Intersex Genital Mutilations

Human Rights Violations Of Children With Variations Of Sex Anatomy

NGO Report (for PSWG)
to the 5th and 6th Report of Belgium on the Convention on the Rights of the Child (CRC)

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March 2018

This NGO Report online:

http://intersex.shadowreport.org/public/2018-CRC-PSWG-Belgium-NGO-Zwischengeschlecht-Intersex-IGM.pdf

Executive Summary

All typical forms of IGM practices are still practised in Belgium today, facilitated and paid for by the State party via the public health system FOD Volksgezondheid en Sociale Zekerheid / SPF Santé Publique et Securité Sociale. Parents and children are misinformed, kept in the dark, sworn to secrecy, kept isolated and denied appropriate support.

Belgium is thus in breach of its **obligations** under CRC to **(a)** take effective legislative, administrative, judicial or other measures to **prevent harmful practices on intersex children** causing severe mental and physical pain and suffering of the persons concerned, and **(b) ensure access to redress and justice**, including fair and adequate **compensation** and as full as possible **rehabilitation** for victims, as stipulated in **CRC art. 24 para. 3** in conjunction with the **CRC/CEDAW Joint general comment No. 18/31** "on harmful practices".

This Committee has consistently recognised IGM practices to constitute a harmful practice under the Convention in Concluding Observations.

Also **CAT**, **CEDAW**, **CRPD**, the **HRCttee**, the UN Special Rapporteur on Torture (**SRT**), the UN High Commissioner for Human Rights (**UNHCHR**), the World Health Organisation (**WHO**), the Inter-American Commission on Human Rights (**IACHR**), the African Commission on Human and Peoples' Rights (**ACHPR**), the Council of Europe (**COE**) and others have **consistently recognised** IGM as a breach of international law and have called for **legislation** to **(a)** end the practice, **(b)** ensure redress and compensation, and **(c)** to provide access to free counselling.

Intersex people are born with **Variations of Sex Anatomy**, including atypical genitals, atypical sex hormone producing organs, atypical response to sex hormones, atypical genetic make-up, atypical secondary sex markers. While intersex people may face several problems, in the "developed world" the most pressing are the ongoing **Intersex Genital Mutilations**, which present a distinct and unique issue constituting significant human rights violations.

IGM practices include **non-consensual, medically unnecessary, irreversible, cosmetic genital surgeries, and/or other harmful medical procedures based on prejudice** that would not be considered for "normal" children, without evidence of benefit for the children concerned. **Typical forms** of IGM include "masculinising" and "feminising", "corrective" genital surgery, sterilising procedures, imposition of hormones, forced genital exams, vaginal dilations, medical display, human experimentation and denial of needed health care.

IGM Practices cause known **lifelong severe physical and mental pain and suffering**, including loss or impairment of sexual sensation, painful scarring, painful intercourse, incontinence, urethral strictures, impairment or loss of reproductive capabilities, lifelong dependency of artificial hormones, significantly elevated rates of self-harming behaviour and suicidal tendencies, lifelong mental suffering and trauma, increased sexual anxieties, less sexual activity, dissatisfaction with functional and aesthetic results.

For 25 years, intersex people have publicly denounced IGM as **harmful** and **traumatising**, as a form of **genital mutilation** and **child sexual abuse**, as **torture or ill-treatment**, and called for legislation to prevent it and to ensure remedies.

This **Thematic NGO Report** has been compiled by the international intersex NGO **StopIGM.org** in collaboration with Belgian intersex advocate **Thierry Bosman**.

It contains **Suggested Questions for the LOI** (page 15).

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Introduction

1. Belgium: Intersex Human Rights and State Report

IGM practices are known to cause severe, lifelong physical and psychological pain and suffering, and have been repeatedly **recognised by multiple UN treaty bodies**[1] **including CRC** as constituting a harmful practice, violence and torture or ill-treatment, however **weren't mentioned in the 5th and 6th Belgian State Report.** This NGO Report demonstrates that the current **harmful medical practice on intersex persons in Belgium** – advocated, facilitated and paid for by the State party – constitutes a serious breach of Belgium's obligations under the Convention.

2. About the Rapporteurs

This NGO report has been prepared by the international intersex NGO *StopIGM.org / Zwischengeschlecht.org* in collaboration Belgian intersex person and advocate *Thierry Bosman*:

- **Thierry Bosman** is a Belgian intersex person and advocate familiar with IGM Practices who has been working to improve the well-being and human rights of intersex people in Belgium for many years.[2]
- **StopIGM.org / Zwischengeschlecht.org**, founded in 2007, is an international intersex human rights NGO based in Switzerland. It is led by intersex persons, their partners, families and friends, and works to eliminate IGM practices and other human rights violations perpetrated on intersex people, according to its motto, "*Human Rights for Hermaphrodites, too!*" [3] According to its charter,[4] Zwischengeschlecht.org works to support persons concerned seeking redress and justice. StopIGM.org has been active in Belgium since 2015 [5] [6] [7] and regularly reports to UN treaty bodies.[8]

In addition, the Rapporteurs would like to acknowledge the work of pioneering Belgian intersex advocate and IGM survivor **Kris Günther** [9] [10] [11] [12] [13] [14] [15] [16] [17] (also pictured on the cover photo).

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1 **CAT, CRC, CRPD, SPT, SRT, SRSG VAC, COE, ACHPR, IACHR** (2016), "End violence and harmful medical practices on intersex children and adults, UN and regional experts urge", http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20739&LangID=E

2 http://cet.lu/wp-content/uploads/2017/11/Aventure-intersexe-au-Luxembourg-Communique.pdf

3 http://Zwischengeschlecht.org/ English pages: http://StopIGM.org/

4 http://zwischengeschlecht.org/post/Statuten

5 https://web.archive.org/web/20160708031016/http://www.avs.be/avsnews/protest-tegen-genitale-verminking

6 https://vimeo.com/channels/540542/130524251

7 http://stop.genitalmutilation.org/post/Intersex-Protests-Info-DSDnet-I-DSD-Belgium-June-7-13

8 http://intersex.shadowreport.org/

9 https://www.apache.be/fr/2013/07/12/la-difficile-reconnaissance-du-corps-des-personnes-intersexes-en-belgique/

10 https://web.archive.org/web/20170409231634/http://oiifrancophonie.org/wp-content/uploads/2014/08/Sexe-ind%C3%A9termin%C3%A9-une-vie-en-qu%C3%AAte-didentit%C3%A9-sudpresse.pdf

11 http://www.lesoir.be/archive/recup/367612/article/actualite/belgique/2013-11-25/combat-des-intersexes-belges

12 https://www.interfaceproject.org/transcript-kris-gunther

13 https://web.archive.org/web/20170409140740/http://oiifrancophonie.org/wp-content/uploads/2014/09/parisberlin.pdf

14 https://web.archive.org/web/20170409080201/http://oiifrancophonie.org/wp-content/uploads/2014/08/moustique-1.pdf

15 https://vimeo.com/channels/540542/130524251

16 http://next.liberation.fr/sexe/2015/07/01/sans-contrefacon-je-suis-fille-et-garcon_1341211

We would like to acknowledge the work of **Londé Ngosso**[18] and **Genres Pluriels**.[19] And we would like to acknowledge the work of **Intersex Belgium**.[20]

3. Methodology

This thematic NGO report is a localised version of the **2018 thematic CRC Italy PSWG NGO Report**[21] by the same rapporteurs.

17 "Le Quotidien" 21.03.2017, p. 3 (in French), http://kastrationsspital.ch/public/Luxembourg_LeQuotidien_Intersex_21-03-2017.pdf

18 https://parismatch.be/actualites/societe/43229/briser-le-tabou-sur-les-personnes-intersexuees

19 https://www.genrespluriels.be/

20 http://www.intersex-belgium.be/

21 http://intersex.shadowreport.org/public/2018-CRC-PSWG-Italy-NGO-Zwischengeschlecht-Intersex-IGM.pdf

A. Background: Intersex, IGM and Harmful Misrepresentations

1. IGM Practices: Involuntary, unnecessary medical interventions

IGM practices include **non-consensual, medically unnecessary, irreversible, cosmetic genital surgeries**, and/or other similar medical treatments, including imposition of hormones, performed on **children with variations of sex anatomy**,[22] without evidence of benefit for the children concerned, but justified by *"psychosocial indications [...] shaped by the clinician's own values"*, the latter informed by **societal and cultural norms and beliefs**, enabling clinicians to withhold crucial information from both patients and parents, and to submit healthy intersex children to risky and harmful invasive procedures that would not be considered for "normal" children, *"simply because their bodies did not fit social norms"*.[23]

Typical forms of IGM include "feminising" or "masculinising", "corrective" genital surgery, sterilising procedures, imposition of hormones (including prenatal "therapy"), forced genital exams, vaginal dilations, medical display, human experimentation, selective (late term) abortions and denial of needed health care, causing lifelong severe physical and mental **pain and suffering**.[24]

Individual doctors, national and international medical bodies, public and private healthcare providers have traditionally been **framing and "treating" intersex variations as a form of illness or disability** in need to be "cured" surgically, often **with racist, eugenic and supremacist undertones**,[25] [26] [27] [28] describing intersex people as *"inferior"*, *"abnormal"*, *"deformed"*.

In a response to international IGM doctors advocating involuntary non-urgent surgeries on intersex children in a 2016 medical publication,[29] two bioethicists underlined the **prejudice** informing the current medical practice (our emphasis):

> *"The implicit logic of [the doctors'] paper reflects what bioethicist George Annas has called a 'monster ethics' [6], which can be summed up this way:* ***babies with atypical sex are not yet fully human, and so not entitled to human rights.*** *Surgeons make them human by making them recognizably male or female, and only then may they be regarded as entitled to the sexual and medical rights and protections guaranteed to everyone else by current ethical guidelines and laws."* [30]

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22 See "What is Intersex?", 2015 CRC Ireland NGO Report, p. 23–25, http://intersex.shadowreport.org/public/2015-CRC-Ireland-NGO-Zwischengeschlecht-Intersex-IGM.pdf

23 For references, see "What are Intersex Genital Mutilations (IGM)?", 2015 CRC Ireland Report, p. 29

24 See "IGM Practices – Non-Consensual, Unnecessary Interventions", 2015 CRC Ireland NGO Report, p. 29–34

25 2014 CRC NGO Report, p. 52, 69, 84, http://intersex.shadowreport.org/public/2014-CRC-Swiss-NGO-Zwischengeschlecht-Intersex-IGM_v2.pdf

26 In the WHO "World Atlas of Birth Defects (2nd Edition)", many intersex diagnoses are listed, including *"indeterminate sex"* and *"hypospadias":* http://web.archive.org/web/20160305152127/http://prenatal.tv/lecturas/world%20atlas%20of%20birth%20defects.pdf

27 "The Racist Roots of Intersex Genital Mutilations" http://stop.genitalmutilation.org/post/Racist-Roots-of-Intersex-Genital-Mutilations-IGM

28 See **"Intersex, IGM and Prejudice"**, in: 2018 CRPD New Zealand NGO Report, Annexe 1, p. 15-19, http://intersex.shadowreport.org/public/2018-CRPD-New-Zealand-LOIPR-NGO-Intersex-StopIGM.pdf
For **500 years of "scientific" prejudice** in a nutshell, see 2016 CEDAW France NGO Report, p. 7, http://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf

29 Pierre Mouriquand et al, "Surgery in disorders of sex development (DSD) with a gender issue: If (why), when, and how?", Journal of Pediatric Urology (2016), http://www.jpurol.com/article/S1477-5131(16)30012-2/

30 Ellen Feder and Alice Dreger, **"Still ignoring human rights in intersex care"**, Journal of Pediatric Urology

UN Treaty bodies and other human rights experts have consistently recognized IGM practices as a serious breach of international law.[31] **UN Treaty bodies have issued 29 Concluding Observations condemning IGM practices.**[32]

2. Intersex is NOT THE SAME as LGBT or SOGI

Unfortunately, there are also other, often interrelated **harmful misconceptions about intersex** still prevailing in public, notably if intersex is counterfactually described as being the same as or a subset of LGBT or SOGI, e.g. if intersex and/or intersex status are represented as a sexual orientation (like gay or lesbian), and/or as a gender identity, as a subset of transgender, as the same as transsexuality, or as a form of sexual orientation.

The underlying reasons for such harmful misconceptions include **lack of awareness**, third party groups **instrumentalising intersex as a means to an end**[33] [34] for their own agenda, and State parties **trying to deflect** from criticism of involuntary intersex treatments.

Intersex persons and their organisations have spoken out clearly against instrumentalising or misrepresenting intersex issues,[35] maintaining that IGM practices present a **distinct and unique issue** constituting significant human rights violations, which are different from those faced by the LGBT or SOGI community, and thus need to be **adequately addressed in a separate section** as **specific intersex issues.**

Also **human rights experts** are increasingly warning of the **harmful conflation** of intersex and LGBT.[36]

Regrettably, **these harmful misrepresentations seem to be on the rise also at the UN**, for example in recent **UN press releases** and **Summary records** misrepresenting IGM as *"sex alignment surgeries"* (i.e. voluntary procedures on transsexual or transgender persons), IGM survivors as *"transsexual children"*, and intersex NGOs as *"a group of lesbians, gays, bisexuals, transgender and intersex victims of discrimination"*,[37] and again IGM survivors as *"transgender children"*,[38] *"transsexual children who underwent difficult treatments and surgeries"*, and IGM as a form of *"discrimination against transgender and intersex children"* [39].

(2016), http://www.jpurol.com/article/S1477-5131(16)30099-7/

31 **CAT, CRC, CRPD, SPT, SRT, SRSG VAC, COE, ACHPR, IACHR** (2016), "End violence and harmful medical practices on intersex children and adults, UN and regional experts urge", http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20739&LangID=E

32 http://stop.genitalmutilation.org/post/IAD-2016-Soon-20-UN-Reprimands-for-Intersex-Genital-Mutilations

33 CRC67 Denmark, http://stop.genitalmutilation.org/post/CRC67-Intersex-children-used-as-cannon-fodder-LGBT-Denmark

34 CEDAW66 Ukraine, http://stop.genitalmutilation.org/post/Ukraine-Instrumentalising-Intersex-and-IGM-for-LGBT-and-Gender-Politics

35 For references, see 2016 CEDAW France NGO Report, p. 45. http://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf

36 For example ACHPR Commissioner Lawrence Murugu Mute (Kenya), see http://stop.genitalmutilation.org/post/ACHPR-African-Commissioner-warns-Stop-conflating-intersex-and-LGBT

37 CAT60 Argentina, http://stop.genitalmutilation.org/post/UN-Press-Release-calls-IGM-survivors-transsexual-children-CATArgentina-UNCAT60

38 CRC77 Spain, http://stop.genitalmutilation.org/post/UN-Press-Release-mentions-genital-mutilation-of-intersex-children

39 CRC76 Denmark, http://stop.genitalmutilation.org/post/UN-Press-Release-calls-IGM-survivors-transsexual-children-CRC-Denmark-UNCRC67

Particularly **State parties** are constantly **misrepresenting intersex and IGM as sexual orientation or gender identity issues** in an attempt to **deflect from criticism** of the serious human rights violations resulting from IGM practices, instead referring to e.g. *"gender reassignment surgery"* (i.e. voluntary procedures on transsexual or transgender persons) and *"gender assignment surgery for children"*,[40] *"a special provision on sexual orientation and gender identity"*, *"civil registry"* and *"sexual reassignment surgery"* [41], transgender guidelines[42] or *"Gender Identity"* [43] [44] when asked about IGM by e.g. Treaty bodies.

What's more, **LGBT organisations** (including "LGBTI" organisations without actual intersex representation or advocacy) are using the ubiquitous misrepresentation of intersex = LGBT to **misappropriate intersex funding**, thus depriving actual intersex organisations (which mostly have no significant funding, if any) of much needed resources.[45]

3. Misrepresenting Genital Mutilation as "Health Care"

An interrelated, alarming new trend is the **increasing misrepresentation of IGM as *"health-care issue"*** instead of a serious human rights violation, and the **promotion of *"self-regulation"* of IGM by the current perpetrators** [46] [47] [48] – instead of effective measures to finally end the practice (as repeatedly stipulated also by this Committee).

Even worse, **Health** ministries construe UN Treaty body Concluding observations falling short of explicitly recommending legislation to criminalise or adequately sanction IGM as an **excuse for "self-regulation" promoting state-sponsored IGM practices to continue with impunity.**[49]

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40 CRC73 New Zealand, http://stop.genitalmutilation.org/post/NZ-to-be-Questioned-over-Intersex-Genital-Mutilations-by-UN-Committee-on-the-Rights-of-the-Child

41 CCPR120 Switzerland, http://stop.genitalmutilation.org/post/Pinkwashing-of-Intersex-Genital-Mutilations-at-the-UN-CCPR120

42 CAT56 Austria, http://stop.genitalmutilation.org/post/Geneva-UN-Committee-against-Torture-questions-Austria-over-Intersex-Genital-Mutilations

43 CAT60 Argentina, http://stop.genitalmutilation.org/post/CAT60-Argentina-to-be-Questioned-on-Intersex-Genital-Mutilation-by-UN-Committee-against-Torture

44 CRPD18 UK, http://stop.genitalmutilation.org/post/UK-Questioned-over-Intersex-Genital-Mutilations-by-UN-Committee-on-the-Rights-of-Persons-with-Disabilities-CRPD

45 For example in Scotland (UK), LGBT organisations have so far collected at least **£ 135,000.–** public intersex funding, while actual intersex organisations received ZERO public funding, see 2017 CRPD UK NGO Report, p. 14, http://intersex.shadowreport.org/public/2017-CRPD-UK-NGO-Coalition-Intersex-IGM.pdf
Typically, during the interactive dialogue with CRPD, the UK delegation nonetheless tried to sell this glaring misappropriation as "supporting intersex people", but fortunately got called out on this by the Committee, see transcript (Session 2, 10:53h + 11:47h), http://stop.genitalmutilation.org/post/UK-Questioned-over-Intersex-Genital-Mutilations-by-UN-Committee-on-the-Rights-of-Persons-with-Disabilities-CRPD

46 For example Amnesty (2017), see http://stop.genitalmutilation.org/post/Amnesty-Report-fails-Intersex-Children-and-IGM-Survivors

47 For example FRA (2015), see Presentation OHCHR Expert Meeting (2015), slide 8, http://stop.genitalmutilation.org/public/S3_Zwischengeschlecht_UN-Expert-Meeting-2015_web.pdf

48 For example CEDAW Italy (2017), see http://stop.genitalmutilation.org/post/Major-Setback-for-Intersex-Human-Rights-at-the-UN

49 See for example Ministry of Health Chile (2016), http://stop.genitalmutilation.org/post/Circular-7-step-back-for-intersex-human-rights-in-Chile

B. IGM in Belgium: State-sponsored and pervasive, Gov fails to act

1. IGM practices in Belgium: Pervasive and unchallenged

In **Belgium**, same as in the **neighbouring states** of *France* (CRC/C/FRA/CO/5, paras 47-48; CAT/C/FRA/CO/7, paras 32–33; CEDAW/C/FRA/CO/7-8, paras 17e-f + 18e-f), *Germany* (CAT/C/DEU/CO/5, para 20; CRPD/C/DEU/CO/1, p. 6–7, paras 37-38; CEDAW/C/DEU/CO/7-8, paras 23-24) and the *United Kingdom* (CRC/C/GBR/CO/5, paras 46-47; CRPD/C/GBR/CO/1, paras 10(a)-11(a), 38-41), and in **many more State parties**,[50] there are

- **no legal or other protections** in place to ensure the rights of intersex children to physical and mental integrity, autonomy and self-determination, and **to prevent IGM practices**
- no measures in place to ensure data collection and monitoring of IGM practices
- **no legal or other measures** in place to ensure the **accountability** of IGM perpetrators
- no legal or other measures in place to ensure **access to redress and justice** for adult IGM survivors

To this day, the **Belgian government** simply refuses to recognise the human rights violations and suffering caused by IGM practices, let alone to *"take effective legislative, administrative, judicial or other measures"* to protect intersex children, in spite of longstanding criticism and appeals by intersex persons and their organisations,[51] and legal experts.[52]

To this day, in Belgium all forms of IGM practices remain widespread and ongoing, persistently **advocated, prescribed and perpetrated** by state funded University and public Children's Hospitals, **advocated and paid for by the State** via the public health system **FOD Volksgezondheid en Sociale Zekerheid / SPF Santé Publique et Securité Sociale** (Public Administration for Public Health and Social Security).

Currently practiced forms of IGM in Belgium include:

a) IGM 3 – Sterilising Procedures: Castration / "Gonadectomy" / Hysterectomy / Removal of "Discordant Reproductive Structures" / (Secondary) Sterilisation Plus arbitrary imposition of hormones [53]

As advocated in the 2013 ***"ESPU/SPU standpoint on the surgical management of Disorders of Sex Development (DSD)",***[54] co-authored by paediatric surgeon Prof Dr Piet Hoebeke (University Clinic Ghent):

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50 Currently we count **29 Concluding observations on IGM practices for 18 State parties in Europe, South America, Asia and Oceania**, see http://stop.genitalmutilation.org/post/IAD-2016-Soon-20-UN-Reprimands-for-Intersex-Genital-Mutilations

51 See above footnotes 9-20

52 Marie-Laure Tounkara (2015), "Légiférer l'intersexualité en Belgique : un défi pour notre société", master thesis, Université catholique de Louvain, https://dial.uclouvain.be/memoire/ucl/en/object/thesis:3412/datastream/PDF_02/view

53 For general information, see 2016 CEDAW NGO Report France, p. 47. http://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf

54 P. Mouriquand, A. Caldamone, P. Malone, J.D. Frank, P. Hoebeke, "The ESPU/SPU standpoint on the surgical management of Disorders of Sex Development (DSD)", Journal of Pediatric Urology vol. 10, no. 1 (2014), p. 8-10, http://www.jpurol.com/article/S1477-5131(13)00313-6/pdf

> ***"Testes are** either brought down in boys or **removed** if dysgenetic with tumour risk or **in complete androgen insensitivity syndrome or 5 alpha reductase deficiency.** Testicular prostheses can be inserted at puberty at the patient's request."*

Similarly, the **"2016 Global Disorders of Sex Development Consensus Statement",**[55] co-authored by paediatric surgeon Prof Dr Piet Hoebeke (Member of the Global DSD Update Consortium, University Clinic Ghent) and paediatric endocrinologist Martine Cools (University Clinic Ghent) still advocates *"gonadectomy"* – even when admitting *"low"* cancer risk for CAIS (and despite explicitly acknowledging CRC/C/CHE/CO/2-4)[56].

Table 2. GCC risk: clinical management

	Male	Female	Unclear gender
Gonadal dysgenesis (45,X/46,XY and 46,XY)	Undescended testes – Orchiopexy with biopsy – Self-examination – Annual ultrasound (post-puberty) Post-pubertal biopsy – Based on ultrasound and results of first biopsy – If CIS becomes GB → gonadectomy Low threshold for gonadectomy if ambiguous genitalia	Bilateral gonadectomy at diagnosis	Low threshold for gonadectomy if ambiguous genitalia If intact, gonadectomy depends on gender identity
Undervirilization (46,XY: partial AIS, complete AIS, testosterone synthesis disorders	Undescended testes – Orchiopexy with biopsy – Self-examination – Annual ultrasound (post-puberty) Post-pubertal biopsy – Bilateral, CIS → gonadectomy/irradiation Repeat biopsy at 10 years of age – Consider gonadectomy to avoid gynecomastia or if on testosterone supplementation	Partial AIS and testosterone synthesis disorders – Prepubertal gonadectomy Complete AIS – Postpubertal gonadectomy or follow-up – GCC risk low, allow spontaneous puberty	Partial AIS and testosterone synthesis disorders – Bilateral biopsy – Low threshold for gonadectomy Intensive psychological counseling and follow-up

No data are available on the value of cryopreservation or safety if a precursor lesion for GCC is present.

Source: Lee et al., in: Horm Res Paediatr 2016;85:158-180, at 174 (see fn 43)

b) IGM 2 – "Feminising Procedures": Clitoris Amputation/"Reduction", "Vaginoplasty", "Labiaplasty", Dilation[57]

Both the **2016 *"Paediatric Urology"* Guidelines** of the European Society for Paediatric Urology (ESPU) and the European Association of Urology (EAU),[58] co-authored by paediatric surgeon Prof Dr Piet Hoebeke (**University Clinic Ghent**), as well as the current **2017 ESPE/EAU *"Paediatric Urology"* Guidelines**[59] co-authored by paediatric surgeon Prof Dr Guy Bogaert (**University Clinic Leuven**), despite admitting that *"Surgery that alters appearance is not urgent"* and *"Clitoral surgery has been reported to have an adverse outcome on sexual function"*, undeviatingly promote ***"cosmetic indications"*** as justification for ***"Early surgery"*** (partial clitoris amputation) on intersex children diagnosed with ***"severely enlarged clitorises"***.

Accordingly, a 2016 presentation by 6 paediatric surgeons of the **University Clinic Ghent**[60]

55 Lee et al., "Global Disorders of Sex Development Update since 2006: Perceptions, Approach and Care", Horm Res Paediatr 2016;85:158–180, https://www.karger.com/Article/Pdf/442975

56 ibid, at 180 (fn 111)

57 For general information, see 2016 CEDAW NGO Report France, p. 48. http://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf

58 p. 73, https://uroweb.org/wp-content/uploads/EAU-Guidelines-Paediatric-Urology-2016-1.pdf

59 3.16.3-3.16.3.1, available at http://uroweb.org/guideline/paediatric-urology/

60 Waterloos, M.; Claeys, T.; Spinoit, A-F.; Sempels, M.; Van Laecke, E.; Hoebeke, P. (2016), "V64 Genitoplasty in girls with adrenogenital syndrome: Focus on the reconstruction technique", European Urology Supplements, v.15, no.3; video presentation held at EAU16: 31th annual congress of the European Association of Urology, Munich, https://www.researchgate.net/publication/297746246_V64_Genitoplasty_in_girls_with_adrenogenital_syndrome_Focus_on

reported, ***"Reconstructive surgery for adrenogenital syndrome was performed in 22 patients*** *in a tertiary referral centre over the last 16 years", "Median age at surgery was* ***3 months*** *[0-190]"*.

c) IGM 1 – "Masculinising Surgery": Hypospadias "Repair"[61]

Both the **2016 *"Paediatric Urology"* Guidelines** of the European Society for Paediatric Urology (ESPU) and the European Association of Urology (EAU),[62] co-authored by paediatric surgeon Prof Dr Piet Hoebeke (**University Clinic Ghent**), as well as the current **2017 ESPE/EAU *"Paediatric Urology"* Guidelines**[63] co-authored by paediatric surgeon Prof Dr Guy Bogaert (**University Clinic Leuven**), despite admitting that *"Surgery that alters appearance is not urgent"*, undeviatingly promote, ***"The age at surgery for primary hypospadias repair is usually 6-18 (24) months."***

Accordingly, a 2013 publication by 5 paediatric surgeons of the **Department of Urology, University Clinic Ghent**[64] reported, *"We reviewed* ***1,061 operations performed at our institution*** *between 1997 and 2010 and registered as hypospadias repair. The operations were performed in* ***543 patients*** *born between June 1997 and June 2005"*, ***"Mean age at first operation was 22.6 months (range 4 to 134)"***.

And paediatric surgeon Prof Dr Anne-Françoise Spinoit (**University Clinic Ghent**) is known to perform **televised *"Life Surgery"* at specialised medical *"workshops"***.[65]

2. Intersex children from Luxembourg submitted to IGM in Belgium

According to public statements of Yolanda Wagener, Head of Division of the Ministry of Health of Luxembourg, **intersex children from Luxembourg are also sent abroad for surgery**,[66] **namely to Belgium.** This is also confirmed by a public statement of a parent of a intersex child "Sandro", who was sent to a *"specialised hospital in Ghent"*,[67] i.e. **UZ Ghent**,[68] and was consequently submitted to **IGM 1 "masculinising" surgery** ("hypospadias repair") at the **age of 9 months**.

_the_reconstruction_technique

61 For general information, see 2016 CEDAW NGO Report France, p. 48-49. http://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf

62 p. 73, https://uroweb.org/wp-content/uploads/EAU-Guidelines-Paediatric-Urology-2016-1.pdf

63 3.16.3-3.16.3.1, available at http://uroweb.org/guideline/paediatric-urology/

64 Spinoit AF, Poelaert F, Groen LA, Van Laecke E, Hoebeke P (2013), "Hypospadias repair at a tertiary care center: long-term followup is mandatory to determine the real complication rate." Journal of Urology, 189(6):2276-81, https://www.ncbi.nlm.nih.gov/pubmed/23306089

65 For example 5-7 July 2017 at Ain Shams Specialized Hospital, Cairo (Egypt), co-organised by the European Association of Urology (EAU), https://www.hypospadiasworkshop.com/

66 See above footnote 14, "Le Quotidien"

67 Ibid.

68 "A multidisciplinary DSD team exists in Ghent for this problem. The DSD team consists of doctors and medical personnel from different specialties. The child surgeons perform procedures that are necessary to construct the genitals of these patients.", https://www.uzgent.be/nl/zorgaanbod/mdspecialismen/kindergeneeskunde/kinderurologie/Paginas/Aandoeningen-van-de-geslachtsontwikkeling.aspx

3. The Treatment of Intersex Children in Belgium as Harmful Practice and Violence

a) Harmful Practice (art. 24(3) and JGC No. 18) [69]

Article 24 para 3 CRC calls on states to abolish harmful *"traditional practices prejudicial to the health of children"*. While the initial point of reference for the term was the example of Female Genital Mutilation/Cutting (FGM/C), the term consciously wasn't limited to FGM/C, but meant to include all forms of harmful, violent, and/or invasive traditional or customary practices.[70]

The Committee has repeatedly considered IGM as a harmful practice, and the CRC/CEDAW Joint General Comment No. 18/31 on harmful practices as applicable.[71]

Harmful practices (and inhuman treatment) have been identified by intersex advocates as the **most effective, well established and applicable human rights frameworks** to eliminate IGM practices and to end the impunity of the perpetrators.[72]

Thus, **IGM practices in Belgium** – as well as the **failure of the state party to enact effective legislative, administrative, social and educational measures** to eliminate them and to ensure effective access to remedies and redress – clearly violate Article 24 CRC, as well as the CRC/CEDAW Joint General Comment No. 18/31 on harmful practices.

b) Violence against Children (art. 19 and GC No. 13) [73]

Similarly, the Committee has also considered IGM practices as violence against children, and Art. 19 and the General Comment No. 13 also offer strong provisions to combat IGM practices.

4. Belgian Doctors and Government consciously dismissing Intersex Human Rights

The persistence of IGM practices in Belgium is a **matter of public record**, same as the **longstanding criticism and appeals by intersex persons and their organisations**,[74] and by **legal experts**.[75]

Also **Belgian paediatric surgeons**, despite **openly admitting to knowledge of relevant criticisms** by human rights and ethics bodies, nonetheless continue to **consciously refuse to consider any human rights concerns**. For example, the 2013 *"ESPU/SPU standpoint on the surgical management of Disorders of Sex Development (DSD)"*, co-authored by paediatric

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69 For a more extensive version, see 2017 CRC Spain NGO Report, p. 12-13, http://intersex.shadowreport.org/public/2017-CRC-Spain-NGO-Brujula-Zwischengeschlecht-Intersex-IGM.pdf

70 UNICEF (2007), Implementation Handbook for the Convention on the Rights of the Child, at 371

71 CRC/C/CHE/CO/2-4, paras 42-43; CRC/C/IRL/CO/3-4, paras 39-40; CRC/C/FRA/CO/5, paras 47-48; CRC/C/CHL/CO/4-5, paras 48–49; CRC/C/GBR/CO/5, paras 45–46; CRC/C/NPL/CO/3-5, paras 41–42; CRC/C/ZAF/CO/2, paras 39–40; CRC/C/NZL/CO/5, paras 25 + 15; CRC/C/DNK/CO/5, para 24; CRC/C/ESP/CO/5-6, para 24

72 Daniela Truffer, Markus Bauer / Zwischengeschlecht.org: "Ending the Impunity of the Perpetrators!" Input for Session 3: "Human Rights Standards and Intersex People – Progress and Challenges - Part 2" at "Ending Human Rights Violations Against Intersex Persons." OHCHR Expert Meeting, Geneva 16–17.09.2015, online: http://StopIGM.org/public/S3_Zwischengeschlecht_UN-Expert-Meeting-2015_web.pdf

73 For a more extensive version with sources, see *2016 CRC UK Thematic NGO Report*, p. 57, http://intersex.shadowreport.org/public/2016-CRC-UK-NGO-Zwischengeschlecht-Intersex-IGM_v2.pdf

74 See above footnotes 9-20

75 Marie-Laure Tounkara (2015), "Légiférer l'intersexualité en Belgique : un défi pour notre société", master thesis, Université catholique de Louvain, https://dial.uclouvain.be/memoire/ucl/en/object/thesis:3412/datastream/PDF_02/view

surgeon Prof Dr Piet Hoebeke (**University Clinic Ghent**) dismissed both the **2013 Report by the Special Rapporteur on Torture** and the 2012 Recommendations by the Swiss National Advisory Commission on Biomedical Ethics as ***"inappropriate and biased statements"*** and ***"biased and counterproductive reports"*** respectively, while insisting on continuing with IGM practices.[76]

Also Belgian government bodies continue to ignore intersex human rights.

5. Lack of Independent Data Collection and Monitoring

With no statistics available on intersex births, let alone surgeries and costs, and **perpetrators, governments and health departments colluding to keep it that way as long as anyhow possible**, persons concerned as well as civil society **lack possibilities to effectively highlight and monitor** the ongoing mutilations. What's more, after realising how intersex genital surgeries are increasingly in the focus of public scrutiny and debate, perpetrators of IGM practices respond by suppressing complication rates, as well as refusing to talk to journalists "on record".

Also in Belgium, there are no statistics on intersex birth and on IGM practices available.

6. Obstacles to redress, fair and adequate compensation

Also in **Belgium** the **statutes of limitation** prohibit survivors of early childhood IGM practices to call a court, because persons concerned often **do not find out** about their medical history until much later in life, and **severe trauma** caused by IGM Practices often prohibits them to act in time once they do.[77] So far, in Belgium there was **no case** of a victim of IGM practices succeeding in going to court.

The **Belgian government** fails to ensure that non-consensual unnecessary IGM surgeries on minors are recognised as a form of **genital mutilation**, which would formally prohibit parents from giving "consent". In addition, the state party **fails to initiate impartial investigations**, as well as data collection, monitoring, and disinterested research.[78] In addition, hospitals are often **unwilling to provide full access to patient's files**.

This situation is clearly not in line with **Belgium's** obligations under the Convention.

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76 P. Mouriquand, A. Caldamone, P. Malone, J.D. Frank, P. Hoebeke, "The ESPU/SPU standpoint on the surgical management of Disorders of Sex Development (DSD)", Journal of Pediatric Urology vol. 10, no. 1 (2014), p. 8-10, http://www.jpurol.com/article/S1477-5131(13)00313-6/pdf

77 Globally, no survivor of early surgeries **ever** managed to have their case heard in court. All relevant court cases (3 in Germany, 1 in the USA) were either about surgery of adults, or initiated by foster parents.

78 For more on this topic see 2016 CEDAW NGO Report France, p. 55: http://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf

C. Suggested Questions for the LOI

The Rapporteurs respectfully suggest that in the LOI the Committee asks the Belgian Government the following questions with respect to the treatment of intersex children:

Harmful practices: Intersex Genital Mutilation

- **How many non-urgent, irreversible surgical and other procedures have been undertaken on intersex children before an age at which they are able to provide informed consent? Please provide detailed statistics on sterilising, feminising, masculinising procedures and imposition of hormones, including prenatal procedures.**
- **Does the State party plan to stop this practice? If yes, what measures does it plan to implement?**
- **Please indicate which criminal or civil remedies are available for intersex people who have undergone involuntary sterilisation or unnecessary and irreversible medical or surgical treatment when they were children and whether these remedies are subject to any statute of limitations?**