security (Wetsontwerp tot wijziging van de wet van 15 december 1980 betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen, met het doel de bescherming van de openbare orde en de nationale veiligheid te versterken / Projet de loi modifiant la loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers afin de renforcer la protection de l'ordre public et de la sécurité nationale), 2 February 2017, Art. 7 (1).</p> <p>Federal Migration Centre (<i>Federaal Migratiecentrum / Centre federal Migration, MYRIA</i>), Information obtained</p>	<p>On 2 February 2017, a bill was adopted to amend the Law of 15 December 1980 concerning the access to the territory, residence, establishment and removal of aliens. From now on, the State Secretary for Asylum and Migration no longer needs to request the recommendation of the Advice Committee for Aliens (<i>Commissie van advies voor vreemdelingen / Commission consultative des étrangers</i>) before removing certain categories of aliens – with the exception of people who enjoy international protection in Belgium – from Belgian territory. NGOs such as Caritas International, the Association for the Law of Aliens (<i>l'Association pour le droit des étrangers</i>), the League for Human Rights (<i>Liga voor Mensenrechten</i>) and the Committee for Aliens play an important role in the committee. Over the past few years, the Advice Committee has already faced difficulties to carry out its role sufficiently, because it was</p>

	<p>via email on 13 February 2017.</p> <p>Nahima Lanjri (2013), <u>Welke rol voor de commissie van advies voor vreemdelingen</u> (accessed 17 February 2017), 22 October 2013.</p>	<p>allocated only a small number of files by the State Secretary of Asylum and Migration. Bearing this in mind, the State Secretary is no longer required to request the recommendation of the Advice Committee, the amendment comes down to the de facto discontinuance of the committee.</p>
<p>Reducing the number of reception centres for refugees and asylum seekers</p>	<p>Refugee Work Flanders (<i>Vluchtelingenwerk Vlaanderen</i>) (2016), <u>Vluchtelingenopvangwerking middenveld grotendeels opgedoekt</u> (accessed 17 February 2017), 6 June 2016.</p>	<p>In June 2016, the federal government decided – in light of a decrease in the number of asylum applications – to dramatically reduce the number of reception centres for refugees organised by NGOs, thereby putting a de facto end to the cooperation between the government and civil society regarding the reception for asylum seekers that has existed for seventeen years. The organisations concerned and their employees took notice of the decision in the media and were not directly involved in the decision-making process or the government did not properly inform them about it.</p>

4 Further information

The very complex division of competences in Belgium is one of the biggest challenges faced by NGOs when they aim to influence policies, especially for a transversal theme such as human rights. The National Action Plans on human rights-related themes such as homophobia and gender-related violence help to deal with that challenge.⁷² While they are not a novelty, they are now being used more frequently than before. Moreover, the inter-federal use of these plans is a rather recent development. There are no rules for the drafting of national action plans and the plans themselves do not include specific rules on NGO participation.⁷³ However, the process of its drafting is almost as important as the actual plan adopted because the process gives opportunities to NGOs to discuss themes and concerns. This should be seen as being separate from the question whether NGOs make sufficient use of such opportunities and/or whether governments take the voice of NGOs who do so into consideration. Additionally, a lot depends on the theme of the plan and on the type of NGO. For instance, the impact of a LGBT-NGO can be expected to be bigger on a National Action Plan on violence against LGBT persons, whereas the Minorities Forum will have more to say about the National Action Plan on racism that is currently underway.

- Federal level

SPF Foreign Affairs, Foreign Trade and Development Cooperation systematically organises meetings with civil society on each draft of a national report (Universal Periodic Review and Treaty Bodies) before submitting it to the UN Secretariat.⁷⁴ In addition, it was agreed to organise a more general meeting with civil society to debrief them after a series of constructive dialogues with different committees (six between November 2013 and October 2014). It was decided to regularly organise such general meetings with civil society in order to give updates on implementation and to foster exchanges. The consultations organised in preparation of sessions with human rights' and treaty bodies have improved in terms of organisation, but the participation of civil society remains relatively low.⁷⁵

Currently, there are no formalised cooperation mechanisms between NGOs promoting human rights and the Directorate General Development

⁷² Amnesty International Flanders (*Amnesty International Vlaanderen*), information obtained via email on 13 February 2017.

⁷³ Amnesty International Flanders (*Amnesty International Vlaanderen*), information obtained via email on 22 March 2017.

⁷⁴ FPS Foreign Affairs, Foreign Trade and Development Cooperation (*Federale Overheidsdienst Buitenlandse Zaken, Buitenlandse Handel en Ontwikkelingssamenwerking / Service Public Fédéral Affaires étrangères, Commerce extérieur et Coopération au Développement*), information obtained via email on 8 February 2017.

⁷⁵ Amnesty International Flanders (*Amnesty International Vlaanderen*), information obtained via email on 13 February 2017.

Cooperation and Humanitarian Assistance.⁷⁶ There is ad hoc consultation with certain NGOs such as '11.11.11'.

In 2013 and 2014, several political parties submitted bills at the federal level to criminalise squatting.⁷⁷ According to Peace Action (*Vredesactie*), the description is so broad that it can cover any act of occupation, thus also including non-violent and symbolic actions in which premises or offices are occupied for a short period.⁷⁸ If the proposals are approved, one could be prosecuted and the police could interfere at any time, meaning that one is caught in the act of a crime. Currently, this is not the case: the owner must go through the justice of peace (*vrederechter / juge de paix*) for lengthy occupations of a building by squatters and the police only intervenes – also in symbolic actions – after consultation with and at the request of the owner or the legitimate user.

- Flemish Community

On 1 January 2015, about 25 organisations that (in)directly contributed to respect for and promotion of fundamental rights – mostly non-profit organisations – transferred their staff and work to three external autonomous agencies (*extern verzelfstandigde agentschappen, EVAs*) set up by the Flemish government: Agentschap Integratie en Inburgering, Atlas and In-Gent.⁷⁹ The EVAs now receive the subsidies previously given to the different organisations. It was the choice of the Flemish government to join all the loosely subsidised initiatives established during the past decade – mainly by civil society – in a new governmental structure. It was a process of consultation and discussion with all organisations concerned and there were hearings in the parliament.⁸⁰ While there were some objections concerning the integration of all these civil society organisations

⁷⁶ Directorate General Development Cooperation and Humanitarian Assistance (*Directie-Generaal Ontwikkelingssamenwerking en Humanitaire Hulp / Direction general Coopération au développement et Aide humanitaire*), information obtained via email on 20 February 2017.

⁷⁷ Belgium, House of Representatives, [Bill to amend the Criminal Code regarding the squatting of occupied dwellings \(*Wetsvoorstel tot wijziging van het Strafwetboek wat het kraken van bewoonde woning betreft / Proposition de loi modifiant le Code penal en ce qui concerne le squattage d'habitations*\)](#), 26 November 2013. Belgium, House of Representatives, [Bill to criminalise squatting in building and to extend the criminalisation of home infraction \(*Wetsvoorstel tot strafbaarstelling van het kraken van gebouwen en tot uitbreiding van de strafbaarstelling van woonstschennis / Proposition de loi incriminant le squat d'immeubles et étendant l'incrimination de la violation de domicile*\)](#), 13 April 2015. Belgium, House of Representatives, [Bill to amend the criminal code regarding the entry into service of an immovable property without the permission of the owner \(*Wetsvoorstel tot wijziging van het Strafwetboek wat betreft het zonder toestemming van de eigenaar in gebruik nemen van een onroerend goed / Proposition de loi modifiant le Code penal en ce qui concerne l'occupation d'un immeuble sans l'autorisation du propriétaire*\)](#), 2 April 2015.

⁷⁸ Peace Action (*Vredesactie*), information obtained via email on 9 February 2017.

⁷⁹ Belgium, [Decree concerning the Flemish integration and social integration policy \(*Decreet betreffende het Vlaamse integratie- en inburgeringsbeleid*\)](#), 7 June 2013.

⁸⁰ Belgium, Flemish Parliament (*Vlaams Parlement*), [Draft of decree concerning the Flemish integration and social integration policy \(*Ontwerp van decreet betreffende het Vlaamse integratie- en inburgeringsbeleid*\)](#), 15 January 2013.

into an executive agency of governmental policy, all organisations agreed with the reform. Only the advocacy tasks performed by organisations of migrants have remained outside the EVAs.⁸¹ For instance, the Minorities Forum (*Minderhedenforum*) still receives subsidies for its advocacy tasks. The margin for advocacy within the broader integration sector has, however, been further reduced by the reform.

- Brussels-Capital Region

An ordinance on Brussels' development cooperation is currently being drafted.⁸² It has been approved at the first reading by the members of the government of the Brussels-Capital Region.⁸³ The Brussels-Capital regional government is currently awaiting comments from the Council of State, the Economic and Social Council and NGOs.⁸⁴ The ordinance is expected to be adopted by the summer.⁸⁵ Brussels' development cooperation aims at promoting inclusive and sustainable development and respect for human rights in order to improve the living conditions of the population of development countries. Moreover, it aims to contribute to the consolidation of a just and united international community.

⁸¹ Agency Integration-Social Integration (*Agentschap Integratie en Inburgering*), information obtained via email on 10 February 2017.

⁸² Belgium, [Proposed Ordinance on development cooperation](#) (*Voorstel van Ordonnantie inzake ontwikkelingsamenwerking / Proposition d'Ordonnance relative à la coopération au développement*), 23 January 2015.

⁸³ State Secretary of the Brussels-Capital Region, responsible for Development Cooperation, Road Safety, Regional and Community Informatics and Digital Transition, Equal Opportunities and Animal Welfare (*Staatssecretaris van het Brussels Hoofdstedelijk Gewest belast met Ontwikkelingssamenwerking, Verkeersveiligheid, Gewestelijke en gemeentelijke informatica en Digitalisering, Gelijkekansenbeleid en Dierenwelzijn / Secrétaire d'Etat à la Région de Bruxelles-Capitale, chargée de la Coopération au Développement, de la Sécurité routière, de l'Informatique régionale et communale et de la Transition numérique, de l'Égalité des Chances et du Bien-Etre animal*), information obtained via email on 22 March 2017.

⁸⁴ *Ibid.*

⁸⁵ *Ibid.*