



# Convention on the Rights of the Child

Distr.: General  
4 December 2009  
English  
Original: French

---

## Committee on the Rights of the Child

### Consideration of reports submitted by States parties under article 44 of the Convention

**Third and fourth periodic report of States parties due  
in 2007**

**Belgium**\* \*\*

[15 July 2008]

---

\* In accordance with the information given to States parties on the preparation of their reports, this document has not been reviewed by the Editing Section before transmission to the translation services of the United Nations.

\*\* The annexes may be consulted at the secretariat.

## Contents

	<i>Paragraphs</i>	<i>Page</i>
List of abbreviations .....		4
Introduction .....	1–13	5
I. Measures of general application .....	14–148	7
A. Arrangements in place to monitor the implementation of the Convention and coordinate measures for the benefit of children .....	16–52	7
B. International measures and development cooperation .....	53–71	17
C. Cooperation with the organizations of civil society .....	72–76	20
D. Measures taken to make the principles and provisions of the Convention widely known to adults and children alike (art. 42) .....	77–103	21
E. Measures designed to make the report widely available (art. 44, para. 6) .....	104–108	26
F. Data collection and scientific research .....	109–128	27
G. Difficulties and future objectives .....	129–148	30
II. Definition of the child .....	149–150	33
III. General principles .....	151–273	34
A. Non-discrimination (art. 2) .....	152–202	34
B. Best interests of the child (art. 3) .....	203–210	43
C. The right to life, survival and development (art. 6) .....	211–224	45
D. Respecting the views of the child (art. 12) .....	225–261	47
E. Difficulties and future objectives .....	262–273	55
IV. Civil rights and freedoms .....	274–307	57
A. Name, nationality and the right to know one's parents (art. 7) .....	275–279	57
B. Preservation of identity (art. 8) .....	280	59
C. Freedom of expression (art. 13) .....	281	59
D. Freedom of thought, conscience and religion (art. 14) .....	282	60
E. Protection of privacy (art. 16) .....	283	60
F. Access to appropriate information (art. 17) .....	284–307	60
V. Family environment and alternative care .....	308–425	65
A. Parental guidance (art. 5) .....	309	65
B. Parental responsibilities (art. 18, paras. 1 and 2) .....	310–349	65
C. Separation from parents (art. 9) .....	350–356	74
D. Family reunification (art. 10) .....	357–365	76
E. Recovery of maintenance for the child (art. 27, subpara. 4) .....	366–369	77
F. Children deprived of their family environment (art. 20) .....	370–372	78
G. Adoption (art. 21) .....	373–385	79

H.	Illicit transfer and non-return (art. 11) .....	386–390	82
I.	Abuse and neglect (art. 19), including physical and psychological recovery and social reintegration (art. 39).....	391–413	83
J.	Difficulties and future objectives .....	414–425	89
VI.	Health and well-being .....	426–618	91
A.	Survival and development of the child (art. 6, subpara. 2).....	426–448	91
B.	Children with a disability (art. 23) .....	449–484	96
C.	Health and health care services (art. 24) .....	485–554	101
D.	Social security and childcare services and establishments (art. 26 and art. 18, subpara. 3).....	555–585	116
E.	Standard of living (art. 27, subparas. 1 to 3).....	586–594	123
F.	Difficulties and future objectives .....	595–618	126
VII.	Education, leisure and cultural activities .....	619–726	129
A.	Education, including vocational information and guidance (art. 28) .....	620–664	130
B.	The aims of education (art. 29) .....	665–684	140
C.	Rest, leisure, play, cultural life and the arts (art. 31) .....	685–714	145
D.	The difficulties and future objectives.....	715–726	152
VIII.	Special protection measures.....	727–905	154
A.	Children in crisis.....	728–791	154
B.	Children in conflict with the law .....	792–815	163
C.	Children who are being exploited .....	816–866	169
D.	Children belonging to a minority or indigenous group (art. 30) .....	867	179
E.	Children living or working in the street .....	868	179
F.	Difficulties and future objectives .....	869–905	180
IX.	Optional Protocols to the Convention on the Rights of the Child.....	906–937	184
A.	Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.....	907–930	184
B.	Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography .....	931–933	188
C.	Difficulties and future objectives .....	934–937	189

## List of annexes

A.	Record of the report's approval by the National Commission for the Rights of the Child.....	190
B.	Annexes providing further information .....	190

## List of abbreviations

AWIPH	Walloon Agency for the Integration of Persons with a disability
CAW	General social welfare centres (general support point for psychological and social assistance)
CIMES	Interministerial Conference on the Environment and Health
COCOF	French Community Commission (covering Brussels body)
COCOM	Joint Community Commission (covering Brussels body)
CODE	NGO Coordinating Body for the Rights of the Child
CPMS	Psycho-medical social centres (French Community – CLB is the Flemish counterpart)
CTB	Belgian Development Agency (Agency implementing Belgian cooperation policy)
FPS	Federal Public Service (federal ministry)
GOK Decree	Flemish decree concerning equality of opportunity in upbringing
IBSR	Belgian Road Safety Institute
ILO	International Labour Organization
INAMI	National Office for Social Security
JOP	Consultation platform for young people (Flemish Community)
K&G	<i>Kind en Gezin</i> (Flemish counterpart of ONE)
NCRC	National Commission on the Rights of the Child
OEJAJ	Observatory on Children, Youth and Assistance to Young People
ONE	Birth and Childhood Office
PLC	Local consultation platforms (Flemish Community)
RIE	Report of the impact on the child (KER – Flemish Community)
VGC	Flemish Community Commission (covering Brussels body)
VIG	Flemish institute for health promotion
VRT	Flemish radio and television
WHO	World Health Organization

## Introduction

1. On 16 December 1991, Belgium ratified the United Nations Convention on the Rights of the Child (hereafter: the Convention). The Convention entered into force on 15 January 1992. The first report that Belgium submitted to the United Nations Committee on the Rights of the Child (hereafter: the Committee on the Rights of the Child), pursuant to article 44 of the Convention, was dated 6 September 1994. The second periodic report was transmitted on 25 October 2000, and was considered by the members of the Committee on 23 May 2002. This is the third periodic report setting out the measures taken by Belgium's Governments, in accordance with the Convention, between January 2002 and end of June 2007. In accordance with a recommendation of the Committee on the Rights of the Child of 2002 (CRC/C/114, 2002, p. 5), the report sets out to cover two five-year periods, namely the periods from 1999 to 2004 and from 2004 to 2009. However, the previous report was updated in 2002 for the purpose of discussion with the Committee, and the Committee asked Belgium to report at least 18 months before the deadline set in 2009, consequently the report actually encompasses the aforementioned period only.

2. Over the years, and following five successive reforms of the State, Belgium has developed an efficient but complex federal structure. Some clarification is therefore useful here and will make it easier to follow the report. As a result of Belgium's federal structure, the country's administration is not the exclusive responsibility of the unitary federal State but is also shared between the federal State and a number of federated authorities: the Communities and the Regions. They have clearly defined powers which have been transferred to them and which they administer in regard to their own spheres of responsibility. The federal State has, more particularly, retained residuary powers which it also exercises independently. The hierarchical structure of the former unitary State has been replaced by a more complex system made up of three layers:

- The top layer comprises the federal State and federated entities: the Communities and Regions. They are equal under the law and, consequently, act on a basis of equality but in different spheres. They have their own legislative and governmental bodies.
- Immediately below them are the Provinces; they must act on the basis of being subordinate to all the authorities above them in the structure.
- At the base of the structure are the Municipalities (*Communes*). Depending on the powers they are exercising, they are answerable to the federal State, Community or Region.

It is the top layer that is of direct interest to us for the purposes of this report.

### The federal State

3. At federal State level, power is exercised by the bicameral federal Parliament — comprising the Chamber of Representatives and the Senate— and by the King. The King, however, does not exercise personal authority; it is his federal ministers who assume full responsibility by countersigning the laws passed by Parliament and the royal decrees. The federal State has retained powers in many areas, including foreign affairs, national defence, justice, finance and social security, and, in large measure, public health and home affairs.

### The Communities

4. There are three Communities: the French Community, the Flemish Community and the German-language Community. The Communities have responsibility for: culture

(young people, theatre, libraries, the audiovisual sector, etc.), education, the use of languages and what are designated “personalized” matters, including both health policy (preventive medicine and curative care) and the provision of care (youth welfare, social welfare, family support, reception of immigrants, etc.). The Communities are also responsible for scientific research and international relations within their spheres of responsibility. The Communities exercise these powers within their territory, each within its own sphere of responsibility. The French and Flemish Communities exercise some of their responsibilities in the territory of the Brussels-Capital Region.

### **The Regions**

5. There are, similarly, three Regions: the Flemish Region, the Brussels-Capital Region and the Walloon Region. They have responsibility in matters of the economy, employment, agriculture, policy on water, housing, public works, energy, transport (except for the Belgian National Railway [*Société Nationale des Chemins de fer*]), the environment, land-use and town planning, nature conservation, credit policy, foreign trade policy and supervision of the provinces, the municipalities and inter-municipal-issues. They are also responsible for scientific research and international relations in the above-mentioned spheres. Each Region exercises these powers in its territory and within its own sphere of responsibility.

6. As far as institutions are concerned, there is a difference between the French and Dutch-speaking entities: the institutions of the Flemish Community and the Flemish Region have been merged, so that there is a single Flemish Parliament and a single Flemish Government.

### **The Community Commissions**

7. In the bilingual Brussels-Capital Region, Community responsibilities are exercised by the French and Flemish Communities and by the Joint Community Commission (matters affecting both Communities). However, the Flemish Community Commission has exclusive powers as the Flemish Community’s decentralized authority. The three Community Commissions have a legislative and an executive body on which members of the institutions of the Brussels-Capital Region sit.

8. Based on the State structure, as described above, the measures that the different public bodies have taken to implement the Convention are listed under separate subheadings. The report adheres to the following fixed structure:

- a. At the federal level
- b. At the level of the federated authorities
  - b.1 Flemish Government
  - b.2 Governments of the French Community and/or the Walloon Region
  - b.3 Government of the German-language Community
  - b.4 Government and Colleges of the Brussels-Capital Region

9. This same numbering system is used even if, for instance, only the German-language Community has information to give, when only “b.3” will be referred to. An absence of information may, of course, be a consequence of the way in which responsibilities are allocated among the different bodies. For the territory of the Brussels Region, for example, it is often necessary to refer to the relevant information concerning the Flemish and French Communities. Equally, for the territory of the Walloon Region, it will be necessary to refer to the information provided in relation to the French and

German-language Communities, in addition to the information specific to the Walloon Region.

10. It should also be noted that there is no specific subheading to cover the national level: the relevant measures are described before subheading “a.”, which deals with the federal level. Similarly, measures that are common to several Communities are described immediately after subheading “b.”, which deals with the federated authorities generally.

11. For Belgium’s second periodic report, which the present report regularly cites, please refer to the official version accessible on the website of Office of the United Nations High Commissioner for Human Rights (CRC/C/83/Add.2, 2000).

12. The first paragraph of each section of this report (I, II, etc.) lists the paragraphs in which the Governments have described the follow-up measures taken in response to the Committee’s concluding observations on Belgium’s previous periodic report.

13. The last part of each section sets out the difficulties and objectives for the future. In order to draft these sections, the National Commission on the Rights of the Child (NCRC) set up working groups which have produced recommendations. The different Belgian governments have taken note of the recommendations and approved a number of them, which then become commitments for improving the rights of the child. Those commitments constitute the objectives for the future. The Belgian governments will do their utmost to put these commitments into effect, within the limits of the resources available to them. The recommendations which the governments have not taken up have been the subject of differences of opinion; these are set out in full in the record of the approval of this periodic report by the National Commission on the Rights of the Child. That record is attached as annex 1 to this report.

## **I. Measures of general application**

14. In this section, the follow-up measures taken in response to the concluding observations of the Committee on the Rights of the Child, following the submission of Belgium’s last periodic report, are described in paragraphs 17-19, 20, 26, 28, 77-103, 109-117 and 119.

15. The measures taken to align national legislation and national policy with the Convention are described not only under this heading but throughout the report, under the relevant headings.

### **A. Arrangements in place to monitor the implementation of the Convention and coordinate measures for the benefit of children**

16. It should be noted that Belgium has set in place various standing arrangements to monitor the implementation of the Convention and coordinate measures for the benefit of children:

National Commission on the Rights of the Child

17. Starting at national level, we have the establishment of the National Commission on the Rights of the Child (NCRC, a structure involving all of Belgium’s governmental bodies). The cooperation agreement of 19 September 2005, between the State, the Flemish Community, the Flemish Region, the French Community, the German-language Community, the Walloon Region, the Brussels-Capital Region, the Joint Community Commission and the French Community Commission, establishing a National Commission on the Rights of the Child entered into force on 10 November 2006 (see annex 1). The

Commission provides a broad forum for consultation within which a wide range of bodies are represented (including representatives of both the governments and workers in the field). On the basis of the various responsibilities with which it is tasked, the Commission is able to facilitate more extensive monitoring of the Convention's implementation in Belgium and the effective coordination of measures for the benefit of children.

18. The Commission's principal task is to draft this report and present it to the Committee on the Rights of the Child. However, in a genuine endeavour to improve still further Belgium's approach in this field, the cooperation agreement confers the following additional responsibilities on the Commission:

- *To contribute to drafting other documents linked to the rights of the child* which the Belgian State is required to submit to international bodies. The Commission may therefore find itself contributing to any report which Belgium is required to submit and which is connected, to a greater or lesser degree, with the rights of the child, in the interest of applying a coherent policy.
- *To coordinate the collection, analysis and processing of data intended for the Committee on the Rights of the Child.* The Commission will undertake to work towards standardizing the methods of collecting and processing data in order to provide usable data conveying clear and precise information, as requested by the Committee on the Rights of the Child. Among the proposals designed to accomplish this task, the Commission is planning to set up a working group to consider the establishment of a uniform data collection system for all of the authorities or bodies involved with children and children's rights.
- *To encourage partnership and an ongoing exchange of information between the authorities and bodies dealing with children's rights.* The Commission thus constitutes a meeting place and forum for the exchange of ideas, and is able to drive forward policy on the rights of the child in Belgium. Working groups are regularly set up to study various key problems areas in relation to the rights of the child. This both makes it possible for the Belgian authorities, at the different levels, to coordinate their approaches and it enables the views of the representatives on the ground (who also sit on the Commission) to be effectively heard, so that policies relating to the rights of the child are developed in the light of what is actually happening in our children's lives.
- *To monitor and review the implementing measures needed to respond to the suggestions and recommendations of the Committee on the Rights of the Child.* The Commission is responsible for ensuring that the observations made by the Committee, after it has considered Belgium's periodic report, are properly followed up, and is able to make recommendations or proposals to the relevant authorities in order to do so.
- *To give advice.* The Commission is able to advise on draft international conventions and protocols pertaining to the rights of the child. It has been given this task in order to secure the consistency and coordination of measures relating to the rights of the child.

19. It should also be pointed out that the cooperation agreement establishing the Commission requires that children should be integrally and appropriately involved in its work. In the process of drafting this report, bodies representing children, which are members of the Commission, were invited to bring children that fall within their remit along to meetings of the working groups set up specifically to draft the report. As a result, children have been to some degree involved in the Commission's work. Other projects will be set in place to enable children to be more substantially involved in the different aspects of the Commission's work.



### National Action Plan for Children

20. A National Action Plan for Children has been drawn up (2005-2012) (see annex 2). The draft action plan was drawn up in 2003 by the federal and federated authorities of the Belgian State, and put to civil society on 6 May 2004. In 2003-2004, in consultation with civil society, the Flemish authority drew up the *Vlaams Actieplan Kinderrechten* (Flemish Action Plan on the Rights of the Child) which fleshes out Flemish responsibilities (see para. 28 below) and was incorporated into the National Action Plan and, subsequently, the Flemish Youth Policy Plan (see para. 24 below). As far as the issues falling under the jurisdiction of the French Community are concerned, two meetings, in October and November 2004, of the Standing Group on the Convention on the Rights of the Child, attached to the Observatory on Children, Youth and Assistance to Young People (see paras. 47-50 below), resulted in a number of comments by civil society and new measures resulting from the Community Policy Declaration 2004-2009 being incorporated in the Plan. The National Action Plan was finally adopted in July 2005 by the various governments, in accordance with the Committee's concluding observations. The Action Plan covers many areas, such as health care, unaccompanied foreign minors, combating trafficking in human beings, smoking, education, etc. It may be consulted on the SPF Justice website ([www.just.fgov.be](http://www.just.fgov.be)).

### Interministerial Commission on humanitarian law

21. The Interministerial Commission on Humanitarian Law (CIDH) is a permanent consultative body of the Federal Government for the application and development of international humanitarian law; its mandate was officially approved by Royal Decree of 6 December 2000.

22. The CIDH operates under the supervision of the FPS Foreign Affairs, which appoints its chairman. The following are represented on the Commission: the Prime Minister and the Ministers responsible for Foreign Affairs, Justice, Defence, the Interior, Public Health and Development Cooperation. The Commission also includes representatives of the federated authorities of the Belgian State, namely the Communities and the Regions, as well as representatives from the Belgian Red Cross. Permanent experts also assist the CIDH in its work.

23. The Commission mainly operates using working groups; they identify the problems relating to the application of humanitarian law in Belgium, review them and suggest a solution to the Commission, sitting in plenary, which then takes a final decision. For example, in 2005, the Commission's Working Group on Legislation was tasked with drawing up Belgium's draft report on the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

#### **a. At the federal level**

##### Annual report

24. At federal level, the Federal Government transmits the annual report on the application of the Convention to the federal Parliament. The Act of 4 September 2002 (*available on request*) requires a report on the application of the Convention to be drawn up annually. The annual federal report is divided into two parts: the first is a general report setting out the measures adopted during the year and relating to children; the second covers the federal action plan for children and, therefore, sets out projects for the future. Four reports have already been transmitted to the federal Parliament.

#### Institute for Equality of Opportunity between Men and Women

25. Based on the concept that protecting the rights of women and promoting equality of opportunity for men and women could help encourage proper implementation of the rights of the child, it is also worth mentioning that, in 2002, a federal Institute for Equality of Opportunity between Men and Women was set up (see paras. 313 and 392 below). The Institute is an independent public body whose sole objective is to combat all forms of gender-based discrimination and to promote equality between men and women. More detailed information on this subject is provided at annex 3.

#### The federal Ombudsman

26. Where the rights recognized under the Convention have been violated, Belgium has the following procedural mechanism to secure a remedy: the federal Ombudsman. The Ombudsman is considered to be an independent mechanism for monitoring the Convention, at federal level, *inter alia*. Set in place by an Act of 22 March 1995 (*available on request*), the Ombudsman is responsible for dealing with complaints that any person concerned, whether a minor or an adult, may make in relation to the operation and acts of the federal administrative authorities (not, therefore, the acts and operation of the judicial authorities or the Community or Regional authorities). If the federal Ombudsman receives a complaint concerning the rights of the child which does not fall within its jurisdiction, it forwards the complaint to the French Community's Delegate-General for Children's Rights (see second periodic report, para. 174 and para. 44 below) or to the Flemish Community's Commissioner for the Rights of the Child (*Kinderrechtencommissariaat*) (see second periodic report, paras. 187 to 194 and para. 33 below).

27. As part of its remit, the federal Ombudsman regularly receives complaints that have a direct or indirect bearing on the rights of the child. The federal Ombudsman is involved in monitoring the Convention, both in terms of the action it takes to resolve individual situations and its general recommendations. It hears complaints made in sectors as diverse as health and welfare, identity and the retention of identity, filiation, Belgian nationality, the separation of children from their parents, family reunion, the tax burden on families and the recovery of maintenance, adoption and education (for more information, please refer to annex 4).

### **b. At the level of the federated authorities**

#### *b.1 The Flemish Government*

##### Flemish Action Plan for the Rights of the Child

28. Within Belgium's federal State structure, the Flemish Government enjoys sufficient powers to enable it to propose a high-quality action plan for the rights of the child. The Flemish Action Plan for the Rights of the Child was drawn up, in 2003, by a working group set up specifically for the purpose. In accordance with the Committee's recommendation, and unlike the working group mentioned in the second periodic report, the Flemish working group was not composed exclusively of representatives of all of the policy areas covered by the Flemish Government but also included representatives from the social sector, the academic world, the Flemish Parliament and the Commission for the Rights of the Child. On 2 April 2004, the Flemish Government approved its own Flemish Action Plan for the Rights of the Child, based on the working group's proposal (see [http://www.vlaanderen.be/kinderrechten/documentatie/vlaams\\_actieplan.html](http://www.vlaanderen.be/kinderrechten/documentatie/vlaams_actieplan.html)). In 2005, the action plan was incorporated into the National Action Plan for Children in Belgium (see para. 20 above). Subsequently, the Flemish Action Plan also formed a basic component of

the second Flemish Youth Policy Plan for 2006-2009 (see para. 38 below). Follow-up is guaranteed by the annual report in particular.

#### Report of the impact on the child

29. As already explained in the previous report (see paras. 146 to 150 of the second periodic report), the Flemish Government has introduced the obligation to draw up a report detailing the impact on the child (hereafter: child impact report), on the basis of a decree issued back in 1997. Since then, a child impact report has been required for any draft decree involving a decision that manifestly and directly affects the interest of the child. A brief survey of the child impact reports drawn up so far may be accessed on the website <http://www.cjsm.vlaanderen.be/kinderrechten/ker/index.html>. In April 2001, initial drafting guidelines for child impact reports were distributed. Since August 2004, and following an assessment of the initial guidelines, a new adjusted methodology has been recommended. Unlike the initial guidelines, this methodology requires not only that the decision be checked against the Convention but that its effects on the actual situation of the children be evaluated. Child impact reports are drawn up by the authority responsible for the relevant draft decree. Officials who draw up child impact reports must consult the organizations for the rights of children and young people (see <http://www.vlaanderen.be/kinderrechten>).

30. Nonetheless, the fact remains that child impact reports continue to be drawn up infrequently in Flanders. There are several reasons for this: their limited scope and the fact that they are not rigorously binding; the lack of expertise in regard to the rights of the child and child impact reports more particularly; and the vague and impenetrable nature of the legislation—even public servants find this to be the case. Since 1 January 2005, in an effort to resolve that problem, the Flemish authority has introduced a legislation impact analysis (*analyse de l'impact de la réglementation* – hereafter: AIR). The AIR provides a structured analysis of the objectives sought by and the positive and negative effects of the proposed legislation, as compared with the alternatives. It provides an opportunity to focus more closely on the effects on children as part of the legislative process. The aim is to incorporate the child impact report into the AIR. The guidelines on drawing up an AIR already refer explicitly to the method employed for child impact reports. In that context, the results of the child impact report are to be incorporated into the AIR (see annex 6, para. 25). The AIR does not apply merely to preliminary draft decrees but also to draft decrees with regulatory effect, save for of ministerial decrees. An AIR is not, however, required for decrees and orders without regulatory effect, such as budgetary decrees and decrees approving treaties. A compilation of guidelines for drafting a proper AIR has been prepared (see <http://www.wetsmatiging.be>). Child impact reports have not yet been applied to budgetary decrees but do apply to decrees conferring approval. In accordance with the second Youth Policy Plan, preparation has been made for extending child impact reports to become impact reports on young people and children (JoKER), as an intermediate stage in their (the process of moving towards) incorporation into AIRs.

31. The Flemish authority considers integrating its policy on the rights of the child with its policy on young people to be a major objective. As well as extending the child impact report to become an impact report on children and young people, the annual report will also consider the implementation of the Youth Policy Plan. Moreover, the Flemish authority intends to use a new decree on youth policy to provide a legal basis for subsidies relating to the rights of the child, which are currently granted on an annual basis, within the project framework.

#### Annual report

32. The Flemish Government still reports to the Flemish Parliament twice a year on its policy on the rights of the child (see paras. 182-186 of the previous report). The first report

is a general report encompassing all of the Flemish Government's responsibilities. The second deals with the situation of the rights of the child in the countries and regions which Flanders cooperates. The two reports give Parliament and the Government the opportunity of holding the debate on the rights of the child. The Flemish Government has met its obligations in this regard annually. The first report makes it possible to hold an annual parliamentary debate on general policy in respect of the rights of the child with the Minister responsible for coordinating the rights of the child and the Commissioner for the Rights of the Child (*Kinderrechtencommissaris*). In 2006, the annual report was supplemented by the audit of the Youth Policy Plan and is now called the Annual Report on Youth Policy and the Rights of the Child. The annual general report on the rights of the child has always been drawn up by the representatives of the different administrations (see para. 34 below) under the responsibility of the supervising Minister. The annual reports may be accessed on the Flemish authority's website: <http://www.vlaanderen.be/kinderrechten/>.

#### The Commission on the Rights of the Child

33. Set up in 1997 and referred to in the second periodic report (see paras. Nos. 187 *et seq.* of that report), the Commission on the Rights of the Child is a standing body and, consequently, still active. The initial mandate of the Commissioner for the Rights of the Child expired in 2003, but the Commissioner was re-appointed for a second and final five-year term. As an institution linked to the Flemish Parliament, the Flemish Commission for the Rights of the Child had opted not to contribute to Belgium's second periodic report and has taken the same approach to this report. Yet again, the Commission for the Rights of the Child will be submitting its own (alternative) report to the Committee, in its capacity as an institution for the protection or defence of human rights, dedicated to children.

#### Coordinating Minister, contact persons and study group

34. Flanders continues to have a coordinating Minister for the Rights of the Child (see para. 179 of the last report). In 2004, the Flemish Minister for young people was appointed to that post. Policy on the rights of the child and youth policy have been merged, strengthening the position and role of the coordinating Minister within the Flemish Government. The coordinating Minister is responsible for coordinating and supervising policy on the rights of the child (as well as youth policy) and gets administrative support from the policy area encompassing Culture, Young People, Sports and the Media (CJSM), and, more specifically, the Youth Service of the Community Education Agency for Young People and Adults.

35. In 2006, the contact persons appointed in 1998 (see paras. Nos. 184-185 of the previous report) were reconfirmed as the points of contact for the rights of the child and youth policy. Their re-appointment was justified by the reorganization of the Flemish authority and the merging of policy on the rights of the child and youth policy. There are currently 33 contact persons, that is to say one for each *département* (13) and within the agencies or bodies that have a strategic role in relation to children and young people (see <http://www.vlaanderen.be/kinderrechten>). Coordinated by the above-mentioned Community Education Agency for Young People and Adults, and under the supervision of the coordinating Minister, the contact persons are responsible for the Flemish Government's general annual reports on the rights of the child, for following up the Flemish Action Plan for the rights of the child and the Flemish Youth Policy Plan, for implementing the child impact report (RIE), for the Flemish contribution to this report and so on.

36. To ensure follow-up to the Flemish Action Plan for the Rights of the Child, the Flemish Youth Policy Plan and Flemish policy on the Rights of the Child and Young People, the Working Group on the Rights of the Child, cited in the last periodic report (at

paras. Nos. 180-181), has been turned into a permanent study group on the rights of the child and youth policy, bringing the social sector and the whole of the administration, through the contact persons, into policy on the rights of the child and young people.

#### Flemish Youth Policy

37. The Decree on Flemish Youth Policy entered into force pursuant to a Decree of 29 March 2002 and replaced (see annex 5) the 1998 Decree on National Youth Organizations (see para. 151 of the second periodic report). As evidenced by the title of the decree, it established the bases for a wide-ranging policy on young people, more extensive than the policy on youth organizations. Article 3 of the Decree provides that, in their operations, the not-for-profit associations must adhere to the principle and rules of democracy and must subscribe to and disseminate the principles of the European Convention on Human Rights and the Convention on the Rights of the Child to be able to benefit from a subsidy under the decree.

38. The Flemish Youth Policy Plan is one of the prime tools provided for under the Flemish Decree on Youth Policy and is designed to make it possible to implement a youth policy that is broad in scope. Eighteen months, at the latest, from the beginning of each parliament, the Flemish Government tables a youth policy plan before the Flemish Parliament. On 7 June 2002, the Flemish Government approved the first Flemish Youth Policy Plan. On 16 December 2005, the Flemish Government endorsed the second Flemish Youth Policy Plan 2006-2009 (hereafter: the “PPJ2”) (see <http://www.vlaanderen.be/jeugdbeleid>). As already set down in the first plan, the rights of the child constitute a “legal and ethical reference framework”. The PPJ2 is structured around a number of thematic priorities, in this instance, the following: integrating the rights of the child and youth policy within a range of young people’s organizations (see annex 6, para. 18); informing young people (see annex 6, para.19); as well as participation, diversity and the international aspect of youth policy. The plan sets objectives and sets out specific measures for children and young people in all areas falling under the responsibility of the Flemish authority. The Youth Policy Plan is comprehensive, covering all of the different policy areas. Youth policy and the other policy areas come together at “policy intersections” encompassing the following subjects: “at camp”, “having fun”, “sport”, “culture”, “mobility”, “employment”, “education”, “space” and “well-being”. And there is a classification, as these are directed towards a specific group, namely young people (see annex 6, para. 20). Extensive consultations were held before the plan was drawn up and coordination was provided by the Flemish Minister for Young People. Almost all players in young people’s organizations, the sectors involved in the rights of the child and youth policy in the broad sense were fully and constantly involved in the drafting of the plan. The PPJ2 sought to integrate the policy on the rights of the child and youth policy by positively implementing the objectives and measures set out in the above-mentioned Flemish Action Plan for the Rights of the Child (see the asterisks in the text of the PPJ2). If the plan is implemented in full, a new decree on Flemish youth policy will include the provisions referred to in the decree and in relation to the child impact report and the report supplemented by the provisions inherent in subsidizing measures adopted in relation to the rights of the child. The aim here is to create a legal basis for integrating policy on the rights of the child with youth policy.

39. The objective is to provide a legal basis for integrating policy on the rights of the child and youth policy by adopting a new decree on Flemish Youth Policy. As well as extending the RIE (child impact report) to become an RIEJ (*Rapport d’incidence sur l’enfant et le jeune* – child and youth impact report), the annual report will also cover the implementation of youth policy. In addition, the Flemish authority intends to use a new decree on youth policy to provide a legal basis for subsidies relating to the rights of the child, which are currently accorded on an annual basis within the project framework.

Municipal, inter-municipal and provincial policy on young people and youth work

40. The Decree of 14 February 2003 supporting and encouraging municipal, inter-municipal and provincial policy on young people and youth work, hereafter designated the Decree on Local Youth and Youth Work Policy (see annexes 45 and 46) also requires that all initiatives relating to youth work, to which it refers, should respect the rights of the child, as guaranteed under the Convention.

41. By analogy with the Flemish Youth Policy Plan, the integrated policy on the rights of the child and young people will be a compulsory chapter and represent a condition for subsidizing the municipal youth policy plan. This has the effect of aligning the policy on young people's organizations with other (municipal) policy plans that have an impact on children and young people. Moreover, all sectors are requested to apply a policy that is favourable to children and to take account of the interest of the child in all policy decisions.

#### *b.2 Government of the French Community*

Synergy between the community authority and the regional authorities

42. The Government of the French Community applies a cross-cutting policy on the rights of the child. This can only be done by establishing synergy between the community authority and the regional authorities. Various mechanisms have therefore been set in place, including joint meetings of the French Community and Walloon Region. The possibility of making it compulsory to produce a child impact study (regarding respect for the rights of the child) for all draft legislative texts is one of the proposals that the governments are considering jointly.

Triennial report

43. Under the Decree of 28 January 2004 (see annex 7), a report on the application of the principles of the Convention has to be produced in the French Community. Every three years, the Government reports to parliament on the policy applied in application of the principles of the Convention. The Government has the report published. It includes:

- an assessment of the measures taken over the past three years;
- notes explaining how each minister applies, within his or her sphere of responsibility, the principles adopted in the Convention;
- a general action plan setting out how the Government is going to integrate the rights of the child in its policy for the coming years.

The first report was submitted on 20 November 2005, the date of Universal Children's Day. It should be noted that, among other things, the report makes improvements to and updates the national action plan. It can be consulted on the website of the Observatory on Children, Young People and Youth Welfare ([www.oejaj.cfwb.be](http://www.oejaj.cfwb.be)) (the Observatory is responsible for drafting the report in accordance with the provisions of the Decree of 12 May 2004 – see annex 8).

Delegate-General for Children's Rights

44. The Office of the Delegate-General for Children's Rights was set up in the French Community in 1991 (see para. 174 of the second periodic report). Ten years later, it appeared necessary to reform it, in order to guarantee the effectiveness, independence and durability of this institution set up to protect the rights and interests of children in the French Community. The Decree of 20 June 2002 (see annex 9) and the Order of 19 December 2002 (see annex 10) establish and govern the role of the French Community's

Delegate-General for Children's Rights. Regulation of this body is based on the following principles:

1. This public institution for the protection of children is set up by decree.
  2. The decree tasks the Delegate-General with ensuring that the rights of the child are safeguarded; the Delegate-General's responsibilities and powers are such as to confer upon him or her moral authority, to be established on the basis of legitimacy, credibility and effectiveness.
  3. While the Delegate-General's specific responsibilities for promoting the rights of the child, ensuring that the laws are properly applied and having the authority to recommend improvements to the rights of the child are important, the task of dealing with individual situations remains vital, essential and imperative.
  4. The Delegate-General is provided with a team of co-workers which he/she manages in complete independence.
  5. The decree retains the mandate-based system, thereby providing the best-possible guarantee of the principle of independence.
  6. The decree confers real and effective investigative powers on the Delegate-General.
  7. The decree governs the matter of the independence and freedom of expression accorded and guaranteed to the individual assuming the office of Delegate-General.
  8. The links between the Office of the Delegate-General and parliament are strengthened (involvement in the appointment procedure, drawing up of a list of the Delegate-General's priority fields of action, delivery of the annual report and so on).
45. The Delegate-General for Children's Rights also belongs to the European Network of Ombudspersons for Children (ENOC) (see annex 11, para. 4).
46. The term of office of the Delegate-General for Children's Rights was renewed in 2004.

#### The Observatory on Children, Youth and Assistance to Young People

47. The Observatory on Children, Youth and Assistance to Young People (hereafter: the OEJAJ) was set up in 1997 (see paras. 172 and 173 of the second periodic report). Its mandate and activities were given permanent status in the Decree of 12 May 2004 (see annex 8). The responsibilities of the OEJAJ are:

- to draw up a permanent list of policies and social data relating to children, young people and assistance to young people, as well as of the institutions and associations with responsibilities relating to children, young people and assistance to young people;
- to determine indicators in connection with the social data referred to above;
- to issue opinions on any matters pertaining to the issues with which it deals;
- to carry out or commission studies and scientific research concerning the matters it deals with, and to maintain a register of the studies and scientific research carried out in relation to children, young people and assistance to young people in the French Community;
- to implement, on behalf of the French Community, the provisions contained in articles 42 and 44 of the Convention;

- to promote and draw attention to any initiative designed to improve the situation of children and young people in the French Community;
- to make recommendations designed to encourage cooperation between the Birth and Childhood Office (ONE) and the Government departments, as well as between the latter and the associations.

48. By 30 June annually, the OEJAJ submits to parliament and the Government a report on activities during the past year and the current situation regarding children, young people and assistance to young people in the French Community.

#### Child welfare indicators

49. In 2007, the OEJAJ decided to take three types of measure to establish child welfare indicators:

- an inventory of the indicators available on the basis of lists currently used for reference purposes at European level; the indicators will be recorded in a reference database;
- the establishment of specific indicators for evaluating the policies applied; and
- an analysis of the concept of welfare from the child's perspective to give substance to the issue of child welfare indicators by directly addressing those immediately affected (see annex 11, para. 41).

#### Standing Group on the Convention

50. Within the OEJAJ, the establishment of the Standing Group monitoring the Convention, called the Standing Group on the Convention, was confirmed by decree in 2004. Its responsibilities are as follows:

- exchange of information and consultation on initiatives and proposals securing the promotion and implementation of the rights of the child;
- preparing the French Community's contribution to the drafting of the national report mentioned in article 44 of the Convention and the triennial report drawn up by the Government for the parliament of the French Community;
- analysis and follow-up of the recommendations of the Committee on the Rights of the Child, including the establishment of a community action plan for the rights of the child;
- preparing the work of the National Commission on the Rights of the Child;
- listening to what children have to say.

51. The Standing Group on the Convention is made up of representatives of the members of the Government, the administrations and ONE, advisory councils in the child, youth and youth welfare sectors, the Delegate-General for Children's Rights and non-governmental organizations active in the field of children's rights. An invitation may also be extended to the representatives of other authorities, including Walloon and Brussels' authorities involved with children and young people, parliament and the French Community, as well as any individual or institution able to provide expertise.

#### *b.3 Government of the German-language Community*

52. In its concluding observations, the Committee expressed concern at the absence of an independent mechanism to monitor the implementation of the Convention and empowered to receive and address complaints of children in the German-language



Community. The Government of the German-language Community has taken this concern on board and continues to seek a solution to the problem. Establishing a specific independent mechanism is practically impossible for a community of 73,000. However, setting in place a system of “ombudsman” for a number of areas over which the German-language Community has jurisdiction (or, indeed, all of the areas over which it has jurisdiction) is under review.

## **B. International measures and development cooperation**

53. The United Nations Convention on the Rights of Persons with Disabilities has been open for signature since 30 March 2007. The Belgian State and regional authorities will ratify it as soon as possible.

### **a. At the federal level**

54. In April 2006, the Federal Government decided to draft a strategy note on the rights of the child in the development assistance sector. This task was assigned to the FPS Foreign Affairs and Development Cooperation which set up, for the purpose, a working group comprising representatives of the Belgian Development Agency (CTB), UNICEF Belgium, PLAN *Belgique*, ECPAT *Belgique*, the Belgian Red Cross, the *Commission Femmes et Développement* (Women and Development Commission), the *Vlaams Internationaal Centrum* and the Academic World. This very large group was divided into five sectoral groups which looked at the rights of the child in the light of the target sectors for Belgian cooperation, namely: agriculture, education, basic infrastructure, society-building and health. The working group made recommendations in regard to each sector and Belgian cooperation policy generally, in an effort to incorporate respect for the rights of the child more effectively and sustainably into all activities involved in Belgian cooperation policy. Political and technical recommendations have been made for each of the sectors. The political recommendations are founded on three principles:

- Respect for the partner country’s ownership of its development policy. The emphasis is on enhancing national capabilities for respecting the rights of the child.
- The need for the donor countries to harmonize their cooperation policy.
- Belgium’s commitment, as the partner country’s financial and technical partner, to ensure that its activities are generally consistent with the objectives of development and the obligations consequent on respect for the rights of the child.

55. The technical recommendations are also formulated on the basis of three types of fundamental right defined in the Convention and cited as they appear in English:

- “Provision”: primarily, the rights of survival and development.
- “Protection”: entitlement to protection.
- “Participation”: the right of children to express themselves and be fully involved in all matters concerning them.

The strategy note was due to be finalized in 2008.

56. In addition, Belgium is active in a number of international fora. During the 61<sup>st</sup> session of the United Nations General Assembly, Belgium, like its European partners and the GRULAC (Group of Latin American and Caribbean) countries, lent its explicit support to the resolution of the United Nations General Assembly on the rights of the child devoted in large part to the situation of children in armed conflicts and violence against children (A/C.3/61/L.16/Rev.1). Other examples of Belgium’s involvement in international

initiatives are referred to in the course of this report (see paras. 850, 851, 852, 924 *et seq.* below).

57. Belgium is also actively involved in the IPEC programme (International Programme on the Elimination of Child Labour). This is an ILO programme which is designed to help gradually eliminate child labour by improving countries' ability to tackle the problem and establishing a movement to combat it worldwide (see para. 820 below).

58. Belgium has also been a driving force, at international level, in combating the use of child soldiers. On 25 September 2007, the Prime Minister made a speech to the United Nations Security Council calling for specific measures to combat this phenomenon.

59. In addition, Belgium's commitment takes the form of funding many projects, on the ground, with a direct impact on the welfare and rights of children. Between 2002 and 2006, some 120 different projects (direct bilateral initiatives and indirect multilateral or bilateral initiatives) have involved children in our partner countries. These include the projects UNICEF is implementing as a result of the support of the Belgian Survival Fund (*Fonds belge de survie*), particularly in Niger, Ethiopia, the Democratic Republic of the Congo, Uganda and Senegal. All of these projects—which also concern women—are implemented in the field of health, particularly combating HIV/AIDS, children's rights to education, access to drinking water, capacity-building and the promotion of hygiene and sanitation. Belgium has also supported projects, to the level of some €15 million, concerning children and armed conflicts. Just over 50 per cent of the projects are implemented on a multilateral basis (under the auspices of UNICEF, OHCHR [Office of the High Commissioner for Human Rights], UNFPA [United Nations Population Fund], for example). However, a significant proportion has been earmarked for funding projects developed by the non-governmental organizations. Most of the projects funded are implemented in the Great Lakes Region, and the Democratic Republic of the Congo more particularly. That decision may be justified by the critical period the region is going through and the vital need to secure the social integration of children in the process of promoting peace.

60. Finally, we should also point out that, in November 2004, a conference on “[t]he Rights of the Child and Development Cooperation” was held in Brussels. The conference resulted in a number of recommendations, including one designed to amend the Act of 25 May 1999 on International Cooperation. The Act was amended in July 2005 (see annex 12): “respect for the rights of the child” is now considered a trans-sectoral and cross-cutting theme of Belgian development cooperation. This measure is bound to put the issues of the rights of the child back at the centre of all initiatives relating to development cooperation.

#### **b. At the level of the federated authorities**

61. The Flemish authority and the Government of the French Community worked together to produce the White Paper on Young People (2001) which made it possible to formulate, in 2003, shared objectives regarding information and participation. The European Observatory for Information Services for Young People, Eryica, has drawn up a European Youth Information Charter. Both the European Commission and the Council of Europe have stressed the importance of a quality youth information policy (see annex 6, para. 16). The Flemish authority and the Government of the French Community were actively involved in drafting the charter within the European forums and discussion groups. In 2004, the Council of Ministers of Youth approved the resolution concerning the common objectives for voluntary activities of young people and the resolution concerning the common objectives for a greater understanding and knowledge of youth.

62. In connection with policy on the rights of the child, the authorities also took an active part in the preparatory work for the International Plan of Action for Children (New

York, 2002 and 2007) and in meetings of the ministers and officials of the Member States with responsibility for policy on the rights of the child, “*Europe de l’enfance*”. The activities of ChildONEurope have also been kept under review.

#### *b.1 Flemish Government*

63. In an effort to heighten international awareness, the Flemish Decree on youth policy makes provision for subsidizing humanitarian projects in order to encourage solidarity with young people in disaster-struck regions. For instance, initiatives designed to provide children from Belarus and Ukraine (affected by the Chernobyl disaster) have been supported.

64. Pursuant to article 10 of the decree of 22 June 2007 on development cooperation, in all of the initiatives and measures which it undertakes, the Flemish authority pays particular attention to horizontal issues such as HIV/AIDS, the rights of the child, good governance and sustainable development.

#### *b.2 Government of the French Community*

65. The international political activity of the French Community is structured around three axes:

- Absolute support for and constant reference to the fundamental instrument in the field that is the Convention.
- Promoting the rights of the child —the preferred route rather than protecting those rights— reflecting an approach that is voluntarist and proactive and not defensive.
- Similarly, at international level, the French Community wants to place the focus on the “rights-based” rather than the “welfare” approach, as the latter is confined to children’s welfare and is, therefore, too restrictive, as they must also be given rights.

66. In 2007, for example, the aim of the cooperation in the Great Lakes Region of Africa, based on multilateralism within the ILO, was to strive to eliminate discrimination, forced labour and child labour. The project set in place concerns “[s]upport for training judges and lawyers in international labour law”. This involves a cycle of eight workshops, one of which is devoted to child labour (Training Workshop No. 7: sub-regional training in combating child labour).

67. Three projects of the French Community’s Delegate-General for Children’s Rights were supported as part of the bilateral cooperation with Senegal. Consequently, through the CGRI-DRI (Office of the Commissioner-General for International Relations and Division for International Relations), the French Community is further increasing its support for the “[i]mproving the Legal Protection of Minors in Senegal” (*Renforcement de la Protection Juridique des Mineurs au Sénégal – RPJM*) project, which is designed to provide appropriate —initial and continuing— training for those involved in the judicial process in relation to minors (young offenders and minors at risk). Training a unit of lawyers specializing in child protection and workers specializing in family mediation are two new aspects of the project.

68. Support has also been given to another project of the Delegate-General for Children’s Rights on raising awareness of the rights of the child. The project involves publishing a bilingual French and Arabic version of the children’s story “*Les bulles de l’espoir*” (“The Bubbles of Hope”).<sup>1</sup> The objectives are as follows: (a) to circulate the story

<sup>1</sup> Translator’s note: a story designed to teach children about both their rights and their duties.

among Arab-Muslim families living in Belgium, to enable children and their parents to learn French and/or Arabic; (b) to convey to these individuals a culture of rights of the child and human rights; and (c) to circulate the publication internationally in the French-speaking Maghreb countries. International distribution of the book has been taken in hand by the Wallonia-Brussels delegations in Algiers, Rabat and Tunis.

69. As part of a CMP project between the not-for-profit organization “*Défense des enfants international – Section belge francophone*” (International child protection – Belgian French-speaking section) and the “*Observatoire d’information, de formation, de documentation et d’études pour la protection des droits de l’enfant*” (Observatory for information, training, documentation and study for the protection of the rights of the child) in Tunisia, three training sessions for educators in the rights of the child were held in 2007 for about a dozen youth workers representing various Tunisian ministries, with the aim of implementing the Convention on the Rights of the Child, by helping disseminate a “culture of the rights of the child” in Tunisia.

70. As regards North America, the four projects taken up in the Guidelines for bilateral cooperation between Wallonia-Brussels and Quebec for the period 2005-2007 are:

- Project *Divers-1* “Third international francophone conference on sexual violence”, a project developed by Montreal’s Institut Philippe Pinel and the Wallonia-Brussels Delegate for Children’s Rights
- Project *Divers-2* “Caring for minors who have committed acts of sexual violence” (same cooperation partners)
- Project *FOP-5* “Socio-professional integration of adolescents with severe difficulties taken into the care of the youth protection network”, a project developed between the Association of Youth Centres of Québec and the Directorate-General for Assistance to Young People of the Ministry of the French Community
- Project *EDU-2* “Promoting the educational and linguistic integration of newly arrived young people in the bridging classes of secondary schools in Wallonia-Brussels and Québec”, developed by the Montréal inter-university research centre on immigration, integration and the urban immigration dynamic and cities and the Department of Romance Studies of the Catholic University of Leuven

#### ChildONEurope

71. In 2003, the European Network of National Observatories on Childhood (ChildONEurope) set itself the objective of exchanging information, knowledge and analyses relating to childhood and youth. The OEJAJ develops its activities within the framework of this European network to arrange for the exchange of information and data and to promote good practice at European level in relation to children, young people and youth welfare (see annex 11, para. 5).

### C. Cooperation with the organizations of civil society

72. The National Commission on the Rights of the Child (see paras. 17-19 above) is made up of representatives of the governments at all levels, workers in the field, non-governmental organizations that defend the interests and rights of children, universities, representatives of the legal profession and judges, the Delegate for Children’s Rights, children’s representatives, etc. The Commission therefore provides a forum for consultation between the various authorities, on the one hand, and the workers in the field, on the other. The goal of the Commission is to use dialogue to help give real substance to the rights of the child in Belgium.

**b. At the level of the federated authorities**

*b.1 Flemish Government*

73. As regards cooperation with civil society, we would refer back to the comments already made in section (A) (see paras. 28-38 above).

*b.2 Government of the French Community*

74. Set up within the OEJAJ, the Standing Group on the Convention (see para. 50 above) is made up, *inter alia*, of representatives of non-governmental organizations (NGOs) active in the field of children's rights.

75. A colloquy on the Convention's application in Belgium took place on 21 June 2002. It was jointly organized by the OEJAJ, the NGOs' Coordinating Body for the Rights of the Child (*Coordination des ONG pour les droits de l'enfant* – CODE) and the *Kinderrechtencoalitie-Vlaanderen*, demonstrating, in particular, the sound cooperation that has been established between the OEJAJ and the NGOs active in the field of the rights of the child (see para. 106 below).

76. The French Community's Ministers for Children and for Youth Welfare have asked CODE to carry out two studies on begging, as this has been identified as a very significant problem. This again clearly demonstrates the cooperation that has been established with the relevant NGOs (see para. 849 below).

**D. Measures taken to make the principles and provisions of the Convention widely known to adults and children alike (art. 42)**

77. In accordance with the Committee's recommendations, Belgium has introduced various mechanisms to improve the circulation of information on the Convention and its application among children and parents, and the adoption of initiatives designed to reach out to the more vulnerable groups.

78. In 2004, the Council of Ministers of Youth approved the resolution concerning the common objectives for voluntary activities of young people and the resolution concerning the common objectives for a greater understanding and knowledge of youth.

"What Do You Think?"

79. "What Do You Think?" is a project coordinated by UNICEF Belgium. It is directed towards children and young people in Belgium up to the age of 18. The aim is to promote their rights to a voice and to participation at all levels. More particularly, the project seeks to enable children to get their voices heard before the Committee on the Rights of the Child. Between 2002 and 2004, a project involving more than 150 unaccompanied foreign minors was implemented. The issue of children in hospital was also tackled. Between 2005 and 2007, more than 300 children with a disability were able to say what they thought about respect for their rights and also passed their recommendations on to the highest level. 2007 also saw the launch of several projects involving children housed in psychiatric institutions and children in conflict with the law. The project is supported by the Federal Government (FPS Justice), the Flemish Community, the French Community and UNICEF Belgium.

**a. At federal level**

80. The website of the Aliens' Office (*Office des Etrangers*) covers the issue of minors under the heading "Frequently Asked Questions" and provides a link to the Convention.

Staff working in departments that are involved in implementing the rights of the child have undergone specific training or attended seminars (see para. 753 below).

81. The FPS Social Security has developed a range of information tools designed to help people understand their rights in relation to social security: a website where the public can find appropriate information concerning the legislation applicable in the various branches of the social security system (family allowances, childbirth allowances and adoption allowances, for example); a booklet explaining the 2002 reform of higher family benefits for children with a disability and seriously ill children (*available on request*); and general leaflets published and targeted at beneficiaries, recipients and children in receipt of various allowances.

82. In addition, since 2005, the Flemish Bar Association has been arranging for special training in the law relating to young people for lawyers wishing to act for minors. The training consists of both a practical and a theoretical element. The module on theory contains a legal element (including a course on the international treaties and recommendations pertaining to children and their rights), as well as elements of criminology and sociology. The module comprises 14 four-hour units. The classes are given by eminent university teachers and by lawyers. The practical module contains both exercises in “communicating with children” and furnishes information to workers active in various sectors providing assistance to young people. Participants must also submit a placement report confirming that they have acted in cases involving minors. Some 150 lawyers have taken part in the training, so that a total of 300 lawyers had undergone the training by June 2007.

## **b. At the level of the federated authorities**

### *b.1 Flemish Government*

83. The Flemish authority’s website provides information on the rights of the child (<http://www.vlaanderen.be/kinderrechten>). The information covers, among other things, the Convention, the child impact report procedure, the Flemish Action Plan for the rights of the child, contact points and the annual report. Every year, the Flemish authority publishes information resources from the Commissariat for the Rights of the Child and addressed to the youth and the social welfare sectors, as well as the education sector. There are both booklets designed to publicize the Convention on the Rights of the Child: the “K-30” booklet (30,000 copies) and a colouring poster (16,000 copies) for primary school children, and the “Wblft” booklet (21,000 copies) and “Jongerenkrant” (70,000 copies) targeted at secondary school pupils. In addition, there is an information pack for minors (door-hangers: 290,000 produced) and another for adults in civil society (civil society folder: 25,000 produced) to inform them about the “helplines” of the Commissariat for the Rights of the Child which can be used to report violations of the rights of the child.

84. Since 2001, the Flemish budget has included a basic appropriation under the heading “Subsidies” designed to encourage, organize and develop activities relating to the rights of the child (see annex 6, para. 8). The subsidy accorded to the Ghent University Children’s Rights Centre has been continued, within that framework (see second periodic report, para. 71), with the aim of further developing expertise in children’s rights for the benefit of both governmental and non-governmental organizations (€15,000 in 2007). That expertise has resulted in the *Tijdschrift voor Jeugdrecht en Kinderrechten (KinderrechtengiDS)* (Journal on young people’s and children’s rights), the advice given to the minister responsible for coordination in this field, the organization of training (in participation and diversity, for example) and the provision of support to professionals working with children (see annex 6, para. 9). Moreover, the not-for-profit organization *Kinderrechtencoalitie Vlaanderen* has also been granted a subsidy (€83,500 in 2007) (see annex 6, para. 10). This organization has

expanded significantly over the past five years. In late 2006, it included 28 organizations active in the field of children's rights. The critical debate on Belgian policy on the rights of the child, and the alternative reports more particularly, are central to the Organization's concerns. In that connection, it is interesting to note that, since 2003, the *Kinderrechtenfestival* (Festival of the rights of the child), mentioned in the second periodic report (at para. 208) has been replaced by the *Kinderrechtendorpen* (Children's Rights Villages). The "villages" make it possible for people to attend large-scale events which mainly attract young people and families and thereby bring the issue of the rights of the child closer to children and young people. During the period 2003-2007, several children's rights villages were organized annually. The *Kinderrechtencoalitie* (grant of €38,000 in 2007) is responsible for organizing the villages and, in order to do so, works with the organizations affiliated to the Coalition and the Commissariat for the Rights of the Child, which also meets a substantial portion of the costs (see annex 6, para. 11). The Coalition also received an additional subsidy for organizing the European Forum of National Coalitions for the Rights of the Child, in Brussels, (8-10 March 2005).

85. In addition, subsidies have also been given to the following projects. During the period covered by the 2002-2007 report, UNICEF Belgium was given an annual grant by the Flemish authority to enable children to have a voice before the Geneva Committee. In that connection, and in response to the Committee's concluding observations, greater attention has been paid to Belgium's most vulnerable children. In 2007, the not-for-profit organization *Vormen* was awarded a grant, in response to the Committee's concluding observation 17 (2002) concerning the development of a project to provide education on the rights of the child and addressed to both the parents of primary school children — particularly parents of non-Belgian origin — and to local officials. In 2004 and 2007, the not-for-profit organization *Kinderrechtswinkels* was given a grant for a publication targeted at minors over the age of 12. In 2007, a series of publications for minors under the age of 12 was added. Additional information is available on the organization's website (<http://www.kinderrechtswinkel.be/>).

86. In 2006, three guides for children and young people were published, and the relevant websites set up, for three age groups. *Kidsgids* for children under 12; *Tienergids Life1215* and the young person's guide for the over 15s. The guides and websites are the result of cooperation between six organizations working for children and young people (see annex 6, para. 6). They endeavour to inform young people and children of their rights.

87. In addition, all of the organizations for young people have taken measures to disseminate information on the real significance of the Convention as part of their youth assistance activities. The measures are targeted at children, parents and teachers (assistants, senior and middle managers). The measures form part of the implementation of the decrees on integral youth welfare (*integrale jeugdzorg* – see para. 326 below). The Flemish authority has prepared information booklets for minors (one for the under-12s and one for the over 12s) and a booklet for parents and educators. The booklets were prepared in consultation with the children's rights journals and family associations (*Gezinsbond*) and by consulting with minors and parents. A large number of booklets have been distributed to youth organizations.

88. The booklet for minors clearly lists the rights of children when faced with the welfare system and the relationship between their rights and those of their parents.

89. The booklet for parents and educators tells them about the rights of their child/children and how establishments and/or adoptive parents must view those rights. There is also information on how to assist one's child, which may prove useful in supporting a child in the exercise of his or her rights or ensuring that a child's rights are respected. Furthermore, the booklet also lists the rights of children, including in situations

where children take a different view from their parents or a parent does not agree with a child.

90. The Flemish authority also supports professionals providing assistance to young people to implement the rights of the child in their own establishments via the [www.rechtspositie.be](http://www.rechtspositie.be) website, a work folder, discussion days in the Flemish provinces (2006), a training programme on children's rights, addressed to social workers and parents involved in providing assistance to young people (2006-2007), as well as a module for future social workers on the rights of children.

91. Within *Kind en Gezin* (Child and Family [K&G], see paras. 567-569 below), the subject of the "Rights of the Child" is included in the basic training of support staff.

92. Mention should also be made of a number of nationally recognized associations, such as associations that organize activities for young people and carry out specific activities relating to the rights of the child (see annex 6, para. 15).

93. Finally, as regards education in human rights and the rights of the child in primary and secondary schools, there are minimum objectives that involve teaching young people to respect other cultures and their representatives in an intrinsically intercultural society. The objective here is to recognize and appreciate diversity (see annex 13 and paras. 665 and 666 below). On the basis of the Decree of 2 April 2004 on participation in school (see annex 14), Flemish policy seeks "to contribute to the establishment of a platform for international cooperation and the development of international solidarity to achieve a sustainable global society".

#### *b.2 Government of the French Community*

94. In the French Community, the Decree of 28 January 2004 (see annex 7) requires the preparation of a report on the application of the Convention's principles. Every three years, the Government reports to parliament on the policy implemented to apply the Convention's principles, and publicizes the report. It can also be consulted on the OEJAJ website (see para. 43 above). Publicizing the report in this way makes it possible to disseminate the principles of the Convention to some extent.

95. During 2005, the OEJAJ set up a database that can be downloaded from its website. This instrument for the promotion of the rights of the child enables everyone (children, young people and adults) to access existing information tools concerning the Convention: books, teaching aids, websites and so on. Guided in their selection, users will obtain a list of tools appropriate to the target public. They can then access a detailed description of each tool and information on how to acquire it. A range of supplementary information of a pedagogical nature is provided to help professionals working with children's issues be positive in their approach to the Convention on the Rights of the Child: specification of the age group addressed, conditions of use, recommended training, possible group size, duration of activity, teaching note containing possible recommendations for subsequent use and links to other database tools. The database can be downloaded from the site: [http://www.oejaj.cfwb.be/article.php?id\\_article=128](http://www.oejaj.cfwb.be/article.php?id_article=128). All of the instruments included have been evaluated by teachers, and this has made it possible to categorize them effectively and make the database an effective research tool for the wider public.

96. The French Community has also encouraged the development of lifelong learning programmes for teachers and trainers. Thus, for example, as part of its training modules for teachers at primary level, the Institute for In-service Training offers courses on teaching children to make better use of their rights (from the 2005-2006 academic year).

97. The responsibilities of the Delegate-General for the Rights of the Child (see para. 44 above) include ensuring that the rights and interests of children are promoted, and



organizing information campaigns on this. A variety of awareness-raising measures, concerning both the rights of children generally and certain more specific rights, have been set in place and disseminated widely among children (see annex 11, para. 6).

98. Established by the United Nations as “Universal Children’s Day”, 24 October provides an opportunity for discussing the issue of the rights of the child and distributing teaching materials to teachers on activities to be carried out in class. In 2003, the Ministries for Children and for Education in the French Community distributed a circular inviting all teachers to take part in the education campaign on child labour.

99. Similarly, in 2003, a play about the rights of the child presenting the puppet “*Félicien*” was offered to all schools in the French Community. The play was followed by a discussion about children’s rights and accompanied by a booklet by way of teaching aid. In the “bridging” classes for newly arrived immigrant children, the play was performed free of charge.

100. On 20 November, every year, the French Community’s Delegate-General for Children’s Rights takes initiatives to mark children’s rights day as part of his/her responsibility for informing young people of their rights. Every year, the institution draws up an inventory of the range of activities carried out by many partners (see annex 11, para. 7).

#### *b.3 Government of the German-language Community*

101. The German-language Community has undertaken or supported a number measures in this field:

- Every year, on the occasion of International Children’s Day, as mentioned above, the Ministry for the German-language Community organizes various public events which are used, among other things, to provide information on the rights of the child. The issues tackled for the years 2002 to 2006 were the Convention on the Rights of the Child, immigrant children, non-discrimination against persons for foreign origin, children in the third world and the rights of children whose parents have separated. A range of methods was used: films, radio broadcasts, newspaper articles, work with youth movements, training days for social workers and lawyers organized with experts.
- With the support of the Government of the German-language Community, the German-speaking section of the Belgian Committee for UNICEF conducted many initiatives about the Convention in schools and took part in the “What do you think” and “Say yes” campaigns.

#### *b.4 Government and colleges of the Brussels-Capital Region*

102. Supported by its network of experts, the Children’s Observatory of the French Community Commission (COCOF), regularly publishes data on the conditions of children, and is involved in a European publications network (*Enfants d’Europe*) that supports a European approach to children’s services based on an image of childhood that is productive, actively involved in the creation of knowledge, cultural identity and values.

103. The first special report in the magazine “*Enfants d’Europe*” (Europe’s Children) dealt with the issue of listening to children. The magazine’s editorial team is currently discussing a declaration entitled “Towards a European approach to caring for young children”. According to the declaration, the European Union has a responsibility towards children and must tackle the question of children’s services and the unequal conditions in which children grow up, even though it has paid little attention to such matters so far. The declaration proposes representation for children, establishing a fresh approach to services

for young children. It establishes ten principles underpinning the approach: access, the educational approach, participation, consistency, diversity and choice, evaluation, professionalization, the relationship with education and exchanging national experiences. The document may be downloaded in French and English at [www.grandirabruxelles.be](http://www.grandirabruxelles.be) > what's new?

#### **E. Measures designed to make the report widely available (art. 44, para. 6)**

104. The observations which the Committee made when reviewing Belgium's second periodic report, in May 2002, have been forwarded to the Parliaments and federated authorities for action.

##### **a. At federal level**

105. The FPS Justice has made Belgium's second periodic report available on its website. In addition, the most recent observations of the Committee on the Rights of the Child were conveyed, by letter of 9 July 2002, to the relevant ministers and minister-presidents.

##### **b. At the level of the federated authorities**

106. On 21 June 2002, a colloquy on the application of the Convention in Belgium took place. It was jointly organized by the OEJAJ, CODE and the *Kinderrechtencoalitie-Vlaanderen*, thereby demonstrating, in particular, the sound cooperation established by the OEJAJ and the NGOs active in the field of children's rights. The aim of the colloquy was to make recommendations to the Committee on the Rights of the Child and to promote discussion of the policies implemented by the various Belgian institutions. The discussions took place in Dutch and French, and working groups tackled federal and community issues: unaccompanied foreign minors; equal opportunities in education; children and their family environment; and minors and the justice system. Reports of the proceedings were drawn up and published with the help and support of the OEJAJ (and may be accessed on the website [www.oejaj.cfwb.be](http://www.oejaj.cfwb.be)).

107. On 9 November 2006, a study day on the "Rights of the Child in Belgium" was organized on the initiative of Belgium's Flemish Community and French Community (OEJAJ), in conjunction with the *Kinderrechtencoalitie Vlaanderen* and CODE (the record of proceedings can be accessed on the website [http://www.oejaj.cfwb.be/article.php?id\\_article=240&var\\_recherche=actes+journ%E9e+d%27%E9tude](http://www.oejaj.cfwb.be/article.php?id_article=240&var_recherche=actes+journ%E9e+d%27%E9tude)). The costs of the study day were met by the two authorities. It was organized in the absence, at that stage, of effective national coordination of the rights of the child.<sup>2</sup> It therefore seemed important to devote a study day to taking stock of the Convention's application in Belgium.

108. The study day afforded an opportunity to consider the comparative study prepared by ChildONEurope on the recommendations and conclusions drawn up by the United Nations Committee on the Rights of the Child, following the submission of the reports of all the countries concerned, as well as the initiative taken by the European Commission in relation to the rights of the child. Professor Eugène Verhellen gave a presentation on the Convention's application in Belgium. The afternoon session was devoted to four specific issues that emerged from both the comparative study and the points to which the Committee on the Rights of the Child is drawing signatory States' attention: preventive

---

<sup>2</sup> Since that time, the National Commission for the Rights of the Child has been set up to facilitate, among other things, national coordination in matters pertaining to the rights of the child (see paras. 17-19 above NCRC).

justice, the collection of data and indicators, the participation of children and young people in policies and measures that concern them and, finally, poverty. The proceedings are available on the OEJAJ's website [www.oejaj.cfwb.be](http://www.oejaj.cfwb.be), and on the Flemish website [www.cjsm.vlaanderen.be/kinderrechten](http://www.cjsm.vlaanderen.be/kinderrechten).

## **F. Data collection and scientific research**

109. One of the responsibilities of the NCRC (see paras. 17-19 above) is to coordinate the collection, analysis and processing of a minimum of data, and to encourage cooperation and an ongoing exchange of data between the various other bodies. A working group is to be set up during 2009 for that purpose, tasked with establishing a uniform data collection system at the level of each relevant authority, enabling the NCRC secretariat to collect and forward the data effectively.

### **a. At federal level**

#### Data collection

110. A number of federal ministries and other bodies collect data on children within their individual fields of operation.

111. The College of Public Prosecutors (*Collège des Procureurs généraux*) provides statistics on sexual exploitation, sexual violence and the trafficking of children for the purposes of sexual exploitation (art. 34) (see annex 15.A).

112. The FPS Social Security provides statistics on the system of family allowances for employees and the system of guaranteed family benefits (see annex 15.B). The website of the National Social Insurance Institute for the Self-Employed (INASTI) provides statistics on the system of family allowances for the self-employed.

113. As regards adoption, the central federal authority (FPS Justice) centralizes the information, making it possible to get a more general statistical perspective on adoption and uniform case-law concerning both the classification of foreign adoptions (simple or full adoption) and determination of the child's name (see annex 15.C and para. 374 below).

114. The FPS Health provides statistics on combating smoking among young people, particularly on the basis of the new ban on the sale of tobacco-based products to young people under the age of 16 from vending machines (see annex 15.D and para. 502 below).

115. The Information and Analysis Centre for the Trade in and Trafficking of Human Beings (CIATTEH) is an information network that relies on data provided anonymously by the different actors involved in combating the trade in and trafficking of human beings. Its task is to collect, process, analyse and make all of the information available to the different partners (see para. 860 below).

116. As part of its recommendations to the Federal Government (December 2006), the Convention on Families (*Etats généraux des familles*) advocated setting up an observatory to monitor the impact of public policies on family welfare (see annex 47). The myriad sources of statistical information and lack of proper consistency between them, and the absence of data in some areas argue for the creation of a structure that is capable of collating the information from the different sources and gauging the impact of the policies implemented on the welfare of families. The observatory would bring together the different levels of authority, as well as the actors directly concerned in the social welfare sector.

117. In October 2006, a working group was set up under the auspices of an Interministerial Conference and tasked with drawing up a coordinated plan of specific measures to be taken to support and assist the families of individuals with a severe

disability. A “statistical” working group considered the methodology to be adopted and the information available currently or in the near future. In the long term, collecting the data exchanged by the authorities, in the context of their case management, will make it possible to obtain reliable data and adopt appropriate measures (see para. 453 below).

#### Research

118. Support from federal policy on science has made it possible to extend by five years (2001-2006) the interdisciplinary and inter-university research on the rights of the child that was discussed in the second periodic report (at para. 171 of the report).

### **b. At the level of the federated authorities**

#### *b.1 Flemish Government*

##### *Data collection*

119. The following must be stressed in relation to the collection of data in Flanders:

- Data on children under the age of 12: in the annual publication “Children in Flanders” (*Kind en Gezin*), data collected from a variety of sources (see annex 6, para. 1) are brought together to provide as accurate a picture as possible of the situation of children and their environment. This publication provides a wide range of data: demographic data (figures on births, proportion of children of non-Belgian origin, adopted children and so on), data on the family situation, on the care of children and on the health and physical development of young children.
- Data relating to education: the Department of Education and Training collects data concerning compulsory school attendance (pupils who fail to comply with the compulsory school attendance requirement, are exempt from that requirement or who are taught at home), on the one hand, and data on the funding of schools (number of pupils per school, gender distribution, number of pupils per school who meet the indicators essential to equality of opportunity in education, distribution by network, form and level of teaching, pupils in integrated education, etc.), on the other. Policy measures may be adjusted on the basis of data relating to compulsory school attendance.
- Data relating to young people’s organizations: the Agency for Community Education for Young People and Adults (Youth Section) and the Association of Flemish Youth Services and Youth Counsellors have published the “Youth organization statistics” (*Statistiques des organisations de jeunesse*) 2005-2007” (see [www.vlaanderen.be/jeugdbeleid/publicaties/documenten/cijferboek2005.pdf](http://www.vlaanderen.be/jeugdbeleid/publicaties/documenten/cijferboek2005.pdf)). They set out figures, tables and graphs concerning local policy on (organizations for) young people which have been collected as part of an extensive survey (see annex 6, para. 2).
- Data on children’s housing conditions: every year, the Flemish Government’s research unit publishes statistics on children’s housing conditions based on data from the national register.

#### Research

120. Until its closure in early 2006, the Centre for Population and Family Research (*Centrum voor Bevolkings-en Gezinsstudie – CBGS*) carried out several scientific research projects on children, taking the Convention as its reference framework. In each project, the children and/or young people were considered to be active “purveyors” of knowledge. A range of subjects were covered: the living conditions of minors; educational support (for

minors also in the specific context of youth welfare); communication within the family; the participation of minors in youth welfare; the quality of childcare; the effect of parental leave on children's welfare; the impact of separation (divorce) on children; assisting children whose parents are divorced; and housing for children living alone but with support. In 2004 and 2005, two instruments were developed to encourage the structural involvement of minors in the regional groups for comprehensive guidance for young people. In addition, the regional youth welfare plan incorporated data obtained from a broad and wide-ranging environment, and relating more particularly to living conditions and the supply of and demand for youth welfare services in the region concerned. For a definition of comprehensive assistance for young people, please see paragraph 326. The study into the effect of separation (divorce) was jointly undertaken by the Flemish Government's research unit (SGF) and the Knowledge Resource Centre of the Department of Welfare, Public Health and the Family (BSF) (see annex 6, para. 3). In 2006, the BSF Knowledge Resource Centre also finalized a study on the housing of children living alone but with support.

121. A new policy research platform was established within the BSF policy-making area for the period 2007-2011. It comprises a programme on "Young people and the family" which is directed towards the prevalence and (early) detection of health problems, behavioural and developmental problems in children from birth to the age of 9, and the need for and use of professional help. The effectiveness of the assistance on offer will also be assessed.

122. Given that research into young people's issues is neither organized particularly systematically or well coordinated in Flanders, the Platform for Research into Young People (hereafter: PRJ) was established, in spring 2003, at the initiative of the Flemish Ministry for Young People. The PRJ is a joint project between three university research groups with a background in research into young people. The task is threefold: to draw up an inventory of the existing research into children and young people; to draw up a summary of research into young people to enable it to be used in policy on young people and to establish a youth monitor. The research inventory can be consulted via the PRJ database on the website <http://www.jeugdonderzoekplatform.be>. In 2006, a summary report of recent research in 2000 and 2005 into children and young people in Flanders was published under the title "Young people today and in the future" (*Jongeren van nu en straks*). The process of monitoring young people must comprise periodic measures that provide an opportunity of determining whether the measures taken in the context of youth policy indicate progress. The first survey of young people was presented in early 2007 in the publication "Young People in figures and in words" (*Jongeren in cijfers en letters*) (cf. annexe 6, para. 4). Since 2007, the PRJ has been incorporated into the policy research platform of the Department for Culture, Young People and Sport.

123. As part of its policy on the rights of the child, the Flemish authority also lent its support to the Ghent International Conference (18-19 May 2006): "United Nations International Convention on the Rights of the Child. From theory to practice", which completed the research referred to in paragraph 118.

## *b.2 Government of the French Community*

### *Data collection*

124. The French Community tasked the Observatory on Children, Youth and Assistance to Young People (OEJAJ) with maintaining an up-to-date inventory of social data relating to children, young people and youth welfare, and establishing indicators linked to that social data. Every year, the OEJAJ publishes, at the same time as its activity report, a "*Memento de l'enfance et de la jeunesse*" (Memorandum on children and young people) incorporating the statistical data on the main measures for children implemented by the

French Community, as well as budgetary information connected with those measures. The OEJAJ also records its data collection activities in the ChildONEurope network.

125. In 2007, in collaboration with the Directorate-General for Youth Welfare, the OEJAJ prepared a statistical analysis of the administrative data relating to young people who had benefited from youth welfare and protection measures between 1 January 2002 and 31 December 2006. The main results of the analysis will be published during 2008, and it has made it possible to identify a number of characteristics relating both to young people and the kind of care provided for minors in difficulty or at risk and minors who have committed acts categorized as offences. There was particular interest in trends in care during the reference period. The data and indicators will assist the NCRC's work in this field.

#### Research

126. Similarly, the OEJAJ is responsible for carrying out or commissioning studies and research on children and young people and maintaining an inventory of studies and scientific research carried out in the French Community. For instance, in 2006-2007, the OEJAJ conducted an extensive survey of children and young people in their daily lives (family, school, leisure and official establishments). The survey covered more than 1,000 children aged between 10 and 18.

#### *b.3 Government of the German-language Community*

##### Data collection

127. The German-language Community provides statistical data concerning enrolment and attendance rates for primary and secondary schools and vocational training centres, as well as in relation to children separated from their families (see annex 15.E).

#### *b.4 Government and Colleges of the Brussels-Capital Region*

##### Data collection

128. In response to the Council of Europe's recommendations, the COCOF Children's Observatory has established indicators that take the child as the [statistical] observation unit. In 2007, a new report produced by the non-profit-making Centre of Expertise and Resources for Children (CERE), at COCOF's request, made it possible to take stock of the most recent developments in the situation of children in Brussels. The report may be downloaded from [www.cere-asbl.be](http://www.cere-asbl.be).

## **G. Difficulties and future objectives**

#### General measures

129. In accordance with the Committee's recommendations, the National Commission on the Rights of the Child has considered whether it is appropriate to retain the interpretative declaration concerning article 2 of the Convention. Consideration of the procedure for withdrawing the interpretative declaration has begun.

130. As regards the drafting of the periodic report, and although the Committee has not commented on this, the Belgian State will continue to improve the report's presentation in view of the very many bodies involved in drafting it. Particular attention will therefore be accorded to conveying a shared vision of the rights of the child in Belgium, a framework for the periodic report will be prepared and the inventory of the different measures taken by the governments during the reference period will be supplemented by an assessment of

those measures in the light of the rights established under the Convention. The NCRC Bureau will, in future, be responsible for putting suggestions to the governments concerned regarding the report's structure, in an effort to meet the objectives set out above and thus take account of the requirements of a periodic report.

131. To improve further coordination of the policy applied at the level of the different federal departments in child-related issues, including those areas in which the responsibilities of several ministers overlap (unaccompanied foreign minors or trafficking in human beings or children, for example), different measures will be considered, including the appointment of a federal coordinating minister for the rights of the child.

132. Moreover, the importance of coordination at the European and international levels cannot be denied. Belgium will endeavour to expand the exchange of good practice between the Member States of the European Union and to encourage the incorporation of the United Nations principles in relation to the rights of the child into the policies applied at European level, as already happens to some extent.

#### Education in the rights of the child

133. The relevant authorities confirm that they are applying the following fundamental principles in the process of organizing education in the rights of the child:

(a) Training and information must be relevant to the target group addressed and must be provided using a practice-oriented approach.

(b) A participative methodology needs to be developed and put into effect.

(c) The training and information must be realistic and provide accurate information. It is necessary to specify the scope of the rights of the child, that is to say both what those rights consist in and where they end.

(d) The rights of the child must be "translated" into a language that is accessible to the target group.

(e) Greater attention must be paid to the practical aspect of education in the rights of the child. The environment and atmosphere in which the training is provided are important means of conveying information on the rights of the child. Care will be taken to ensure that the principles taught are respected both within the institution in which the information is provided and by the institution's members.

134. The NCRC will take the initiative in having 20 November declared the national day of the rights of the child and will encourage the organization, during that day, of specific activities centred on the rights of the child in consultation with the relevant bodies.

135. The authorities recognize that they bear prime responsibility for information and education regarding the rights of the child. A specialist organization may possibly be commissioned to provide training and education.

136. The relevant authorities will seek to improve the general public's broad understanding of the rights of the child, on the basis of a realistic information policy which also shows the exact scope of the Convention.

137. The relevant authorities will also ensure that there is a greater focus on the significance and exact scope of the Convention. It often happens that children, like adults, know that they have rights but are unaware of their significance and exact scope.

138. The relevant authorities will take the measures needed to strengthen and organize information and the raising of public awareness in a way that is more targeted, systematic and accessible to children. One possible measure would be to publish Belgium's report, as

well as the “list of issues” and the concluding observations of the United Nations Committee on the Rights of the Child in the three official languages.

139. Subject to the available budgetary resources, the relevant authorities will draw up a more detailed inventory of the information and initiatives that already exist to provide information on the rights of the child, as already happens at some levels of government. This will clearly identify where there is an absence of information and education on the rights of the child and make it possible to identify those sectors in which fresh initiatives are needed. The NCRC will provide a national survey on its website by providing links to the above-mentioned bodies.

140. The relevant authorities will ensure that education in the rights of the child for children themselves is conceived in the broader sense and not merely limited to the school context. While it is true that schools have a central role in teaching students about the rights of the child, so that all children can be reached, other environments in which children grow up must also be taken into account, like the whole of the youth sector and the media.

141. Subject to the available budgetary resources, the relevant authorities will ensure that, as already happens at some levels of government, there is improved coordination of the teaching aids already established in relation to education in the rights of the child and designed for teachers and other actors who may be involved in teaching children about their rights, and that there is better information and that this information is better disseminated. The authorities may turn to specialist organizations to fulfil this role.

142. The relevant authorities will pay special attention to adolescents to ensure that they take back ownership of their rights, particularly the right to participate, including in the school context.

143. The relevant authorities will ensure that the rights of the child feature clearly and explicitly in the parenthood support programmes set in place at the request of a competent authority. Parents must be made more generally aware of the rights of the child. In educating parents in the rights of the child, it must be clearly established that the rights of the child do not imply a denial of parental authority. The content of those rights and their exact scope must be clearly specified, as must the role of parents in respecting those rights; parents must also be helped to put the rights of the child into effect in raising their children, particularly by means of booklets setting out good practices in dealing with specific everyday problems and depicting children as active family members.

144. The relevant authorities will ensure that parents are given specific education in the rights of the child, based on a strategic approach. In order to avoid “moralizing” of any kind, the information will be provided where the family situation is not problematic.

145. The relevant authorities will take the measures necessary to ensure that training in the rights of the child is organized in a more structured manner in relation to all of the professional groups concerned.

146. The relevant authorities will take the measures necessary to ensure that sufficient attention is paid to education in the rights of the child both in basic training and in further and in-service training (in the course of professional activity).

147. The relevant authorities will ensure that the approach taken to training is not merely academic. Specific training in the rights of the child, attuned to the specific features of each professional group, is needed in order to implement the rights of the child effectively within life in society.

148. Subject to the available budgetary resources, the relevant authorities will take the measures needed to organize training for all professional groups that have contact with children on a daily basis or whose activities are directed towards children. The bar



associations will be asked to organize their training for lawyers on a multi-disciplinary basis, encompassing not just the protection of young people but the whole range of rights of the child.

## II. Definition of the child

### a. At the federal level

149. While in general "child" must be taken to mean any individual under the age of 18, there are certain nuances to be taken into account depending on the legislation concerned.

- In relation to children in the labour market, "child" must be taken to mean a minor aged under 15. Minors aged from 15 to 18 are termed "young workers".
- In relation to filiation by recognition, the Act of 1 July 2006 *amending the provisions of the Civil Code relating to the establishment of filiation and to its effects (available on request)* amends the age from which the child's consent to recognition must be obtained. Previously it was necessary only for children aged 15 or over to give consent. Now children aged 12 must give consent for the recognition to be valid (see paras. 153, 227 and 276 below).
- In relation to adoption, the Act of 23 April 2003 reforming adoption (*available on request*) (see paras. 226 and 374 below) provides that a person aged 12 or over must give consent to adoption unless the child is incapable of understanding, without legal capacity or legally considered a minor.
- In relation to social security, certain young persons aged under 25 can be considered to be dependants. They are:
  - children and adopted children of the beneficiary or worker;
  - children and adopted children of the spouse of the beneficiary or worker;
  - children and adopted children of dependants of the beneficiary;
  - grandchildren and great-grandchildren of the beneficiary or worker, of his or her spouse or live-in partner or of a relative in the ascending line;
  - grandchildren and great-grandchildren of the spouse of the beneficiary or worker, of his or her spouse or live-in partner or of a relative in the ascending line;
  - children (who have their main residence in Belgium and do fall within the categories above) whose maintenance is taken on by the beneficiary, his or her spouse or live-in partner or a relative in the ascending line in the place of the father, mother or other person on whom the responsibility would normally fall; and
  - unaccompanied foreign minors who have been attending a course of primary or secondary education in an educational establishment approved by a Belgian authority, or who have been exempted from compulsory education (Act of 13 December 2006, *available on request*).

150. It should nevertheless be noted that the various legal provisions listed here as conferring legal capacity or a partial right of legal action on minors of certain ages do not in any way affect their general standing as children.

### III. General principles

151. Follow-up action taken in response to the concluding observations of the Committee on the Rights of the Child, following the submission of Belgium's previous periodic report, is summarized at paragraphs 152-198 and 225-261.

#### A. Non-discrimination (art. 2)

##### a. At the federal level

###### Foreign minors

152. Specific measures which have been taken in favour of foreign minors are listed below at paragraphs 727 *et seq.*

###### Filiation

153. The Act of 1 July 2006 amending the provisions of the Civil Code relating to the establishment of filiation and to its effects (*available on request*) put an end to certain instances of discrimination in relation to filiation (involving matters including paternal recognition, inquiry into paternity, names of adulterine children, etc.). Earlier legislation had already ended most instances of discrimination between children involving the effects of filiation. The aim was, among other things, to end differences in treatment where filiation that did not reflect reality was challenged. (see para. 276 below)

###### Family allowances

154. The family allowance system for salaried workers guarantees the same rights to workers and claimants of foreign nationality as to their Belgian counterparts. The principle of non-discrimination is thus guaranteed at this level, as workers of Belgian and foreign nationality benefit from the same payments. Nor is any distinction drawn in the case of the self-employed on the basis of the child's nationality.

155. In the case of guaranteed family allowances (the system which applies when no other statute gives the right to specific payments), the same rights are given to foreigners on condition that the natural person claiming family allowances for a dependent child has actually been continuously resident in Belgium for at least five years at the time when the application is made (subject to exceptions such as those which apply to: employed or self-employed persons who are nationals of the European Union, and their family members moving within the Union; stateless people; and refugees).

156. The Act of 20 July 2006 (*available on request*) removes gender discrimination in relation to identifying who is to receive the adoption allowance when a child is adopted by more than one person. At present, if spouses or a cohabiting couple have jointly adopted a child, they designate which of them is to receive the adoption allowance. Should there be disagreement, or if no designation is made, the allowance is paid to the woman if the spouses or cohabitantes are of different sexes and to the elder partner if they are of the same sex.

###### Health care

157. Provided that certain conditions are fulfilled, any person, whatever their gender, nationality, etc., may obtain a right to health care as holder of that right or benefit from a derivative right to health care as a dependant. In order to obtain entitlement to health care, it is necessary to be affiliated to an insurance provider as a policy-holder (employee,

unemployed person, self-employed person, student, person entered in the National Register of Natural Persons, etc.), and, if necessary (and, in practice, exceptionally) complete a qualifying period. It is also necessary to have paid the health-care insurance contributions. Dependants (including children) benefit from a derivative right to health-care provision on the basis of their relationship with the policy-holder. To benefit from health care, dependants must have the same main residence as the policy-holder and not exceed a certain income level. Since dependent children meet these conditions, they are, in principle, protected from any discrimination in relation to health care.

#### Children with a disability

158. On completion of the work carried out by the Interministerial Conference, a protocol defining the concept of “reasonable accommodation”, contained in the Act of 25 February 2003 on combating discrimination, was adopted on 11 October 2006. This is an initiative designed to improve the social and occupational inclusion of persons with a disability by ensuring reasonable accommodation of the places to which they have access for the purpose of participating in the active and collective life of our society (see para. 452 below).

### **b. At the level of the federated authorities**

#### *b.1 Flemish Government*

##### General Flemish equal opportunities policy

159. Flemish equal opportunities policy is designed to combat discrimination based on gender, sexual orientation and issues of accessibility. It seeks to identify and encourage discussion of these issues, combat these forms of discrimination and prevent the emergence of new and similar forms of discrimination. Until 2004, children —and parents— were in the target groups at which the policy was mainly directed. Since that time, the policy has continued to focus on the three target groups/issues mentioned above. As well as taking a coordinating or “horizontal” approach, Flemish equal opportunities policy is also developing a significant “distinctive” or vertical process. This allows expertise to be developed in relation to the situation of the target groups of equal opportunities policy, the problems that policy encounters and the possible solutions. The scope of the policy is also extended; this is important in terms of defending the interests of the target groups and providing an intermediary between them and the political element. In addition, public awareness is raised by disseminating information and launching campaigns. Structural contacts are also set in place with the local and provincial authorities in order to embed and harmonize an equal opportunities policy within the different administrative bodies. Coordination of equal opportunities policy is the responsibility of the Equal Opportunities Unit of the Government’s Department of General Policy Services. As regards children, mention should be made of the (structural) subsidy accorded to the support point for girls and women of non-Belgian origin and the “*Wel Jong, Niet Hetero*” campaigns (in project form) (see annex 6, para. 22).

##### Combating poverty

160. Like policy on the rights of the child, combating poverty is largely a horizontal policy. In 2003, the Decree of 21 March 2003 on combating poverty and the Flemish Government’s Order of 10 October 2004 governing the decree’s implementation provided a solid foundation for Flemish policy on poverty. 2004 was a special year for combating poverty in Flanders and Belgium: not only did it mark the tenth anniversary of the General Report on Poverty, but the keenly anticipated decree on poverty entered into force on 1 January 2004. The new decree provided a structural basis for the support the poor need in order to be able to contribute to society. In that connection, the Flemish network of

associations in which the poor have a voice was set up on 9 May 2003. The new decree also provides for a number of political instruments to help policy on poverty: the *Vlaams Actieplan Armoedebestrijding* (VAP) (Flemish action plan on combating poverty) and the *Permanent Armoedeoverleg* (PAO) (Permanent consultation on poverty).

161. Within nine months of taking office, and thereafter annually, the Flemish Government is required to draw up an action plan on combating poverty. The action plan is drawn up with the involvement of the target groups (the Flemish network of associations in which the poor have a voice). The action plan, includes, among other things, the general vision and approach of Flemish policy on combating poverty, the long and short-term objectives for each policy area and a description of the specific measures. The Flemish action plan on combating poverty contains a general survey of a whole range of objectives and measures structured around the ten fundamental rights established under the General Report on Poverty: participation, social welfare, family, justice, culture, income, education, employment, housing and health. In terms of specifics, it refers to the Flemish Action Plan for the Rights of the Child (see para. 28 above), which contains a specific section on the content of policy on poverty in relation to children, under the heading “Strategic objective 2: combating poverty: investing in children”.

#### Minorities and Integration

162. In 2004, the Flemish authority presented a new strategic plan that is integral to the policy applied between 2004 and 2010 in relation to minorities. The policy was entitled “Co-existing in diversity. Shared citizenship and equality of opportunity in Flanders in all its variety”. The two main goals of the plan are both to encourage co-existence in diversity throughout the population and to achieve fair participation and simplify the process of empowerment. The plan provides an appropriate policy framework making it possible to guarantee and strengthen, more systematically and structurally, the rights of children and young people from ethnic groups and cultural minorities. The plan was approved by the previous Flemish Government (March 2004). The current Government wants to begin by updating it before doing the same.

163. A specific section of the policy on minorities concerns travellers. In 2003, the Flemish Minister for Welfare set up a specific working group within the Interdepartmental Commission for Ethnic and Cultural Minorities (CIME). In terms of education, various projects have already been set under way to improve the participation of travellers’ children in education (points to note: use of confidential counsellors and school transport). It is desirable that this should be incorporated into the normal policy. As a result of the Decree on equality of opportunity in education (see paras. 172 *et seq.* below), students who are “travellers’ children” are assigned a coefficient of 1.5 for the purposes of determining resource requirements and course length.

164. As regards bargee children, the Flemish authority awards a subsidy to the not-for-profit *De Schroef* association. The subsidy has made possible, in particular, the structural establishment of a nursery class, arrangements for correspondence courses and specific social activities for young people.

165. In addition to the Decree on minorities, the Flemish authority adopted the Flemish policy on integration by means of a Decree of 28 February 2003 (see annexe 16). From 2005, the decision was taken to employ the terms “sector of diversity” and to align the two decrees as far as possible. The decree on integration policy provides for a primary integration route targeting all newly arrived minors who speak a different language. This specifically involves their active referral from reception centres to educational establishments that provide reception tuition and health and welfare centres. The municipality informs the parents of minors about the applicable provisions on compulsory schooling and the right to education and tells them about the municipality’s social and

cultural facilities. Following a period of pilot schemes, the decree was adjusted in 2006 (see annex 17) setting out in detail the responsibilities of the reception centres. The proposal for an orientation course was incorporated.

166. In the new agreements entered into with the integration services and centres (2006-2008), many outcomes have a direct (or indirect) impact on children's lives. The objective is to secure the qualitative participation of children and young people of non-Belgian origin in education and youth, sporting and cultural associations. In terms of education, additional projects have been developed in collaboration with the relevant bodies and under the auspices of the Minister of Education. The projects are directed towards language-learning, the degree of participation in nursery education, efforts made to guide students of non-Belgian origin towards different options in secondary and higher education, adopting approaches similar to those that apply to students of Belgian origin, etc.

167. On a project call entitled "Seeking diversity in managers" (see annex 6, para. 23), in 2006 (and 2007), the Flemish Government freed up the sum of €5 million for initiatives designed to enhance the policy of integration and diversity management. The projects selected in 2006 target children and young people and involve encouraging opportunities for entry and progress to higher education, resolving aggressive behaviour in minors, guiding socially vulnerable children and young people to local youth associations and increasing educational opportunities by encouraging children to learn languages, among other things, through play, support for work at home, student support and educational support.

168. Since 2002, the Flemish Community has also been responsible for selecting projects in Flanders and Dutch-language projects in Brussels in the context of the Immigrant Policy Support Fund. Set up in 1991 by the Federal Government, the fund is designed to finance projects relating to the policy of integrating young people of foreign nationality or origin (see annex 6, para. 24). Since 2004, the target group has been expanded to cover all persons of foreign origin, and efforts are under way in relation to preventing discrimination and encouraging intercultural dialogue.

169. Finally, mention should be made of a number of initiatives under way in and around Brussels.

170. Firstly, intercultural exchange and diversity are the common themes of Flemish policy in Brussels. Moreover, the Dutch-language Brussels schools are a paradigm for a successful intercultural approach. The Flemish authority invests substantially in the Brussels schools and in supporting the teaching corps in Brussels, so that all children enjoy equal opportunities. In addition support is also guaranteed for projects seeking to promote Brussels as an intercultural city, improve children's and young people's knowledge of Dutch or establish a bridge between the different regions and cultures.

171. Secondly, the Flemish Government subsidizes the non-profit-making De Rand association which provides young people with information via an e-magazine called "*Op 't randje*" that contains information on public policy measures, new legislation, news for young people, subsidies and so on. Every August, De Rand organizes creative language courses for children of non-Belgian origin aged between 4 and 8, for whom Dutch is the second, third or fourth language. It also supports playgrounds in municipalities with special linguistic status, in accordance with the above-mentioned Decree of 2003 on a local policy for young people and youth work. Under the Decree on the local policy for young people (and their associations), the young people's associations in the six municipalities with [linguistic] facilities in the Brussels region are subsidized following the introduction of a youth policy plan. These funds allow the youth associations to fund their operations and carry out various projects. The funds may also be resourced from a proportion of the subsidies allocated for children "suffering discrimination": if a young people's movement

wishes to use some of its subsidy for that purpose, it can therefore take the appropriate measures. De Rand informs young people via an e-magazine called “*Op ‘t randje*” that contains information on public policy measures, new legislation, news for young people, subsidies and so on. Every August, De Rand organizes creative language courses for non-native children aged between 4 and 8, for whom Dutch is the second, third or fourth language. It also supports playgrounds in municipalities with special linguistic status.

#### Education

172. The main non-discrimination measure adopted in the context of education policy is the introduction of the Decree on equality of opportunity in education (hereafter: the ECE decree) of 28 June 2002 (see annex 18). The decree (see annex 6, para. 25) takes a three-pronged approach to tackling the problems of inequality in education (see annex 6, para. 26).

173. Firstly, it is based on the—in principle, absolute—right to be enrolled in the funded or subsidized school of the student’s choice. That does, however, require some qualification. The student must meet the conditions of acceptance that apply to the course in which he or she wishes to enrol. Moreover, when the application is made, the parents and student must be informed of the school work plan and the school rules. The fact that the parents must explicitly give or withhold their consent to complying with the school work plan and school rules means that every student, without discrimination, has a fair chance of accessing the teaching and school environment that his or her parents have specifically selected.

174. The Flemish Government has established a framework and procedures on the basis of which students may be rejected. A competent authority rejecting or redirecting a student must inform that student’s parents and the chair of the local consultation platform and must state the grounds for its decision (see para. 175 below). The decision must be notified within two working days. If they express the wish to do so, the parents will be provided with an oral explanation of the competent authority’s decision.

175. Secondly, the ECE decree provides for the establishment of local consultation platforms (hereafter: PLCs). The dynamic at local level is thus used to achieve an effective equal opportunities policy in education. Consultation at local level may forge links with other policy areas such as welfare, housing and mobility. PLCs have been set up for both primary and secondary education throughout Flanders (with some priority municipalities and regions). PLCs involve not only all of the directorates and competent authorities for schools and student support centres, but also representatives of school staff, parents and students, local socio-cultural and economic organizations, organizations for persons of non-Belgian origin and the poor, integration centres, reception centres for newly arrived immigrants and the *Schoolopbouwwerk*. As well as having investigative and advisory responsibilities, PLCs also act as mediators and provide support in positively enforcing the right to enrolment. Each PLC has a mediation unit that helps parents and students if a school has refused enrolment. Given that the municipality may apply a local policy in relation to welfare, mobility, housing and so on, it can perform an important advisory function within the consultation platform. From a Flemish perspective, it is essential that the representatives of the different partners involved in a PLC should take part in the consultation. In this way, implementation of the provisions relating to the right to enrol and to the PLCs is negotiated at “macro” level.

176. In addition to the PLCs, it is also worth mentioning the Commission for Students’ Rights, which is an entirely independent body. The Commission is made up of a chair with legal training and six members who are familiar with the problems inherent in education generally, the rights of the child and constitutional and administrative law. Parents may contact the Commission if they wish to challenge a refusal of enrolment in their school of

preference and wish to make a complaint. The members of the Commission then consider the case and give a final opinion. The Commission for Students' Rights will also decide on cases in which enrolment has been refused and have initially been the subject of mediation via the PLC but without a solution being reached. Moreover, the Flemish Ministry for Education and Training, which is responsible for monitoring the enrolment process, may also refer to the Commission for Students' Rights if, for instance, the monitoring services ascertain that additional enrolments were permitted following a refusal. In cases of refusal, the procedure is carried out immediately by the Commission; it decides whether or not the grounds for refusal are adequate.

177. Thirdly, the decree makes provision for integrated support arrangements (*offre intégrée de support*) giving schools and staff additional resources to allow them to develop wide-ranging facilities that optimize learning and development opportunities for all children and young people. In the context of the integrated support arrangements, socio-economic and cultural indicators make it possible to identify schools with the greatest numbers of students at risk. The indicators help identify the risk of students falling behind or suffering discrimination. To give schools the opportunity of determining membership of the target group of the policy of equal opportunity in education, they must ask all of their students for information. The schools cooperate with the student support centre, as well as with the assessments carried out by the authority. The schools inspectorate checks to see whether and to what extent the objectives are met.

178. Since 2002, the ECE decree has, in particular, been backed by a declaration of commitment from the school sector [and] interest groups and by a radio and television campaign. It has also already been amended in relation to a number of important points. This proved necessary in order to resolve a number of issues concerning enrolment and to prioritize the position of the education system's most vulnerable users. The amendments are designed both to improve the decree's applicability by endeavouring to achieve a better balance between the right of the "education seeker" and the right of the "education provider", and to encourage a maximum of diversity within the school population. Consequently, the conditions and grounds for refusing a student are clearly set out as a result of the amendments.

179. In addition, a wide-ranging policy plan on absenteeism, "time-out" pilot schemes and an approach that encourages reinstatement, as well as the creation of a network of responsible players, have made it possible to work towards an integrated policy applicable to the most vulnerable young people in society.

180. Finally, in its endeavour to secure equal treatment for all students, the Flemish Government has launched other initiatives; 2002 saw the signing of a "Joint declaration on equal treatment for heterosexuals and homosexuals, lesbians and bisexuals (*holebi*) in education"; a "diversity week" was organized every year from 2002 to 2004 and has now been made into an annual diversity project "Diversity and/in teacher training".

181. For further information, please refer to the discussion in relation to article 28 (see para. 621 *et seq.* below).

#### Culture, young people and sports

182. In March 2006, the Flemish Minister for Young People launched the campaign "All different, all equal" in collaboration with the Equal Opportunities and Racism Prevention Centre. The campaign takes up the Council of Europe's diversity initiative and is directed towards children and young people. In Flanders, this took the form of an extensive media campaign addressed to children between the ages of 6 and 12 and young people between the ages of 13 and 18. The aim of the campaign is to make children and young people aware of how people are both different and similar.

183. Under the Decree of 14 February 2003 on local policy on young people (and their organizations) (*available on request*), the municipalities, provinces and Flemish Community Commission were invited, when the policy plan was being drafted, to analyse accessibility to youth organizations, looking more particularly at specific target groups. In 2006, the Youth Section set, as its main theme, “Diversity in municipal policy for young people”, accompanied by many suggestions concerning the specific target groups. Based on indicators concerning a shortfall in specific opportunities for young people, some 40 municipalities received additional subsidies to support the provision of a youth organization for children in poverty, children of non-Belgian origin, children in receipt of special youth assistance and children with inadequate schooling. The five Flemish provinces were to use 20 per cent of the amount of the subsidy set aside to support the regional youth organization for children and young people with a disability. The 2003 operational report revealed that all of the provinces had in fact made every effort to eliminate discrimination against this target group.

184. The Flemish Decree on youth policy of 29 March 2002 (see annex 5) provides that diversity must be an issue covered in the policy documents of associations in receipt of a subsidy. Under the decree, a range of associations that specifically target children and young people with special needs are also permitted to benefit from the subsidies: *Wel jong niet hetero*, *Steunpunt allochtone meisjes en vrouwen*, *Achilles vzw*, *Uit de Marge*, *Platform Allochtone Jeugd*, among others.

185. The survey on “Social participation of young people. Developing in the social, leisure and cultural space”, conducted at the request of the Department for Young People (Cultural Administration), was finalized by Wendy Smits, on the basis of a representative survey of 1,769 young people aged between 14 and 18, and carried out, in 2002, by the TOR research group of Free University of Brussels; it made it possible to obtain a picture of the problems concerning intervention and participation by the vulnerable target groups.

#### Tourism

186. The Decree “Tourism for all” of 19 September 2003 (*available on request*) is designed to support a Flemish social and tourist policy by supporting accommodation, associations and support centres. Young people constitute a prime target group for tourism under the terms of the decree. More specifically, the objective is to maintain capacity, as well as to improve the quality and fire resistance of infrastructure (camp sites, social holiday accommodation, youth hostels and young people’s holiday accommodation). On the basis of the *Vakantieparticipatie* support centre, the decree provides for support for associations organizing group holidays for deprived children. Individuals, and therefore children also, with a disability may contact *Point Info Voyages Accessibles* (now part of *Toerisme Vlaanderen*) which provides information and training.

#### Persons with a disability

187. See paras. 464 *et seq.* below.

### b.2 Governments of the French Community and the Walloon Region

#### Education

188. The Minister of Compulsory Education adopted circular 1461 of 10 May 2006 (see annex 19) which sets out the current rules on free schooling and costs chargeable to students and their families within the French Community’s compulsory education system to prevent discrimination (see para. 635 below). In 2007, free photocopying was introduced in basic education and for class diaries at secondary level.



189. To guarantee the provision of education to all children, without any discrimination, and make provision for newly arrived immigrants, 181 bridging classes have been established since the entry into force of the Decree of 14 June 2001 (see annex 20 and its Erratum [*Moniteur belge* of 12/09/2001] *available on request*). If schools whose project has been renewed annually since 2001 are taken into account, 53 are benefiting from this measure in the French Community. The bridging classes are educational structures designed to ensure the reception, guidance and best possible integration of newly arrived children into the basic education system. This mechanism must be accompanied by supplementary arrangements to reach the target public more effectively and more widely. The funding for the bridging classes has, in parallel, been increased by 65 per cent in three years. The list of assisted countries drawn up by the OECD and defining the origin of “economic refugees” has been retained and will continue to be used beyond the 2007-2008 academic year. It includes the new Member States of the European Union and other Eastern European countries.

190. Schools are generally very satisfied with this system. The educational team is often highly motivated and makes substantial efforts to help these children learn to read and write. The main problems stem from the fact that some children have never attended school before arriving in Belgium. A number of different languages, with which the teacher is unfamiliar, are often spoken in class, compelling the teacher to use methods other than language (mime, for instance) to teach the French language; there is constant coming and going; children arrive and others leave Belgium during the academic year ... There are also problems linked to children’s residence status.

191. A revision of the “bridging classes” decree was adopted on 20 July 2006 and is designed to make the creation of bridging classes more flexible in accordance with variations in arrivals in the reception centres.

192. The French Community has taken the following measures to ensure equal opportunities of empowerment for all:

- The Order of 14 July 2006 (*available on request*) provides for the allocation of additional teaching periods for the 2006-2007 and 2007-2008 school years, as well as for additional subsidies for establishments applying positive discrimination.
- The government action programme for promoting equality between men and women, cultural exchange and social inclusion, adopted on 25 February 2005, has introduced a number of measures to combat homophobia in schools.
  - Publication of a teaching manual, an aid for teachers, to combat homophobia in primary and secondary schools:
  - The inclusion, in the 2006-2007 syllabus of the In-Service Training Institute of gender-training modules, incorporating issues of sexual orientation.
- In addition, the 2004-2008 five-year health promotion programme provides for combating discrimination against persons who are HIV-positive, and encouraging solidarity. In late 2002, a circular was issued on caring for children infected with HIV within the institutions dependent on or subsidized by the French Community. It is addressed to several players (the competent authorities, management of establishments that care for children or adolescents and so on). It provides information on the ways in which the illness is spread to prevent the exclusion of and discrimination against HIV-positive children (see paras. 537 and 541 below).

#### Childcare facilities

193. The Government of the French Community's Order of 27 February 2003 (*available on request*) provides that reception facilities must apply the principles of equality and non-discrimination (see para. 571 below).

#### Tourism

194. The Decree of 18 December 2003 (*available on request*) on tourist accommodation sets out a policy to support facilities offering leisure and holiday activities organized by an association in such a way as to offer everyone person, and particularly the economically and culturally disadvantaged, the best practical conditions for real access to these activities. Young people are one of the target groups for tourism. The objective is to maintain capacity and improve the quality and safety of infrastructure (social tourism centres, youth hostels and group holiday accommodation). In addition, the National Tourist Office and the Tourism Promotion Office for Wallonia and Brussels are supporting the efforts of youth tourism associations to encourage the target groups.

#### Combating poverty

195. The "Agora" working group has been set up in response to the General Report on Poverty and the subsequent debate on the placement of children as a result of poverty. The group is chaired by the administration and made up of members of the associations, representatives of the central authorities, delegates from the youth welfare services (SAJ) and the legal protection services (SPJ), counsellors (SAJ) and directors (SPJ) for youth welfare services. The group was set up to organize debate concerning the relationship between the users and professionals of the bodies provided for by the Decree of 4 March 1991 on youth welfare provision (such as the SAJ and SPI). The Poverty Prevention Service of the Equal Opportunities and Racism Prevention Centre supports the group's work. During the period 2002-2007, the group met every six weeks. The aim is to produce, in the coming years, a genuine "code of good conduct" drafted jointly by the professionals and beneficiaries of the specialist assistance, and covering the whole assistance process (see annex 11, para. 19).

### *b.3 Government of the German-language Community*

#### Education

196. Since 1999, the German-language Community has amended its legislation on several occasions to secure greater respect for the principle of non-discrimination:

- The opportunities for foreign students to obtain education grants, for secondary and higher education at least, have been extended.
- The Decree on educational provision for newly arrived students has been adopted enabling bridging classes to be set up to prevent children being deprived of an education (see para. 197 below).
- Organized and free educational establishments in receipt of a subsidy from the German-language Community are required to enrol any student of Belgian or foreign nationality living in the territory of the German-language Community. Municipal educational establishments subsidized by the German-language Community are required to enrol any student of Belgian or foreign nationality living in the territory of their own or a neighbouring municipality. The Government arranges for checks to be carried out on enrolment and the regular attendance of children subject to compulsory schooling.

- As regards children with a disability, the German-language Community has revisited the definition of students in need of extra support. It is in the process of drawing up a draft decree setting up a committee for integration and special education to establish a new procedure for the integration of children in need of extra support in ordinary schools.

#### Minorities and integration

197. In 2001, the German-language Community adopted the Decree on the education of newly arrived students to facilitate the creation of bridging classes (*available on request*). Bridging classes are educational structures designed to ensure the reception, guidance and best possible integration of newly arrived children into the ordinary primary or secondary education system. The priority objective of the classes is to teach newly arrived children the teaching language and integrate them into everyday life.

#### b.4 Government and Colleges of the Brussels-Capital Region

198. COCOF supports the development of care facilities for children with a disability in both facilities outside school and in general education (school transport, training educators, guide to good practice).

199. In 2002/2003, it launched a multi-sectoral study on the general care of seriously ill children. This resulted in the establishment, by the Social Documentation and Coordination, Centre, funded by the Joint Community Commission (COCOM), of “Hospichild”, a reference site concerning all of the non-medical aspects of child hospitalization (before, during and after hospital admission) in Belgium, and the Brussels-Capital Region more particularly.

200. In connection with the Decree on social cohesion, COCOF supports many homework clubs (*écoles de devoirs*) and educational support activities, as well as various associations providing a wide range of activities for children and adolescents, either throughout the year or during the school holidays. The associations in receipt of support under the social cohesion plan target, as a priority, children and young people from disadvantaged districts of Brussels, and must respect certain criteria such as respect for mixed schooling, the development of citizenship and equality of opportunity.

201. COCOF has laid particular stress on funding cultural projects in schools, during school hours, on the basis of a project called “*Anim’action*” and school projects in respect of which the budget has been greatly increased since 2006.

202. The Region itself, increased tenfold, between 2002 and 2006, the budget allocated to the Mechanism to Prevent Students Dropping Out (*Dispositif Accrochage Scolaire*) (DAS).

## B. Best interests of the child (art. 3)

### a. At federal level

#### Foreign minors

203. The interests of the child are always taken into consideration in any decision taken in relation to a foreign minor and pertaining to access to the territory, residence, establishment and expulsion.

#### Commercial practices and consumption

204. The Belgian Government also endeavours to ensure that the interests of the child are taken into account in commercial practices and consumption (see paras. 284 and 685 below).

#### Adoption

205. The Act of 24 April 2003 reforming the adoption system (*available on request*), now provides that a child may be adopted only in that child's best interests and "in compliance with the fundamental rights accorded to the child in international law". That condition is mandatory for the Belgian courts, whatever the law applicable to the establishment of the adoption. Reference solely to "the best interests of the child" no longer seems sufficient, as different people might interpret it differently. Consequently, the new legislation introduces this new concept of the "fundamental rights accorded to the child in international law".

206. Where adoption takes place abroad, the same act provides that it is not to be recognized in Belgium, if it is incompatible with the best interests of the child and the fundamental rights accorded to the child in international law. Recognition will also be withheld if the adoptive parents have committed fraud in connection with the procedure or the adoption was established in an attempt to contravene the law, unless it is nevertheless justified by certain reasons connected with respect for the rights of the child.

#### Filiation

207. The interest of the child must be taken into account by the judge as a determining factor certain filiation procedures (see paras. 227 and 276 below). The same rules apply to the independent sector, under the jurisdiction of the Minister for the Self-employed.

#### Social security

208. The interests of the child are taken into account in the coordinated legislation on family allowances for employees. To prevent more than one person obtaining family allowances for the same children, the laws have established a hierarchy whereby certain persons are accorded priority for the purpose of obtaining these allowances. In some cases, this hierarchy could deprive the child of a right to supplementary allowances. The law therefore provides that the Minister of Social Affairs, or official from the FPS Health and Environment, appointed by the latter, may decide who has priority so that the child benefits from all his or her entitlements. The same rules apply to the independent sector, under the jurisdiction of the Minister for the Self-employed.

#### Custody of children whose parents have separated

209. The new Act of 18 July 2006 promoting the shared custody of children whose parents have separated entered into force on 14 September 2006 (*available on request*). The interests of the child will have to be considered by the court in this connection (see para. 350 below).

### **b. At the level of the federated authorities**

#### *b.1 Flemish Government*

210. See the comments on the child impact report (para. 29 above), youth policy (paras. 37-39 above), the Decree on the status of minors in relation to integrated youth welfare (para. 326 below), K&G (paras. 567-569 below) and education (para. 621 *et seq.* below).

## **C. The right to life, survival and development (art. 6)**

### **a. At federal level**

#### Consumer safety

211. A national Child Safety Action Plan has been developed at federal level in connection with consumer safety and is based on: (a) an analysis of the current position in relation to accidents involving children in Belgium; (b) identifying priorities in relation to accidents involving children; (c) defining objectives; (d) determining what needs to be done to achieve those objectives; and (e) attaching figures to objectives. The plan is still being set in place.

212. Annual safety campaigns are also carried out. In that connection, a specific sector or product is monitored in detailed: checks have already been made on toys, child seats on bicycles, playpens, children's bicycles and wheeled toys. Checks are currently being carried out on cords on children's clothing, baby changing tables, children's sunglasses and comforters.

213. In 2006, the sale of novelty lighters and/or lighters that are not child resistant was prohibited (transposition of the European Decision – Royal Decree of 15 September 2006 on lighter safety, amended by the Royal Decree of 8 June 2007).

214. Other measures to protect children from certain commercial practices or ensure that products sold are safe, are listed in paragraphs 171 and 415.

#### Road safety

215. See paragraphs 426 *et seq.*

#### Environment

216. See paragraphs 485-488.

### **b. At the level of the federated authorities**

#### *b.1 Flemish Government*

#### Health

217. In 2003, a new vaccine was added to the list of basic vaccines that the Flemish Government offers free of charge against polio, diphtheria, tetanus, whooping cough, measles, mumps, rubella, hepatitis B and haemophilus influenzae type b. The vaccine in question is against meningococcus type c. In 2004 and 2005, the campaign to vaccinate against meningococcus type c was continued and completed through a catch-up process. As a result of the vaccination campaign, the number of cases of meningococcus type c infection fell, in Flanders, in 2004, to the lowest level for six years. Since January 2007, general practitioners and paediatricians have been able to vaccinate children under the age of 2 against pneumococcus. The vaccine is supplied free of charge by the Flemish Government. In addition, all children and young people under the age of 18 have free access to the recommended vaccines at the recommended times, Young children are vaccinated at K&G, while children attending school are vaccinated at student counselling centres (*centres d'encadrement des élèves* – CLB). Flanders has also been involved in efforts to combat HIV-AIDS (see para. 517 below).

Registering the deaths of children and young people under the age of 18

218. The figures for births and deaths recorded by the Flemish agency Zorg en Gezondheid are based on the certificates filled out by the doctor and municipal official when births or deaths occur (see 15.F). For the purposes of calculating the death rate, the birth rate, life expectancy, the demographic pyramid and so on, Zorg en Gezondheid uses the population statistics of the Statistics Department of the FPS Economy (National Institute for Statistics), as processed by the Flemish Government's Research Unit.

#### Suicide Prevention

219. In 2002, the health conference on combating suicide and depression provided the basis for the sixth Flemish health objective: "the death rate from suicide among men and women must be brought down by 8 per cent in 2010 compared with the figure for 2000". Ancillary objectives were also laid down: a reduction in the numbers of attempted suicides, persons with suicidal tendencies and persons suffering from depression. These goals are to be achieved by implementing a number of preventive strategies which have been put together in a Flemish action plan for suicide prevention (see annex 6, para. 31). The plan comprises the following five strategies:

- The promotion of mental health targeting both the individual and society: in May 2006, the public campaign "Sound in mind, sound in body" was launched. The campaign underlines the importance of good mental health and seeks to get rid of the taboo surrounding discussion of problems relating to mental health by encouraging individual care.
- Encouraging telephone helplines that are accessible to everyone: both telephone helplines and help through the internet (suicide prevention centre, telephone counselling, telephone for children and young people, telephone for homosexuals, lesbians and bisexuals and drug-prevention line).
- Promoting expertise and networking among professionals: better information about suicide for professionals such as family doctors, teachers, the police and hospital staff: <http://www.achg.kuleuven.ac.be/gachet/> (Gachet: interactive internet site for doctors and social workers involved in suicide prevention) and <http://www.wvvh.be/Page.aspx?id=492> (individually tailored training for family doctors), setting up consultation arrangements between social workers (on suicidal patients), and improving the care provided for patients with depression.
- Combating suicide through clear messages in the press and by curtailing the availability of some means of suicide (weapons, for example). In relation to press articles on suicide, the private life of the individuals concerned must be protected as far as possible. But that is not the only thing. Scientific research has demonstrated that some press attention to suicide may actually facilitate it; this raises the question of how to prevent the copycat effect? Journalists should take account of a raft of recommendations provided at the following address: [http://www.zorg-en-gezondheid.be/uploadedFiles/NLsite/Preventie/Ziekten\\_en\\_aandoeningen/Depressie\\_en\\_zelfdoding/zelfdoding\\_pers.pdf](http://www.zorg-en-gezondheid.be/uploadedFiles/NLsite/Preventie/Ziekten_en_aandoeningen/Depressie_en_zelfdoding/zelfdoding_pers.pdf).
- Supporting the main risk groups: improving the care and follow-up of individuals who have attempted suicide (pilot scheme), early detection, diagnosis and treatment of young adults suffering from schizophrenic psychosis (pilot scheme); preventing the recurrence of depression through behavioural therapy (pilot scheme: Mindfulness Based Cognitive Therapy, <http://mbct.be>); giving attention to the children of parents with psychiatric disorders (KOPP) (pilot scheme); specific measures targeting homosexuals and lesbians, as well as close relatives following a

suicide. Young people are also a vulnerable group and must be given all necessary attention.

#### Education

220. As regards education, the student counselling centres (CLBs) were set up in 2000 and promote student welfare and development (see para. 628 below).

#### Youth work

221. In addition, a broad range of initiatives devised by the youth organizations in Flanders contribute to children's general development: the youth organizations should be approved as the third sphere of education (see paras. 687-696 and 628 below).

### *b.2 Governments of the French Community and the Walloon Region*

222. A French Community vaccination programme for children and young people between the ages of 2 months and 18 years is under way. Two new vaccines have been introduced and, since January 2004, a hexavalent vaccine for all infants beginning their vaccination programme, protecting them against six illnesses (see para. 536 below).

#### Mental health

223. Of the 57 mental health services approved and funded by the Walloon Region, eight are specifically approved to care for children and have specialist teams (see para. 545 below).

#### Environment

224. See paragraphs 485 *et seq.*

## **D. Respecting the views of the child (art. 12)**

### National Commission on the Rights of the Child

225. It should be noted that the cooperation agreement setting up the National Commission (see annex 1) requires that children should be structurally and appropriately involved in the Commission's work (see paras. 17-19, above).

#### **a. At federal level**

#### Adoption

226. The Act of 24 April 2003 reforming the adoption system (see para. 374, below) provides that any young person aged at least 12 when the adoption order is issued and not incapable of understanding, without legal capacity or recognized as mentally handicapped, must consent or have consented to being adopted (previously, the age was set at 15). This provision applies whatever the legislation applicable to the consent of the adopted person and whatever the form of adoption (simple or full). Adoptees over the age of 12 also have the right to be heard during the procedure. If, after consideration, it appears that a potential adoptee under the age of 12 is able to express a view on the proposed adoption, that individual is also heard by the court. If a young person over the age of 12 does not consent to adoption, Belgium may refuse to recognize the adoption as if it was established abroad.

#### Filiation

227. Where filiation is not otherwise established in regard to one of the parents, that parent may still recognize the child. If the child is a minor, the consent of the parent in whose regard filiation is established is required, as is the consent of the child if over the age of 12. If, however, there is disagreement, legal proceedings may be initiated by the person seeking recognition: the request is refused if biological filiation is not established; but if it is established, the court will assess suitability and refuse recognition if manifestly contrary to the interests of the child.

#### Foreign children

228. As soon as an unaccompanied foreign child is able to express a view, he or she is heard in the context of the review of the asylum application or search for a lasting solution. The aim is to establish the child's views on any matter of direct concern to him or her, such as family situation, the situation relating to residence in Belgium or abroad. The guardian is present at the hearing, and the questions are adjusted in accordance with the child's age and degree of maturity.

229. Foreign children accompanied by their parents are heard if there are exceptional reasons for doing so. This may happen if, for instance, the minor wishes to provide specific information in relation to his or her parents' request. For further information, see paras. 744-754 below.

### **b. At the level of the federated authorities**

#### *b.1 Flemish Government*

#### Youth work

230. The Decree of 29 March 2002 (see annex 5) on Flemish youth policy provides that the Flemish Government is to recognize and subsidize the Flemish Youth Council. A grant of €640,000 has been earmarked in the 2008 budget. The task of the Flemish Youth Council is to draw up, of its own initiative, an opinion on all issues relating to young people. The Flemish Government seeks the Flemish Youth Council's view on its draft decrees and orders. The general assembly is made up of a minimum of 16 members and a maximum of 24. At least a third of its members are less than 25 when they join the assembly. No more than two-thirds of the assembly may be persons of the same gender.

231. The Decree of 14 February 2003 on local policy on young people (and young people's organizations (*available on request*) provides that every municipality and province, as well as the Flemish Community Commission which is responsible for implementing the decree in the Brussels-Capital Region, must approve a youth council. The youth councils are invited to set out their views on the planning that is part and parcel of youth policy, using official documents which they submit. That condition must be met if they are to obtain a subsidy from the Flemish authority. In addition, the youth councils must be open or semi-open. This means that interested young people, whether they come from the municipality or province, may apply to become members. The decree also provides that children and young people must be involved in the development of youth policy planning and that the policy must be harmonized in accordance with their wishes and needs. The revised Decree of 15 December 2006 (*available on request*) introduced the concept of "interactive administration". Interactive administration or the involvement of children and young people is not merely a matter of approving the strategy plan; the intention is also specifically to review the target group's involvement in implementing previously determined measures. In relation to every section (youth policy and youth work policy), the municipal authority must set out how, how often and in regard to which



activity, children, young people and youth work will be involved. This may take the form of feedback or an advisory role for the municipal youth council, but may also comprise very specific projects involving children and young people through all sorts of municipal structures.

232. In order to establish the 2008-2010 youth policy plan, the municipalities, the Flemish Community Commission (hereafter: the “VGC”) and the provinces are asked to describe how the principles of interactive administration will be implemented in relation to the application of the youth policy plan. Different formulas may be used to increase the influence of children and young people on VGC policy. Recreational activities, such as *Megading* in 2004 and the website [www.kwajonggradvantong.be](http://www.kwajonggradvantong.be), have made it easier for young people to become involved in the 2006-2010 youth organization policy plan. *Kliksons*, a questionnaire sent to adolescents in 2004, surveyed 700 young people from Brussels about how they spend their free time and how they perceive their environment. A standing VGC-Youth Council, made up of about 20 volunteers and professionals from youth organizations closely monitors application of the VGC’s policy. Current information on subsidies and organizations can be found at [www.vgc.be/jeugd](http://www.vgc.be/jeugd) and in a handbook about Brussels and a guide to young people in Brussels.

#### Socio-cultural activities for children

233. At international level, Flanders probably has the most comprehensive network of initiatives in relation to youth organizations. The Flemish Region boasts 7,097 local youth organizations, that is to say an average of 4.14 youth organizations per 1,000 young people or approximately one youth organization for every 250 children and young people under 25. Most of the initiatives are taken by individuals (5,970) and 1,127 emanate from the municipality. Youth organizations established by individuals usually take the form of youth groups.

#### Education

234. The Decree of 2 April 2004 on participation at school, which repeals the 1999 Decree, implements article 12 of the Convention within the school environment (see annex 21). The decree provides that children in secondary education are to be included on school councils and contribute to the development of school policy. At primary level, it is largely informal methods of student participation that are encouraged. The school council is designated the central body for securing local involvement at school.

235. The Flemish Government encourages schools to develop their own models of participation or consolidate operational models for participation that exist under the decree. The teaching support services are assisted by teaching staff on secondment to organize forums on participation. The forums provide an opportunity for management, teachers and students to contribute their know-how to improving mutual understanding. The *Vlaamse Scholierenkoepel* is given a structural subsidy to enable it to meet the following objectives: encouraging networking and the exchange of information between student councils, student support, assistance and training to enable them to extend their participation and cooperation with other organizations to harmonize the various support activities.

236. The Flemish Government assesses the new decree’s impact on the culture of participation at school using a barometer to measure participation which has been developed by Antwerp University to guarantee objective data evaluation. Students, teachers and members of management took part in the questionnaire. The assessment outcomes are incorporated into subsequent policy implementation.

## Integrated youth welfare

237. The reorganization of integrated youth welfare in Flanders is based on the concept that children and young people do not lack capacity and occupy an important place in society. They must be able to make themselves heard, including in connection with the assistance they are given. This view of integrated youth welfare is founded on the concept that client participation has a positive influence on the quality of the assistance provided. Legal status for the client must guarantee the provision of welfare services that are high quality, encourage participation and are directed towards good outcomes.

238. In the course of the preparatory work for the Decree of 7 May 2004 (see annex 22) on the legal position of minors in the context of youth welfare services, particular attention was paid to the questionnaire addressed to minors and parents (see annex 6, para. 34). The Decree on the legal position makes provision for the rights of minors in the context of youth welfare provision. For instance, article 16 of the decree provides that, subject to the procedural rules concerning the provision of legal aid to young people, minors may be involved in establishing and putting into effect the youth welfare services offered to them. The decree stipulates that minors are to exercise all rights independently, although in regard to some rights, this is qualified (see annex 6, para. 35), and an age-limit of 12 is in fact set. However, a minor under the age of 12 may exercise these rights independently “if the minor is able to arrive at a reasonable assessment of his or her rights in the light of his or her age and degree of maturity”. The age-limit of 12 is therefore a guide limit. The decree also specifies that minors may be involved in the policy of the establishments in which they are resident.

239. The Decree of 7 May 2004 on integrated youth welfare services furnishes a legal basis for the involvement of minors and parents in the policy on the provision of youth welfare services at Flemish and regional level. In that connection, instruments have also been developed to support the structural participation of minors at regional level. In addition, regional study groups have been set up to give minors the opportunity to consult on matters relating to issues inherent in the provision of youth welfare services.

240. In cases of voluntary assistance resulting from difficulties with schooling (minors at risk), the child’s consent is required from the age of 12 (14 previously). In autumn 2007, the procedure for amending the decrees concerning special youth assistance will be concluded.

241. At the request of the Flemish Government’s Youth Welfare Agency, which is responsible for providing special assistance to young people in Flanders, *Ondersteuningsstructuur Bijzondere Jeugdzorg*, a not-for-profit organization, worked on the *Djinn* project that is designed to increase participation in the provision of assistance. Since mid-2005, pilot organizations have been supported and a draft report drawn up and discussed. While the majority of the organizations that are in the process of being set up have focused on team study, one project is currently under way and is being carried out by an organization that wants greater participation by young people. The project’s results will be available in 2007. This agency is again proposing the “JO line” making it possible to request information and make complaints (see annex 13, para. 36).

242. The ZIKO (*Zelfevaluatie-Instrument voor welbevinden en betrokkenheid van Kinderen in de Opvang* – Tool for self-assessment of the welfare and involvement of children in childcare, Handbook, see [http://www.kindengezin.be/Images/Zikohandleiding\\_tcm149-38527.pdf](http://www.kindengezin.be/Images/Zikohandleiding_tcm149-38527.pdf)) has been developed in relation to childcare (K&G). It is designed to increase the participation of children in the provision of childcare and boost the educational role of childcare. This tool makes it possible to measure the welfare and involvement of (very young) children in relation to childcare. A programme of support was set up in 2005 to help bodies providing childcare to learn to work with ZIKO. In 2006, the programme

was continued because of the high level of demand for support programmes from such bodies.

243. Children with a disability may also participate and be given information. In 2000, the Flemish Government adopted a Decree on ensuring quality in organizations for the social integration of persons with a disability, including children. A list of the quality requirements that establishments for persons with a disability must meet is annexed to the decree. The user's private life must, in particular, be respected. The user must be properly informed, and his or her participation must be guaranteed.

#### Taking part in medically sound sport

244. In 2004, the Decree on taking part in medically acceptable sport was amended (*available on request*). A regulation was adopted providing for penalties for minors who failed to comply with the provisions of the decree. This includes drug abuse in particular. From the age of 15, a minor must be interviewed in the presence of his or her parents, guardian or the persons exercising custody. A minor taking part in sport who is less than 15-year-olds may be heard at his or her request. Hearings of the disciplinary commission take place in public unless the publicity gives rise to a threat to public policy or morality. At the request of the young sportsman or woman, if that individual is a minor, the disciplinary commission may take its decision behind closed doors, at the request of the individual concerned, his or her parents, guardians or the persons exercising custody. If an offence has been committed, the disciplinary commission or council (on appeal) may decide to ban the sportsman or woman (whether a minor or an adult) from taking part in any sporting event and any form of organized preparation for a period varying, depending the nature of the offence, from at least one month to a maximum of three months or from three months to a maximum of two years; however, only adults may incur an administrative fine.

#### Adoption

245. Children who have been adopted may, if accompanied, access their adoption file from the age of 12 (see para. 381 below).

### *b.2 Governments of the French Community and the Walloon Region*

#### Research

246. In response to one of the recommendations of the Committee on the Rights of the Child, the OEJAJ has encouraged the participation of children:

- By drawing up an inventory of the laws that provide for the effective participation of children and young people which may be consulted on the OEJAJ's website.
- By means of a survey of more than 1,000 young people between the ages of 10 and 18 in 2007. The survey revealed, among other things, that children have a clear and balanced understanding of the advantages, scope and benefits but also of the limitations on the rights they are accorded: in other words, they are quite capable champions of their own cause. The survey also revealed that participation, within the meaning of the Convention, is current practice for most children, not only in the family environment but also in the various organizations to which they belong, such as sports clubs and, to an even greater extent, young people's organizations. School, however, emerges as being where the culture of participation has yet genuinely to take root, a "distinction" that is increasingly keenly felt as children get older.

#### Childcare

247. The principle of children's participation is laid down in the Quality Code revised in 2004 and applicable to all establishments that take in children from the newborn to children aged 12 (from infants to youth organizations, and including sports clubs, care out of school hours and, indeed, the approved youth welfare services).

#### Youth welfare services

248. Since 2004, and on the basis of the Decree of 1991 (see annex 23), it has been necessary to seek the opinions of young people for the district youth welfare councils (CAAJs) to be able to implement their measures of general prevention. Young people are consulted in advance of any proposed prevention project. Moving beyond the issue of general prevention, a wider-ranging project was carried out during 2005-2006 in the Verviers district, with the exclusive aim of listening to young people.

249. The authorities in the French Community attach special importance to consulting young people who are being cared for by public or approved youth welfare services. The Order of 15 June 2004 (*available on request*) confirms the establishment of teaching committees within all public youth welfare institutions. The committee's task is to draw up and evaluate the institution's educational plan. The order provides that once a year at least, a teaching committee is to meet in the presence of at least two representatives of the young people in care. The representatives are chosen by their peers.

250. This provision of law raises a number of problems and, despite believing that it is essential to increase the involvement of young people, the administration and management of public institutions for the protection of young persons (IPPJs) continue to stress that, in this particular context, the participation of young people is illusory. Currently, a preliminary draft amendment to the 2004 order is being drafted. Until the legislation is better attuned to the true interests of young people, the administration will ensure that the process of obtaining young people's views on their care is organized, in a structural way, in every institution. In regard to the approved services, the education inspectorate systematically ensures that consulting young people is encouraged and monitors how this is achieved in practice.

#### Youth work

251. Youth organizations offer the best opportunities for encouraging the participation of young people: in 2005, the French Community supported 82 youth organizations and 161 youth centres (youth centres, meeting and accommodation centres and information points). In 2006, 83 youth organizations were supported and 167 youth centres, and, in 2007, 83 youth organizations and 172 youth centres. Youth centres were also awarded bursaries for innovative experiments on the participation of and provision of information to young people.

252. To promote their cultural development and produce citizens who are active, responsible and take a critical approach, by supporting projects carried for and by young people, a new circular on "Support for young people's projects" came into effect on 1 July 2007; it sets out all of the possible support available for local and international "youth projects", in the context of cultural policy for young people.

253. It is also worth noting that the French-language Youth Council (CJEF) is currently undergoing a process of reform. A working and study group bringing together representatives of youth organizations was set up, on 7 July 2006, to prepare the reform, as the authorities want to extend the CJEF to include other players and young people generally, including young people who do not belong to youth organizations or centres.

254. Moreover, there are two other advisory commissions for the youth sector. The long-standing Commission on Youth Centres (CCMJ) and, since 2004, the Commission on Youth Organizations (CCOJ).

The municipal councils for children and young people

255. The purpose of the councils is to understand the principles of democracy and put them into effect, in order to foster active and responsible citizenship. Children and young people are able to express their views to both elected representatives and their fellow citizens. There are currently 95 municipal children's councils and 26 municipal youth councils in the French Community (see annex 11, para. 9).

256. To encourage the participation of children in the facilities for participation at local level, the Walloon Region has funded the establishment of a set of teaching resources for children's consultative councils and the organization of training activities in connection with the annual exhibition for local representatives.

### *b.3 Government of the German-language Community*

Education

257. There are a number of sectors encouraging respect for children's views in the German-language Community:

- As far as education is concerned, it should be noted that there is an appeal board for a student (or the persons responsible for that student's education) who wishes to challenge the decision of a class council, that has been upheld for a second time, refusing to allow the student to progress to the next class; the refusal to issue a leaving certificate or expulsion from school. The child is thus able to be heard in relation to these issues of direct concern to him or her. In cases of temporary exclusion or expulsion, the student must be given a hearing.
- Representation for students is provided for in every secondary school in the German-language Community.
- In 2005, the German-language Community created the "Students' Parliament" which meets once a year. Eleven and 12-year-olds at secondary level have the opportunity of taking part in the Parliament. They experience democracy and discover how our parliamentary system works. They learn to debate the various matters of concern to them. Their ideas and discussions are not neglected, as members of parliament take account of them in their work.
- Several municipal children's councils have been set up (see para. 258 below), enabling children's views to be taken into account at municipal level.

258. Children participate at all levels, in youth centres and municipalities in the German-language Community. A horizontal approach is taken to participation, and this means that young people are involved in issues in all areas that affect their lives and interests, such as education, mobility and so on. The participation of young people must have an impact on decisions and may not be simulated.

- To ascertain support among young people for the creation of new youth centres, a survey was conducted, in 2005, in the municipality of Burg-Reuland, involving the municipality's youth group.
- The first children's council was set up in the municipality of La Calamine in 2002/2003 (12-year-olds) at the initiative of the German-language Community's

youth council (*Rat der Deutschsprachigen Jugend*). The children's council is supported by the youth worker at the municipality's youth centre.

- In 2002, a youth council was set up in the municipality of Raeren. Following the establishment of the youth council in the municipality of Eupen, in 1996, Raeren is the second of the nine municipalities in the German-language Community to establish a municipal youth council.
- On 13 November 2004, a youth forum was held in the municipality of La Calamine to discuss leisure, transport and co-existence. The forum resulted in four projects and the establishment of working groups.
- On 22 October 2005, a youth forum entitled "teaching young people to be politically involved" was held in the municipality of Eupen, and was open to all young people between 15 and 20 years of age. The issues discussed were transport, politics, youth group infrastructures, the media, leisure and sport.
- The concept of youth work has been extended by introducing new "contracts of effectiveness" between the youth bureau the relevant municipality and the German-language Community (the Government of the German-language Community's measure No. 60 – *available on request*). The philosophy of open youth work requires openness in terms of the content of activities; openness to young people's interests; openness in the sense of being open to anyone without that person having necessarily to be a member; and transparency of activities for all citizens. The contracts make it possible to recruit a subsidized youth worker for several youth centres in a municipality and require young people to be actively involved in organization at their meeting place. This type of contract, tailored to the needs of the relevant municipality, had already existed in Büllingen since 1 August 2001, and has been in place in the municipality of Lontzen since 15 May 2002 and the municipality of Bütgenbach since 1 August 2003 (*available on request*).
- Three consultations of the German-language Community's youth sector took place in 2005 and 2006 to implement the German-language Community's measure No. 61 "establishing a global concept for youth work". The recommendations set out by the young people (up to the age of 26), the youth workers and youth leaders resulted in the P.R.I.M.A. booklet —recommendations for the Belgium's German-language Community's youth policy. P.R.I.M.A. constitutes the framework for youth policy from now on (*available on request*).
- Youth workers, the youth council, the youth bureau and an official took part in the Benelux seminar on "the participation of children" from 1 to 3 October 2003 in De Efteling (Netherlands) (*available on request*). The aim of the seminar was to make it possible to develop further children's participation in the German-language Community.

#### *b.4 Brussels Government and Colleges*

##### Education

259. In 2005, in relation to its educational network, the French Community Commission (COCOF) adjusted the rules of its educational establishments to enhance students' right to be heard. It made progress in the process of activating its participation councils and activities designed to encourage citizenship and multi-cultural exchange.

## Research

260. Set up in 1991, COCOF's Child Observatory has conducted several research projects on listening to children and their participation. Several methodologies have been trialled:

- A family rally game on public transport to discuss with children (between the ages of 5 and 12), their parents and professionals in the mobility sector, the issues and problems experienced by children as they move around;
- A survey by focus group of children between the ages of 9 and 11 to find out about their experiences period outside school hours that they spend in after-school centres and/or cultural associations (first time this method has been used for groups of children);
- A methodology for gathering information on the participation of children between the ages of 8 and 12 in cultural projects carried out at school, during school hours, based on combining a number of approaches (questionnaires for adults, questionnaires for children, stories completed by children, a child observation chart and children's drawings).

## Childcare

261. As far as very young children are concerned, the in-service training provided for childcare facility staff by FRAJE (Centre for Further Training and Research in Childcare), a non-profit-making centre set up by COCOF, has made it possible to improve professionals' ability to "observe" children under the age of 3 in real-life situations (activities, meals, etc.) and to act on that basis.

## E. Difficulties and future objectives

### Taking account of children's views

262. In terms of complying with article 12 of the Convention, efforts to inform children and young people about their options for participation in an appropriate and targeted way will be intensified. In addition, an inventory of all legislative and regulatory measures, taken at each level of government, to promote the participation of children, as well as actors in the field will be drawn up (as already happens at some levels of government). The inventory will be drawn up at each level of government by the most appropriate body. The NCRC will then collate all of the data in a single database and undertake a comparative study.

263. The actual participation of children at local level will be studied in terms of the possibilities for establishing official forms of participation and whether there is anything to be gained by further developing municipal children's councils.

264. Belgium will also suggest an exchange of good practices regarding the participation of children and young people at European Level.

265. In the light of the specific recommendation of the United Nations Committee on the Rights of the Child on giving children a hearing and respecting their rights in this specific context, a number of objectives are being pursued.

266. Consideration will be given to extending the right to be heard to all situations in which the child asks to be heard, by either an administrative or a judicial body.

267. Special attention will, indeed, be paid to the choice of environment in which children will, in future, be heard.

268. Further emphasis will be placed on properly informing the child of the use to which the information he or she provides will be put. The possibility of automatically giving the child an opportunity of talking about the hearing, as he or she has experienced it, to the appropriate support body, either immediately afterwards or within a reasonable period, will also be assessed.

269. As regards participation in the school environment, and in education generally, the participation of children will be increased and support measures developed where possible. This process will therefore require not only the representation of students but, in addition, the creation of student councils and further development of the following objectives:

- a method of working based on specific arrangements for participation;
- the preparation, training and support of all of the parties concerned in participation (teachers, students, parents, management, etc.);
- students' representatives who must be given, within educational establishments, the resources they need, including the presence of adults to whom they can refer, to enable them to engage in prior consultations with their fellow students and give them feedback, so as to guarantee effective student representation;
- periodic assessment of the participation arrangements in terms of quality and quantity;
- the establishment of a tool for self-assessment.

270. Consideration will be given to organizing support outside schools, provided by external reference partners. Consideration will also be given to whether it is appropriate to include the participation arrangements in teacher training.

271. Moreover, at all levels in the education system, care is taken to ensure that structures for participation (participation through representation) are accompanied by the establishment of a climate conducive to participation in schools, with cross-cutting participation in all school activities (participation on a daily basis, including the definition of common rules of life). Participation at school must be governed by the desire to get children to participate on a daily basis and not be conceived as a final objective, in order to prepare children for their future lives as participating adult citizens. This climate will be further encouraged, in particular, by supporting the organization of joint initiatives within and outside the curriculum.

272. Turning to infants, it is necessary to give them the opportunity to be involved in the policy applied to them. Further emphasis will be placed on both the signals they give and their needs and on communicating intensively with their parents. These factors will be specifically included in the training of future nursery teachers.

273. Finally, in the youth welfare sector, good practices, such as participation projects developed in the form of measures for placing some young people in supervised independent living will be highlighted. These projects, which enable young people to talk about their experiences and needs through publicized projects will be more widely promoted in the interest of all categories of young people who live in an institutional context, including offenders who are minors. In point of fact, we all have an interest in reflecting on the structure of our lives and, consequently, understanding and perceiving more clearly our own place within it.



## IV. Civil rights and freedoms

274. This section does not contain a subsection on “difficulties and future objectives”. This does not mean that the Belgian authorities are not evaluating their policy in this area in a self-critical fashion. Owing to lack of time, however, this is a theme which has not been the subject of discussion in the working groups set up within the National Commission on the Rights of the Child. As described in the introduction (see para. 13 above), subsections on “difficulties and future objectives” set out recommendations of these working groups which have been taken up by the authorities.

### A. Name, nationality and the right to know one’s parents (art. 7)

#### a. At the federal level

##### Name

275. The rules on the attribution of family name to children have been amended (Acts of 1 July 2006 and 27 December 2006 – *available on request*):

- (i) The first amendment introduces into the law the same rights on this subject for the “legitimate” children of a married man and for children whom he may recognize but who have been conceived with a woman other than his wife during his marriage: from now on, all may bear the father’s name and the wife may no longer oppose this.
- (ii) If children’s filiation is altered when the age of majority has been reached, no change may be made to their names without their agreement. This provision applies irrespective of the manner in which filiation has been established, subject to provisions in special cases (for example, the specific provisions which may apply in the case of adoption).

##### Filiation

276. The reform of certain provisions on filiation (Act of 1 July 2006 – *available on request*) has a direct impact on the determination of identity. In general, the amendments allow the legal identity to which the child is entitled to be more easily aligned with reality.

- The time limits and conditions that govern legal standing for contesting maternity are now similar to those for contesting paternity. If, in the past, it was very difficult in practice to contest maternity, maternity and paternity are now equally easy (or difficult) to contest.
- The rules on maternal and paternal recognition have now been made uniform. Aligning the conditions and/or time limits for filiation proceedings makes it easier for children to determine their true maternal filiation.
- Alongside arrangements for determining paternity, arrangements now exist for determining maternity (with uniform procedures).
- There is now greater flexibility in relation to the presumption of paternity which applies in relation to the husband of the mother of a child (children born during a marriage or within the 300 days following its dissolution have the husband for their father). Previously, this presumption, which was difficult to rebut, meant that many children were prevented from bearing the name of their biological father and so bore the name of men whom they had sometimes never seen. A new provision provides for greater flexibility in this presumption by making allowance for situations in

which it could not validly apply (for example when the parents have been registered as resident at different addresses for more than 300 days). This new approach will make it possible to prevent artificial rather than genuine filiation being established in some cases.

- The husband's paternity may now be contested by a person claiming paternity of the child, and no longer just by the mother, husband or child. Biological fathers wishing to be recognized as the legal fathers of their children will now be able to enforce their rights through legal proceedings.
- The cumbersome procedures for formal approval that used to exist for a father's recognition of a child conceived by a woman other than his wife have been abolished. The previous legislation provided that the wife's approval had to be obtained before formal approval could be granted: now all that is required is that she should be informed of the act of recognition.
- Certain prohibitions on the establishment of filiation which used to exist in cases where there was an impediment to marriage between the parents have been lifted. In particular, there is no longer a prohibition where a marriage which may have given rise to the impediment has been annulled or ended by death or divorce, thus allowing children born of these unions to have their filiation established.

#### Adoption

277. The Act of 24 April 2003 for the reform of adoption (see paragraph 374) has a clear impact on the child's right to an identity.

- (i) The rules for the attribution of names differ for full adoption and simple adoption.
  - If adopted by a man and a woman, children who have been fully adopted will bear the name of their adoptive father instead of their previous name. If adopted solely by an adoptive mother, children will bear her name, and if adopted by a couple of the same sex will bear one of the adoptive parents' names (chosen by them).
  - In the case of simple adoption, the rules for full adoption apply with one difference: the parties may apply to the court for adopted children to keep their name, preceded or followed by that of the adoptive parent or the male adoptive parent, or, in the case of adoption by a couple of the same sex, that of one of the adoptive parents (chosen by them).
- (ii) Under the procedure for the recognition of adoptions established abroad, the new legislation requires a birth certificate for the adopted child to be provided. Equivalent documents may also be accepted. This makes it easier to identify the children concerned, and thus to guarantee them an identity and access to know about their origins.
- (iii) The right to know about origins is now enshrined in the new legislation, in accordance with the principles contained in the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. However, specific arrangements for the collection and storage of the information contained in adoption dossiers, including the identity of parents and medical data on children and their original families, and for access to it, are still to be determined by royal decree.

## Nationality

278. Article 10 of the Belgian Nationality Code was amended by the Act of 27 December 2006 which introduced various provisions. While maintaining the principle of Belgian nationality for children born in Belgium who would be stateless during their minority, if they did not have that nationality, the Act provides that children (born after 27 December 2006) will no longer have access to Belgian nationality if they are able to acquire their parents' nationality provided the latter complete the appropriate formalities with the diplomatic or consular authorities of the country whose nationality they possess, such as registration in the diplomatic or consular registers of their country of origin.

279. During parliamentary proceedings, the Minister of Justice considered that this was a proportionate provision aimed at combating fraudulent practices in the field of illegal immigration, and that it was not contrary to article 7 of the Convention, given that the children concerned have access to their parents' nationality from birth.

## B. Preservation of identity (art. 8)

### a. At the federal level

280. The federal legislature has taken measures in relation to contesting filiation that are designed to preserve children's identities (Act of 1 July 2006 – *available on request*).

(i) Earlier legislation reserved the right to contest a husband's paternity to the mother, the husband (or former husband) and the child. By contrast, it was open to any interested party to contest recognition. The new provisions in this area impose the same conditions whichever matter is contested: filiation may be contested by any parent with regard to whom filiation has already been established, by the husband (or former husband), by a person claiming paternity and by the child. This means that filiation relationships are better protected (as there is no longer any question of proceedings being brought by any interested party).

(ii) An application to contest filiation brought by a person claiming to be a biological parent is valid only if the filiation of the applicant takes the place of the filiation relationship which is being contested. The intention of the legislature was to avoid cases where children might find themselves without a filiation relationship after filiation had been successfully contested.

(iii) Particular attention is paid to preserving the identity of all foreign children and to re-establishing their identity when they are without their identity documents. Presentation of an identity document, namely a passport or equivalent travel document, is required when an application for a residence permit is being considered under the Act of 15 December 1980 and the circular of 15 September 2005. Production of an identity document is not necessary when the minor has made an application for asylum or demonstrates, via the person exercising parental authority, that it is impossible for him or her to obtain the requisite document in Belgium. Presentation of such an identity document has the advantage of both preserving the identity of the unaccompanied foreign minor, and allowing the minor to travel within the Schengen area, provided the passport is accompanied by a valid residence permit.

## C. Freedom of expression (art. 13)

281. See paras. 230-261 above.

**D. Freedom of thought, conscience and religion (art. 14)****b. At the level of the federated authorities***b.3 Government of the German-language Community*

282. Since 1998, education about human rights, respect for such rights, tolerance, equality of the sexes and respect for religious and ethnic minorities have been part of the school curriculum in the German-speaking Community. The legislation concerning religious education in schools has been amended in the same general direction (by the Decree of 26 June 2006 introducing measures in relation to education – *available on request*), to allow orthodox, Islamic and Anglican religions to be taught in schools. The qualifications required of religious education teachers have been made subject to regulation so that high-quality teaching of the various recognized religions can be provided.

**E. Protection of privacy (art. 16)****a. At the federal level**

283. In connection with adoption, and subject to the right of adopted persons to have access to their origins (see para. 277 above), the law provides that data in adoption dossiers, and in particular reports about the adopted child, the original family and adopters, may not be used for purposes other than those for which they were assembled or communicated.

**F. Access to appropriate information (art. 17)****a. At the federal level**

Article 17 (e) – protection against commercial practices and pressure to consume

284. Children are the most vulnerable group of consumers. They are exposed to growing commercial pressures, and are often the victims of certain commercial practices (such as distance selling and selling via SMS). What is more, commercial strategies are increasingly targeting children. The following specific and targeted measures have therefore been put in train to improve protection for the youngest consumers.

(a) At the request of the federal Minister for Consumer Protection, a code of conduct dealing with the marketing practices of banks in relation to young people was drawn up, in 2004, in the Consumer Council. Essentially, it means that the banks may never directly approach children aged under 12.

(b) In addition, the Consumer Council drafted recommendations for a period of restraint in the run-up to the traditional children's festivals. These recommendations ought to put an end to practices which create sustained commercial pressure and disrupt children's sense of time (they believe that the festival of St Nicholas is celebrated in September). Compliance with these recommendations is monitored by the FPS Economy.

(c) During March 2007, an anti-fraud information campaign was launched and targeted towards young consumers. This was the Belgian contribution to "Fraud Prevention Month", an international initiative organized for the third year running by the *International Consumer Protection and Enforcement Network* (see: [www.ICPEN.org](http://www.ICPEN.org)) during February and March. The public services of 25 countries from all over the world take part in this initiative. The 2007 Belgian campaign tackles several themes which are important for young consumers. It takes an entertaining approach to encourage critical reactions on the part of young people, so that they can fore-arm themselves against possible fraud or react if

they are the victims of dubious practice. Three questionnaires give young people the opportunity to test their knowledge about the possible risks of electronic commerce. Subjects particularly addressed are the purchase of SMS services (such as the downloading of ring-tones, logos, horoscopes, etc.), auction sites and arrangements purporting that money can easily be made via a (banned) system of pyramid selling.

(d) The Act of 5 June 2007 amending the Act of 14 June 1991 on commercial practices and consumer information and protection (*available on request*) provides for a number of specific measures designed to protect young people against dishonest practices. Commercial practices must take account of the susceptibility to influence of the target group —namely young people. Aggressive commercial practices which “incite young people, by means of advertising, to buy the projects advertised or to invite their parents or other adults to buy those products for them” are explicitly prohibited under article 94/11, paragraph 5, of the Act.

285. For further information, please refer to the comments on measures to make the Convention widely known (see paras. 80-82 above) and in the context of road safety education (see paras. 428-430 below).

## **b. At the level of the federated authorities**

### *b.1 In the Flemish community*

#### General

286. In addition, the Flemish Government is developing a policy on providing information to minors. The policy is detailed and open to all. It provides for social support and service provision that is accessible and designed for children. In answering children’s questions both about day-to-day matters and about children and the legal system, it starts from the perspective of the rights of the child, using the telephone (tel: 102) and new media (email, chat-rooms, Internet) to provide the greatest possible access anonymously and free of charge. The information thus obtained on children’s lives will be passed back to the authorities. Accordingly, the children’s and young people’s telephone helpline (*Kinder- en Jongerentelefoon*) and “children’s rights shops” (*Kinderrechtswinkels*) have received financial and organizational support since 2007 (see annex 6, para. 14).

287. Under the Decree on Flemish youth policy (see annex 5), subsidy may be provided for initiatives related to participation, information and communication with and for the young people in Flanders. The budget reserved for these projects has increased significantly over recent years, from €1.629 million in 2004 to €2.687 million in 2007.

#### Information points

288. On the initiative of the youth sector, the development of a common vision for information for young people has been set in hand and the not-for-profit association *Vlaams InformatiePunt jeugd* (VIP) set up. The decree setting up VIP refers explicitly to article 17 of the Convention. Its function will be to ensure the organization and coordination of information for young people in Flanders, and will support the local network of youth information points (JIPs) (see annex 6, para. 5).

289. The Flemish authorities have also concentrated their efforts on local information services for young people. The new local youth policy plans for 2008-2010 give priority to information for young people, and the municipalities are asked to work towards improving the quality of the information on offer. The municipal authorities are asked to provide, in an accessible, precise and targeted fashion, information necessary to allow children and young people to arrive at their own choices in life, to find answers to the questions they ask

themselves, to provide them with information in their capacity as active participants in society and to involve them in the life of society. Children and young people themselves are involved in developing the range of information to be made available. A brochure has been published by VIP summarizing good practice for the guidance of local authorities.

#### Media

290. It should also be stressed that the Flemish Government's policy on the audiovisual sector includes both protective measures and a policy of providing positive incentives. Protective measures such as those envisaged in the second report (see Belgium's second periodic report paras. 328-330) are built into the decrees on radio and television, issued together on 4 March 2005 (art. 96). On 25 May 2007, the Flemish Government approved a mandatory code of conduct for advertising aimed at children; the code is to replace the five-minute rule which prohibited advertising during the five minutes before and after a children's programme, and was abolished by the Decree of 2 February 2006 (*available on request*). It was not possible to extend the five-minute rule to the other EU Member States. To oversee compliance with these provisions, the Decree of 16 December 2005 created the Flemish Media Regulator. The Regulator has taken over the functions of the Flemish Media Commission, the Flemish Radio and Television Complaints Council and the Flemish Radio and Television Council.

291. Flemish policy goes beyond protective measures and prohibitions, and also provides for positive incentives. These have been built into successive management agreements between the Flemish Government and the public television broadcaster, *Vlaamse Radio en Televisie* (VRT). As a quality broadcaster, VRT observes an ethical framework based on fundamental human rights and freedoms. It is explicitly required to address specific social and demographic groups within society, and more particularly children and young people. Thanks to its television network *Ketnet* (see annex 6, para. 37), VRT targets all children under the age of 12. Since 2002, *Karrewiet*, a young people's daily current affairs programme created under the remit of the information service, gives young people information about news items which concern them. On the Internet, *Ketnet* also takes account of children's rights and vulnerability. The page on Internet safety on its website gives advice to children surfing the net. In addition, *Ketnet* always seeks the permission of the parents of these "budding surfers" on matters as subscription to information bulletins and participation in competitions.

292. For further information, please refer to the comments on measures to make the Convention widely known (see paras. 83-93 above).

#### b.2 Governments of the French Community and the Walloon Region

293. In the French Community, there have been several initiatives and various arrangements have been put in place to provide children with the kind of information they need.

#### Telephone helplines

294. Initially set up for victims of child abuse, the system of helpline services for children in the French community was put on to a broader basis by the Decree of 12 May 2004 (see annex 27) laying down specific rules for the approval and financial support of the "*Écoute-Enfants*" services, and no longer associating them with abuse. This is a service for children who need to speak to someone, or need someone to listen to them; children can raise any subject in total anonymity in calls taken by counselling professionals. Information about the service is disseminated through a variety of means including brochures, stickers, posters and animated films.

## Media

295. The “*Ouvrir mon quotidien*” (“opening my daily paper”) initiative was originally developed for 11-year-olds in primary education between 2001 and 2004, in close collaboration with the Media Education Council, the three resource centres dealing with media education, the *Journaux Francophones Belges* (JFB, the French-language newspapers) and the Association of Professional Journalists (AJP). The objectives were: to encourage a critical awareness of citizenship in children; education about the media; education through the media; opening up schools towards the outside world; democratizing access to information and the media; continuing training for teachers; and indirect support for the reading and distribution of the daily press. Classes received free issues of several French-language dailies each week. In addition, teaching materials were provided for teachers. From the 2006-2007 school year, the initiative has been extended to all pupils in secondary education (see annex 11, para. 10).

296. “*La quinzaine de la presse*” (“Press Fortnight”) is a programme concerned with education in civics designed for secondary schools and ran in 2005 and 2006. Following the extension of the “*Ouvrir mon quotidien*” programme to secondary education, the programme was not repeated in 2007. The successful distribution of newspapers in primary school, through the “*Ouvrir mon quotidien*” initiative, prompted Government of the French Community to extend it to all pupils in secondary education from the beginning of the 2006-2007 school year. The “*Journaliste en classe*” programme (“journalist in the classroom”) is resulting in the constantly increasing involvement of media professionals in schools. Finally, several measures have been taken to train teachers in media education and education about the cinema.

297. In the sphere of broadcasting, the Decree of 27 February 2003 transposes into domestic law certain provisions of the EU Television without Frontiers Directive (*available on request*). There is also provision for a ban on advertising in children’s programmes (this provision is not in the Directive). In addition, the Order of 1 July 2004 (*available on request*) on the protection of minors against television broadcasts likely to harm their physical, mental or moral development introduces new and better-adapted arrangements for the classification of audiovisual media content (see annex 11, para. 12).

298. The French Community has instigated a public debate and taken awareness-raising measures on ethics and violence in relation to the media. A series of publications has been issued (see annex 11, para. 13) and distributed to schools or formed the basis for discussion meetings.

299. “*Les Niouz*”, a news programme intended for educational use, is broadcast from Monday to Friday on the second channel of RTBF (the public television service of the French Community) and repeated at 9 a.m. the following morning with sign language interpreting.

300. The Higher Council for the Audiovisual Sector (CSA) regulates the sector. It develops guidance and makes recommendations (*available on request*) such as:

- The Code of ethics for broadcast advertising to children, under which television broadcasters undertake to comply with certain principles in advertising aimed at children. In 2007, the CSA adopted a new Code of ethics for television advertising aimed at children. The new rules are aimed at protecting children from certain psychological effects of advertising such as those associated with poses or attitudes of a sexual character exhibited by children or those resulting from overly insistent commands. They also contain a reminder of the importance of the principle of a gap between advertising and programmes just before and just after children’s programmes. For specific advertising, which is not intended to target children under 12, they recommend a five-minute buffer zone around children’s programmes.

- Recommendation No. 02/2003 on the transmission of electronic messages in any form (“chat-rooms”, SMS, email): the provisions of this recommendation include banning in these messages “material capable of seriously harming the physical, mental or moral development of minors, including content of a pornographic or violent nature”.
- The recommendation of 21 June 2001 on the protection of minors: the protection of minors and related concepts may vary according to time and space. The regulator must, therefore, deal with the questions and problems those with editorial control of broadcast services encounter in applying those concepts. The recommendation was issued with this in mind.
- Complaints. In 2003, 23 complaint cases were dealt with; in 2004, 40 cases concerning the protection of minors were reviewed, 31 classified as “no further action”; in 2005, 49 cases were opened of which 38 were classified as “no further action”; and, in 2006, 36 cases were referred, and, by the end of December, 22 had been classified as “no further action”.

301. The government action programme for promoting equality between women and men, intercultural understanding and social inclusion envisages a process of public debate between the Government of the French Community, the CSA and media and advertising professionals aimed at dealing with the question of sexist stereotypes in the media (see annex 12, para. 14).

#### Information on the legal system

302. For a decade, at the initiative of the French and German-speaking Bar associations, “lawyers in school” visits have been organized in primary and secondary schools to help children and pupils to gain a better understanding of the workings of the legal system, which is integral to the democratic functioning of the State.

303. In 2004, the special circumstances in the judicial system (a major trial involving paedophilia) prompted the Minister for Children to provide schools with a series of teaching materials intended to give those teachers who wished to do so the resources to tackle the delicate issues involved with their pupils in class (see annex 11, para. 11). Clearly, the very prominent media coverage of those events meant that they needed to be appropriately explained to children exposed to that information.

304. The management contract of the Birth and Childhood Office (ONE) (see paras. 332-334 below) provides that, from 2004, the three-yearly training programme established by the Government of the French Community will include training modules linked to the “reading corner” programme (“*coin lecture*”). Group leadership training is available to volunteers who wish to include a reading corner in the services they provide. A reading kit comprising a chest of 60 children’s books, a quilt and cushions is available as a training support pack.

#### Computerization

305. Both the Walloon Region and the French Community have taken action on computerization.

306. In early December 2004, the Government of the Walloon Region agreed to the development of digital public spaces (EPN) in Walloon municipalities. The aim of this programme is to allow all citizens, and children and young people in particular, access to the Internet, thus guaranteeing access for all to information tools. A budget of €1 million was set, linked to a call to the municipalities for project applications. Municipalities submitting applications were required to meet a set of project specifications. Particular



attention was paid to municipalities containing disadvantaged areas (see annex 11, para. 15). Other initiatives include equipping some 50 public libraries with networked PCs, and subsidy at municipal level for the creation of digital spaces.

307. Provision was made by the French Community, in 2005, 2006 and 2007, for specific support for equipping and fitting out youth centres and youth organizations, with the aim of introducing information technology into the places where young people congregate. Equipment, teaching materials, furnishings and building works have all benefited from this financial support. These efforts promote access to information for young people in the places where they gather socially.

## **V. Family environment and alternative care**

308. As far as this section is concerned, the follow-up measures taken in response to the concluding observations of the Committee on the Rights of the Child following the submission of Belgium's last periodic report are taken up in paragraphs 357-364 and 392-413.

### **A. Parental guidance (art. 5)**

309. The measures taken to help parents meet their responsibilities for bringing up their children are described in paragraphs 316-318 and 335-340.

### **B. Parental responsibilities (art. 18, paras. 1 and 2)**

#### **a. At federal level**

310. The following measures have been taken to help parents meet their responsibilities.

#### **Maternity leave**

311. Since 1 January 2006, mothers in self-employment have received 71 service employment vouchers when they resume work after their maternity leave. Service employment vouchers are a means of paying for services in the home provided by an approved company (cleaning service, washing, ironing, preparation of meals and so on). This is a publicly funded measure. Since May 2007, the number of vouchers has been increased to 105, and self-employed mothers have been able to take eight weeks' maternity leave. Maternity leave for self-employed mothers and the relevant allowance had already been doubled on 1 January 2003, increasing to six weeks and €1,924.06.

#### **Parental leave**

312. Since 2006, parents have been able to take their parental leave —a period of leave that allows them to devote themselves to bringing up their children— until the child reaches the age of 6 (they had formerly to take parental leave during the first four years of a child's life), and are able to do so on a more flexible basis. The income compensation allowance was increased, in 2006, to €637 per month for full-time workers.

#### **A father's role in fostering his child's development**

313. Since 1 July 2002, fathers have had 10 days' paternity leave following their child's birth. This has been the subject of an information campaign for future fathers and measures to raise the awareness of the world of work through the European "Active Fathers" project which was coordinated in Belgium by the Institute for Equality between Men and Women.

Three hundred thousand copies of the booklet *Choosing to be involved (Opter pour l'implication)* were distributed through various channels. The issue has been portrayed in dramatic presentations (available on video and DVD), both by the authorities and private sector employers and trade unions.

314. In 2006, the Institute for Equality between Men and Women cooperated with Coface (Confederation of Family Organizations in the European Communities) in connection with another European project, "Men in Families". The recommendations were issued in seven languages (*available on request*).

#### Making parents aware of their responsibilities

315. Finally, parents' attention is also drawn to their primary responsibility for bringing up their children. In cases of offences committed by minors, the Act of 8 April 1965 on the protection of young people was revised in 2006. The amendments adopted are directed more particularly to making parents assume their responsibilities properly, by encouraging them to understand their own implication in the commission of offences by their children and to shoulder their responsibility in that regard (see para. 793 below). Parents themselves are thus involved in the different stages in the procedure. In exceptional cases, parental training may be suggested (by a public prosecutor) or ordered (by a youth judge or court). Making young people understand their responsibilities is also an essential element in these legislative amendments.

### **b. At the level of the federated authorities**

#### *b.1 Flemish Government*

##### Support for parenthood

316. Parents with young children may put their questions to K&G (*Kind en Gezin*) (see paras. 567181 *et seq.* below). Various channels can provide parents with information on pregnancy, nutrition, care, safety, upbringing, development and vaccinations. K&G arranges a visit to the maternity clinic. Thereafter, home visits are arranged, and parents can also meet with specialists in preventive medicine at a practice near to their home. In addition, parents get information and advice by phone on the "*ligne K&G*" (K&G helpline). Parents with specific questions about bringing up their child may attend the surgery on child-raising support. In some regions, group meetings are held on certain issues. Since 2006, K&G has been engaged in a programme of intensive development of support for bringing up children and the advocacy of positive parenting. This has specifically resulted in the launch of the Triple P programme on positive parenting. Triple P is a programme of prevention and educational support based on five basic principles for positive upbringing. Members of K&G's regional teams have been trained in the Triple P programme since 2007, and this enables them to provide more targeted and effective support to families with young children in matters relating to child-raising. May 2007 saw the start of the training of social workers in Antwerp. If the assessment in the province of Antwerp is positive, the process will be rolled out across the whole of Flanders. The Antwerp provincial authorities have begun to extend Triple P to social workers outside K&G, which also has a large range of information booklets, an extensive website and a library from which anyone can borrow material.

317. K&G approves and subsidizes care and help for families whose situation is critical. These services are viewed as assistance provided for a limited period and are supplied both within and outside the home. As far as possible, however, priority is given to support in the family home. The services are provided by the Childcare and Family Support Centres, on the one hand, and the Family Placement Services, on the other (at the time of the second

report, these were still called private family placement services). These family support placement services have also been provided with additional resources to enable them to work with adoptive families. Adoptive families (*familles adoptives*) provide respite for families that have problems bringing up their children. They are open to everyone, and families can contact them freely to obtain support.

318. The Decree on support for child-raising was adopted on 13 July 2007 (see annex 24). It sets out a vision of how this support is to be organized and implemented in Flanders. It should be clear that an important premiss underlying the decree is that Flanders already provides many opportunities for support in bringing up children, through a variety of actors. However, the provision of support is fragmented, and families are not sufficiently well informed about the bodies they should contact. The provision of support targeted by the decree must be given specific form and substance, founded on cooperation between actors working in health and welfare, the schools and socio-cultural sector, and the local, provincial and Flemish authorities. In order to do this, the decree makes provision for local family support coordinators, local consultation arrangements for educational support, “education shops” (*Opvoedingswinkels*) with a quality label, Flemish coordinators for educational support, supra-local consultation arrangements for educational support, information and education initiatives, education training and the Flemish Specialist Centre for Family Support.

319. The functions of support for child-raising set out in the decree are not new but are the functions performed by all players involved in the provision of support, based on the services currently available. They are as follows:

- Provision of information
- Practical support for teaching and resources
- Emotional support
- Encouraging social coherence, social welfare and mutual support
- Reporting, early identification and referral
- Advice on teaching and/or low-level support on a visiting basis
- More intensive assistance that is open to all

320. The target group for educational support comprises all parents and persons involved in bringing up children, namely parents, parental figures, grand-parents and family members. The support is also targeted at “at risk groups”, such as socially vulnerable families. Naturally, other specific groups, such as single-parent families, newly formed families, adoptive families, etc. require special attention by way of support of this nature.

321. As support for child-raising is directed towards all families, it is, in our view, a source of “enrichment” for families without problems also.

322. It is directed towards parents and others involved in childcare and is geared towards specific objectives:

- improving parents’ abilities, skills and opportunities;
- easing the burden, by drawing attention to problems in good time and providing assistance or practical support;
- reinforcing the social network around children and families.

323. And, finally:

- increasing parents’ options and opportunities in regard to bringing up their children;
- and

- preventing (serious) problem; by answering parents' simple questions, the aim is increase independence and capabilities in relation to bringing up children —parents are thus better equipped to deal with any (serious) problems that may occur in the future, limiting the need for more extensive assistance.

324. On that basis, the decree tasks the “education shops” (*Opvoedingswinkels*) with a number of responsibilities and defines the functions of the Flemish family support coordinators. It further defines the responsibilities of the Flemish Specialist Centre for Family Support.

#### General welfare

325. The general welfare centres in Flanders provide aid to young people in particular, and are open to everyone (see annex 6, para. 38). As far as children and young people aged between 12 and 25 are concerned, this includes the provision of care, answering questions, information, advice, direct assistance, guidance and psycho-social support. Specific measures are also undertaken, such as: encounters with young people of the same age in the context of preventive help for young people; the development of appropriate information; involving children in agreements when their parents separate; counselling (on an individual or group basis) of children who have experienced a distressing event and so on.

#### Integrated youth welfare

326. Families in difficulty are also supported in the context of the integrated youth welfare system. This was reorganized by two decrees of 7 May 2004: the Decree on integrated youth welfare and the Decree on the status of minors within the integrated youth welfare system. The former decree establishes the legal bases needed, in Flanders, to focus youth welfare to a greater degree on need, based on sustainable intersectoral cooperation. It also regulates the youth welfare entitlement of minors, parents and those responsible for upbringing, and formulates the structural guarantees set in place to secure the effective participation of minors and their parents in further developing youth assistance. The second decree (on the status of minors) focuses on the family support available under the youth welfare system and, on the basis of the Convention, makes provision for guaranteeing minors a clear legal status whatever the sector of assistance they come from. The two decrees apply to all children who come into contact with the youth welfare system from the following sectors: K&G, the *Vlaams Agentschap voor Personen met een Handicap* (Flemish Agency for Persons with a Disability), the *Bijzondere Jeugdbijstand* (special youth assistance), the *Algemeen Welzijnswerk* (general welfare centres), the *Centra voor Leerlingenbegeleiding* (CPMS) and the *Centra Geestelijke Gezondheidszorg* (mental health centres).

327. The Decree on legal status (*decreet Rechtspositie*, see annex 22) governs entitlement to youth welfare provision and the rights of minors in relation to youth welfare provision. It contains provisions defining the rights of minors: the right to reach an agreement based on freedom of choice in relation to extrajudicial youth welfare provision (section 3); the right to be informed and to clear communication (section 4); the right to respect for family life (section 5); the right to intervention and participation (section 6); access to the case-file (section 7); the right to assistance (section 8); the right to a private life (section 9); the right to freedom of choice (section 10); the right to humane treatment (section 11) and the right of complaint (section 12). It also contains provisions specifying the capacity and interest of minors. In this connection, we may refer back to the comments on the application of the principle of participation. The decree provides that a minor may exercise freely the rights cited in the decree, provided that these are matters of fact, and most of the rights to which the decree refers are, indeed, matters of fact. The right to information, to participate and have personal contact is an example. When it comes to the right to consent to youth welfare

provision and the right to access the case-file, it is necessary to apply the principle according to which a minor may exercise these rights entirely independently, if able reasonably to assess his or her own interests. From the age of 12, a minor is presumed to be able to make that assessment. This presumption is rebuttable. It is for social workers to assess, through a process of dialogue with parents and minors, whether a minor is capable of understanding. If it is presumed that a minor is unable freely to exercise his or her rights, the reasons underlying that presumption must be stated in the minor's case-file. The rights listed in the decree apply, without distinction, to all minors (principle of non-discrimination). The term minor must be construed as meaning any child under the age of 18, and not, therefore, the status of minor as interpreted in the minor's country of origin. All children under the age of 18 are able to exercise the rights referred to in the decree in relation to their legal position, whatever their individual status. The decree takes an inclusive approach: it is based on a general framework setting out the rights of all minors who find themselves dealing with the social welfare system. In addition, account is taken of the specific issues that concern certain target groups and, in this instance, the position of unaccompanied foreign minors and minors of no fixed abode. The decree also provides that youth welfare provision should encompass the rights of minors and, more particularly, education and empowerment. The inclusion of formal rights does not, however, always imply that such rights are equally respected, or that the client's respect of such rights results in improved levels of assistance. Putting rights into effect in connection with youth welfare provision and developing [them] in the context of such assistance involves more than clearly defining the legal position; it requires that parents and minors must, in the first instance, be properly informed of their rights in relation to assistance. This also requires social workers to foster a culture of dialogue and partnership with the client. For that purpose, the decree makes provision for a period of implementation and for financial margins sufficient to cover the training, communication and awareness-raising of minors, parents and social workers.

328. It should next be pointed out that, in 2007, the youth welfare networks for young people in crisis situations gradually began work. They provide a regional assistance programme in crisis situations. Various different structures, the police and the prosecution service, as well as the mental health care sector have undertaken to provide a joint response to situations in which young people are experiencing difficulties in their upbringing (minors at risk), under the banner of Integrated Youth Welfare.

329. The *Rechtstreeks Toegankelijke Jeugdhulp* (direct access youth welfare) networks are another element of integrated youth welfare provision. The networks, which have now become operational, are designed to provide, as far as possible, assistance that is accessible to everyone at any early stage. They have the further objective of ensuring that the assistance provided is as low-level as possible, provided it makes it possible to achieve the desired objective (that is to say, applying the principle of subsidiarity).

Between now and late 2008, the process of making the intersectoral gateway to integrated youth welfare provision operational will be able to be evaluated.

330. In early February 2006, the Flemish Minister for Welfare presented the Global Plan for Young People 2007-2009 (hereafter: the PGJ) (see annex 6, para. 45). The global plan, with budgetary provision to the level of €25 million, will increase the range of youth welfare provision by 14 per cent. As well as expanding the assistance available, the Global Plan includes a section on quality that should, in the long term, guarantee assistance that is more effective and efficient. The section includes, in particular, scientific research into working methodologies and the protocols for the new youth welfare projects. The global plan for young people highlights nine main principles which are intended to target better the provision of assistance, both now and in the future: the provision of a service that is geared to context and multimodal; empowering and promotes an awareness of

responsibilities; enhances capabilities; is modular and brings together various areas of expertise; is backed by knowledge; brings together other complementary pathways for young people experiencing difficulty in their upbringing (minors at risk) or for young people who have committed an act categorized as an offence; with reinforced controls and processes in (and with a view to) complete security.

331. The extension (at 1 July 2007) of preventive and then remedial assistance for children and young people at risk and young people who have committed an act categorized as an offence includes:

- The *Samen Terug Op Pad* (Together, back on the right path) designed for children aged between four and seven with behavioural problems at school and at home. The programme was expanded in 2007, 2008 and 2009.
- Additional investment of €20,000 was provided to consolidate family support through foster families.
- As part of the process of qualitatively and quantitatively improving adoption services, the Flemish Government took a number of measures in 2007; these included the resources for a large-scale advocacy campaign, an analysis of the tax position of adoptive parents, and an increase in the annual funding for placements with foster families.
- Boosting the Child and Family Support Centres (*Centra voor Kinderzorg en Gezinsondersteuning*, CES). On 30 March 2007, the Flemish Government decided to approve an additional 55 centres.
- Extension of assistance for crises in the home. This intensive form of monitoring crisis situations in the home has been expanded, with the result that 140 families are being supported annually.
- Increase in the capacity of the care, guidance and monitoring centres for unaccompanied foreign minors. In 2007, some 26 additional places were created. Twenty-eight additional places are to be created in 2008 and 2009.
- Increase in the capacity of support centres, day centres, home support services and housing services for independent living with support: as regards private approved provision within the youth welfare system, 107 residential places were created in 2007, including 13 for unaccompanied foreign refugees, and 148 transferable and semi-transferable places. The PGJ's implementation programme, which has already been determined (and funded) comprises, for 2008, 72 additional places for support through home visits and, for 2009, 67 residential places, including two places for unaccompanied foreign refugees and eight places for support through home visits.
- Extension of the measures to monitor rehabilitation measures. In Flanders, 14 services have been operational since 2 April 2007 in regard to both rehabilitation measures and parental training.
- Trial scheme: the creation of closed residential places in the private sector.
- Implementation of the Youth at Risk programme, allowing 25 young offenders to be monitored.
- Extending the capacity of the community youth protection institution (IPPJ), in Mol, by 20 places which will be available from autumn 2008.

*b.2 Governments of the French Community and the Walloon Region*

Childcare and support

332. The Birth and Childhood Office (ONE) has undergone a process of reform in order to ensure that effective child welfare structures are kept in place. The French Community's Decree of 17 July 2002 takes the process forward (see annex 25), bringing changes in three areas:

- Redefining responsibilities (see annex 11, para. 1)
- Reforming structures
- Incorporating provisions on the existence of a management contract

333. It is, therefore, envisaged that, from now on, ONE will operate on the basis of guidelines and procedures determined in a management contract concluded between its management board and the Government of the French Community. ONE's first management contract entered into force on 1 March 2003 and applied until 2005 (*available on request*). It has been extended to the present and amended by way of supplementary agreements, including to allow for the application of the *Cigogne II* (Stork II) Plan, under which 8,000 care places are to be created for children from birth to 3 years by the end of 2009.

334. The decree develops new approaches that reinforce or supplement ONE's responsibilities: extension of a preventive support programme for the welfare of the child (including pre-, peri- and postnatal measures); support for parent and child meeting venues (pilot project); reform of the consultation process (by making provision for the funding of consultation projects and additional positive differentiation sessions); gradually making additional care places available for infants; creation of a Free Time Care Service (*Accueil Temps Libre*) (outside school); setting up a website for holiday centres; support for and monitoring of homework clubs; increased training for the *SOS-Enfants* (SOS-Children) teams, and developing the Office's internet and intranet sites.

Support for parenthood

335. In 2006, the Government of the French Community approved an action plan for support for parenthood (see annex 11, para. 40) which is designed to secure the best use of the services that exist in the children's, youth welfare, health, education, sports and culture sectors. The plan's objectives are as follows: adding value to the existing services through the provision of information; reinforcing them through training; and, finally, supporting initiatives in response to major social needs.

One way in which the plan is being put into effect is through the design, by the Observatory for Children and Young People, of a website targeted at professionals. Designed as a set of tools, the site makes it possible to relay and promote the existing initiatives in relation to support for parenthood, on a cross-cutting basis. To do this, the Observatory has carried out a substantial programme identifying existing structures and good practice.

336. In supporting parenthood, ONE has developed a number of tools (see annex 11, para. 16) to help parents fulfil their role.

- The "child's record book" is a health promotion tool that is designed to encourage communication between parents and child, and all medical and paramedical staff involved in monitoring the child on a preventive basis;
- The "mother's record book" is designed for all mothers-to-be, whether their prenatal care is provided through ONE or by a private gynaecologist;

- The booklet for parents entitled “Becoming parents”, supplements the above record books and suggests things to think about in relation to the family and each individual’s role within it;
- The booklet “Growing up with limits and bench marks” is intended for future and existing parents;
- The *Air de familles* (Family matters) televised clips are co-produced by ONE. The RTBF (television) and the journal *FAMILLES* (Families) are designed to provide families with better information about the services that ONE provides and also to give them information about the health and education of children from birth to 12 years of age.

337. ONE has also been tasked with supporting a number of pilot projects in the “open house” (*maisons ouvertes*) sector. These are venues where children and parents can meet and exchange views, bringing together professionals and parents in a quality, listening environment that is open and available. An inventory drawn up in 2004 identified 63 meeting points, in addition to which, there are about 50 initiatives concerning the League of Babies (*Ligue des Bébés*). Added to this are the meeting point pilot schemes in the context of the Health-Parenthood (*Santé-Parentalité*) children’s consultation projects. Moreover, 12 children and parents’ meeting points have been subsidized since 2002. “Open house” reception staff have been undergoing the three-year in-service training programme adopted by the Government of the French Community in March 2005 (valid until 2008). This ensures that staff are properly trained to receive and support parents and children. Since late 2004, a support committee, working closely with the main actors in the sector, has identified a common basis for meeting points, that is to say, has defined the common objectives of the parent-child meeting points, as well as eight specific objectives (see annex 11, para. 38).

338. To support parents in the exercise of their responsibilities, ONE’s medico-social workers have been given training on entry into the profession and in-service training in “responsible parenthood” in 2005, 2006 and 2007 (see annex 11, para. 17).

339. The Decree of 14 July 2006 (*available on request*) on the functions of the psycho-medical social centres (CPMS) emphasizes their main activities, including support for parenthood (improving the dialogue between schools and families, support for parents as their children progress through school, and so on) (see para. 531 below).

340. Neighbourhood and [crime] prevention programmes are in place in the Walloon Region. On 15 May 2003, the Walloon Parliament adopted the Decree on neighbourhood and [crime] prevention in the towns and municipalities of the Walloon Region, generally known as the “PPP” Decree (*available on request*). The aim of the programme is cross-sectoral, and it makes it possible to implement a series of measures designed to prevent social disengagement in the broad sense, particularly by reforging social and intercultural links and relations between generations within local districts. The PPP is thus a partnership between the Region and the municipal authorities, designed to support and develop measures that must:

- Respond to local needs in regard to preventing insecurity, poverty and exclusion
- Respond to local needs for risk reduction linked to drug addiction
- Reforge social and intercultural links and relations between generations
- Respond to local needs concerning crime prevention and victim support

Generally preventing socially disengagement makes it possible, in a way, to support parenthood, even if the target public is usually young and/or insecure (see annex 28, para. 1).



## Youth welfare

341. The process of evaluating the 1991 Decree on youth welfare, initiated in 2004, was set under way in 2005 and completed in March 2006. A summary report was published in January 2006 and is available on the website [www.oejaj.cfwb.be](http://www.oejaj.cfwb.be). The Government drew up an action plan in the wake of the report and began implementing it in 2007. In 2007, another measure for assessing the Decree of 4 March 1991 was put into effect in relation to harmonizing practices. A working group was set up under the auspices of the Directorate-General for Youth Welfare, with the aim of sharing practices and targeting the resources available in each service, and thus establishing a sufficiently flexible framework that serves to guide the action of those working in the sector, and can also protect them in what are often difficult working conditions.

342. A new Order of the Government of the French Community was adopted on 15 June 2004 (*available on request*) on the implementation of programmes of general prevention in the youth welfare sector (see annex 11, para. 6).

343. There has been a significant increase in funding for and the number of general prevention projects:

2002	2003	2004	2005	2006	Total
107 projects	111 projects	217 projects	158 projects	163 projects	756 projects

344. In 2007, when the membership of the district youth welfare councils was being renewed, the Directorate-General for Youth Welfare continued to promote the initiatives previously undertaken in relation to general prevention, but confined this process to pursuing and completing the projects that had already been started. Eighty projects were supported at a cost of some €509,000.

345. The minister whose portfolio includes youth welfare has the option of temporarily granting non-statutory subsidies that are designed to respond to and put to the test emerging practices and/or problems —some promoting implementation of the rights of the child.

346. Between 2002 and 2006, no fewer than 152 associations, accounting for 262 projects, benefited from these arrangements. In terms of extraordinary subsidies, in 2007, subsidies were accorded to 82 innovative projects, yet to be formally adopted, designated pilot projects. In addition, and also for this purpose, the Directorate-General for Youth Welfare wished to provide structural support for the capacity of 77 recognized community assistance providers (AMOs) by increasing their subsidies in relation to the costs incurred for these projects.

347. Reform of the approved services in the youth welfare sector was set under way in 2000 and was designed to:

- increase the opportunities for supporting young people and their families experiencing difficulties in terms of their quality of life;
- diversify services in order to provide a better response to specific problems (children who are ill-treated, difficult adolescents, etc.);
- bring institutions and services close to where young people and families live.

348. The reform was completed in 2004 and has established a new landscape of approved private services in connection with the youth welfare system. So far, 346 private services have been approved, that is 120 care and educational support services, one initial care centre, three care centres for children who have been ill-treated, six specialist care centres, seven emergency care centres, five monitoring and guidance centres, 25 services implementing a special teaching project, three day centres, 20 educational guidance centres,

43 assistance and educational support services, 13 services providing educational and philanthropic benefits, 16 family placement services (including four short-term and one emergency service), four unofficial guardianship services and 80 services providing assistance in the community (two of which operate 24/7).

349. Since 2006, with the assistance of the Walloon Region, the Government of the French Community has also provided additional resources, particularly in terms of staffing (78 staff members for the youth welfare and judicial protection services, 38 for the public youth protection institutions and 200 for the approved private services), in order to provide more satisfactory care for young people who are being given assistance in accordance with the Decree of 4 March 1991, some of whom have been deprived of their family environment, or have had temporarily to be moved away from it. In 2007, the youth welfare and judicial protection services were able to operate in better conditions, as the objectives laid down in 2006 were met.

## **C. Separation from parents (art. 9)**

### **a. At federal level**

350. The new legislation of 18 July 2006 giving priority to equally shared residence for children whose parents are separated entered into force on 14 September 2006 (*available on request*).

- As regards the residence of the child, priority must be given to the agreement between the parents. Provided their agreement is not manifestly incompatible with the child's interests, it will be approved by the court. If there is no agreement between the parents, and if one of the parents so requests, the court will, first and foremost, consider the possibility of giving the parents equally shared residence. If the court considers that this is not the most suitable solution, it may award primary residence to one of the parties and award the other secondary residence of shorter duration. The court rules by a judgment with special statement of the grounds, taking account of the interests of the child and the parents.
- If one of the parents refuses to comply with the decisions the court has handed down, the case may be referred back to the court for a fresh hearing. In some cases, in order to implement the decision taken, measures of enforcement may be authorized. The judge will, however, have to determine the procedures for the enforced return of the child (for example, designate the persons authorized to accompany the court bailiff: psychologists or someone to whom the child is close) to avoid traumatizing the child.

351. In its recommendation to the Federal Government (December 2006), the Convention on Families (*Etats Généraux des familles*) stresses the importance of focusing on mediation rather mechanisms that may trigger conflict in cases of family breakdown (see annex 47).

352. A pilot project has also been suggested to provide children, at their parents' request, with an accompanying adult to support them through judicial procedures, to explain, supervise and reassure. The accompanying adult's role would be to intervene as soon as any split between child and parents came to light; this person would not have a legal function but would be the intermediary enabling the child to maintain his or her remaining relationship with the parent.

**b. At the level of the federated authorities**

*b.1 Flemish Government*

Meeting spaces

353. The general welfare centres (*centra voor algemeen welzijnswerk*) organize meeting spaces where children and parents who are in a situation of conflict, following separation, are offered support. The Flemish Community has been subsidizing the meeting spaces since 1 January 2004. Previously, they were subsidized by the federal Ministry of Justice. Within the meeting space, contact between parents and children is supervised, on a temporary basis, if it has been interrupted for an indefinitely period, generally following a separation, or is of a conflictual nature, leaving the child's welfare at risk. The aim of the supervision is to restore contact. The meeting spaces are designated as a supplementary responsibility of the general welfare centres in the order implementing the Decree on working for general welfare. The 13 meeting spaces currently in existence are each attached to general welfare centres. The total subsidy amounts to some €1.5 million. Given that many of the meeting spaces' client are sent there by the courts, it would be desirable to conclude a cooperation agreement between the Flemish Community and the federal State. The agreement will contain guidance, a code of good conduct and relationship procedures. The capacity of four meeting spaces has been expanded to remedy the problem of waiting times.

*b.2 Governments of the French Community and the Walloon Region*

354. In 2002, as part of the Action Plan of the Charter for the Future, the Government of the French Community adopted, as a priority, the funding and approval of structures making it possible to maintain or restore the link between parents in detention and their children. This is the objective of the Decree of 28 April 2004 (*available on request*) which permits the approval of associations, called "link services", to perform this specific role (see annex 11, para. 20).

Meeting spaces (*Espaces-Rencontres*)

355. The 11 meeting spaces approved in the Walloon Region are designed to enable parents with whom the child is not living to exercise their right to a personal relationship in the normal way, where that right has been disrupted or is proving difficult or a source of conflict. They are also designed to help create or restore the relationship between a child and the parent with whom that child is not living; they fulfil that function in the context of a judicial or administrative procedure, or at the parents' request.

*b.4 Brussels Government and Colleges*

Meeting spaces

356. Meeting spaces are offered to families in breakdown or where the parents are divorced or separated. They provide premises and support to encourage the maintenance or resumption of contacts between a child and the parent with whom the child is not living. In 2007, a decree of the College of the French Community Commission is being prepared, and is designed to recognize and strengthen this sector by making it possible, among other things, to approve and subsidize these services. The child is at the centre of the arrangements these services provide, and the focus is on the rights of the child, who is often the victim of parental conflict.

**D. Family reunification (art. 10)****a. At federal level**

Ensuring that families are not separated

357. The Aliens Office (*Office des Etrangers*) ensures that foreign children are not separated from their parents. A child is accorded the same residence status as his or her parents. If the two parents do not have the same residence status and the child lives with both of them, that child will have the same residence status as the parent with the most advantageous residence status. If the parents are separated, the child will have the same residence status as the parent with whom he or she lives

Unaccompanied foreign minors

358. If the child is an unaccompanied foreign minor, his or her guardian (see paras. 733-737 below) is responsible, among other things, for trying to trace child's family members and proposing to the Aliens Office a sustainable solution that is in the child's interests. The Aliens Office will also try to trace the family members.

359. The Aliens Office determines the sustainable solution for the unaccompanied minor, taking account of the guardian's proposal and all of the information in the case-file. The solution may take the form of: (1) family reunification; (2) authorization to remain in Belgium for an unlimited period; or (3) return to the country of origin or the country in which the child is accepted or authorized to reside.

360. In the case of option (3), guarantees must, however, be provided concerning the child's proper reception and appropriate placement (in accordance with the needs of the child, based on age and degree of independence) and the provision of care to the child. The child's parents or other adults should, in the first instance, care for him or her. If that is not possible, the public authorities or non-governmental organizations must look after him or her.

361. It should be emphasized here that the Minister of the Interior is planning to establish a network of shared contacts in the countries from which many unaccompanied foreign minors originate, to trace their family members and facilitate any efforts to establish filiation. The FPS Home Affairs, Belgian Development Cooperation and the International Organization for Migration (IOM) have already carried out joint projects in the Congo and Angola on providing assistance to non-governmental organizations (NGOs) that take responsibility for caring for minors and their families. The children are cared for in an NGO care home. In addition, there has been an increase in the resources provided to facilitate their reintegration. A project is currently under way with the Congo as part of this cooperation process.

Revision of the right to family reunion

362. The Act of 15 September 2006 (see para. 750 below) extended the category of foreigners able to benefit from a right to family reunion:

1. In addition to the spouse, children who are minors and adult children with a disability, as well as the parents of refugees who are minors and have been recognized as refugees, will be able to apply to benefit from the right to family reunion.

2. The Act also incorporates the rules which formerly applied solely pursuant to the circular of 30 September 1997 on the issuance of a residence permit based on cohabitation within a lasting relationship. These rules concern the family reunion of cohabitantes who are not married and their children. In those circumstances, family reunion

may be permitted, provided that a contract of cohabitation is concluded, proof of adequate income and a current account is furnished and a guarantee paid.

3. A person who obtains a residence permit on the basis of family reunion may, in turn, be able to secure further family reunion.

363. In addition, the right to family reunion is subject to compliance with a number of additional provisions. A monitoring system has been set in place and makes it possible to intervene if it is subsequently established that no family unit has been formed, that the conditions laid down have not been met or there has been fraud. As well as the conditions relating to blood ties or family relationship and the protection of public policy, public health and national security, a person undertaking family reunion will have to prove that he or she has: (1) accommodation deemed suitable in the region in question for a comparable family and which meets the general standards in force in relation to safety and sanitary conditions; and (2) has health insurance that covers the person undertaking family reunion and all of that person's family members against the risks against which citizens usually have cover. Setting these conditions makes it possible to put an end to some unacceptable situations (unhygienic or dangerous environment, the actions of "speculators" or failure to have health insurance). A person undertaking family reunion will have to receive his or her family appropriately, with the result that children who are minors will be better protected.

#### Introduction of a DNA procedure

364. Under article 12 *bis*, §6 of the Act of 15 December 1980, on access to the territory, residence, the establishment of foreigners and the deportation of foreigners, a supplementary analysis may be offered, where it is established that the foreigner (third country national) is unable to furnish proof of his or her family relationship.

365. Since 1 September 2003, in collaboration with the FPS Foreign Affairs, a secure procedure has been set in place by circular letter, using a DNA test to establish family relationship, where the civil status documents furnished in support of the application are inconclusive or the records of civil status have been destroyed. The DNA test is in no way mandatory but offers the applicant an opportunity of making use of it, if he or she so wishes. This is a voluntary procedure and is not, therefore, imposed by the Aliens Office. Moreover, the use of DNA testing has to be a matter of last resort: indeed, use of DNA testing cannot be automatic and cannot replace the submission of documents. This secure procedure may either be requested by the applicant when submitting the application for a family reunion visa, or be offered by the Aliens Office if, in the light of documents produced and the evidence in the applicant's case-file, it is compelled to refuse the application, unless proof of the family relationship can be established through DNA testing.

## **E. Recovery of maintenance for the child (art. 27, subpara. 4)**

### **a. At federal level**

#### The Maintenance Recovery Service (SECAL)

366. The Act of 21 February 2003 (*available on request*) sets up a Maintenance Recovery Service within the FPS Finance. The Act entered into force on 1 September 2004, and SECAL was set up back on 1 June 2004. It has two functions:

- collecting and/or recovering maintenance payments: since 1 June 2004, SECAL has been responsible for recovering monthly maintenance payments and arrears for and on behalf of beneficiaries, that is to say the children and/or (former) partners;

- making advance payments in respect of maintenance: since 1 October 2005, SECAL has made advance payments in respect of maintenance to the person entitled to maintenance payments, and will pay to that person the balance and any arrears as the debtor makes payment.

367. For the purposes of recovery, SECAL acts on behalf of the person entitled to the maintenance payments. Certain conditions attach to the grant of aid and services by SECAL:

- the person to whom the maintenance payments are owed must be domiciled in Belgium;
- two monthly maintenance payments must have not been paid (wholly or in part) during the 12 months preceding the application;
- maintenance must have been set in an enforceable court decision (for instance, a divorce order...) or in another authentic act (for instance, agreements prior to divorce by mutual consent drawn up by notarial act);
- where SECAL makes advance payments on maintenance, the financial assets of the person entitled to payment must not exceed a statutorily determined threshold.

368. This new service makes it possible to recover the sums owed by way of maintenance payments for children, but also to compensate where the parent who is supposed to pay the maintenance fails to make any financial contributions.

369. The legislation establishing SECAL also provides for the creation of a Commission of Evaluation responsible for drawing up a report evaluating SECAL's work. The Commission must be provided with data on the achievement of the Act's objectives; it also makes recommendations and issues opinions. The Minister of Finance deposits the report with the both houses of the Federal Parliament.

## **F. Children deprived of their family environment (art. 20)**

### **b. At the level of the federated authorities**

#### *b.1 Flemish Government*

370. See paragraphs 326 *et seq.* above.

#### *b.2 Governments of the French Community and the Walloon Region*

371. With the assistance of the Walloon Region, the Government of the French Community has also provided additional resources, particularly in terms of staffing, in order to provide more appropriate care for young people who are being given assistance in accordance with the Decree of 4 March 1991, some of whom have been deprived of their family environment, or have temporarily to be moved away from it (see paras. 347-349 above).

#### Reception and accommodation structures

372. In the Walloon Region, the night shelters, community hostels, family housing structures and care homes have the capacity to provide accommodation and can provide continuous care or time-limited accommodation, as well as the appropriate support, to help beneficiaries acquire or regain independence. The structures are mainly designed for minors declared of full age and capacity, minors who are mothers or fathers and pregnant minors, who are psychologically and socially or physically vulnerable and are unable to live independently, as well their accompanying children.

## G. Adoption (art. 21)

### Cooperation agreement

373. On 12 December 2005, the governments signed a cooperation agreement. That agreement (*available on request*) provides for a Consultation and Monitoring Commission on Adoption to be set up. The Commission acts as a kind of platform for consultation, bringing together all of the authorities involved in the adoption process, and its role is to promote the implementation of the reform, ensure an exchange of information, documentation and standardized statistics, as well as to coordinate the work of the different central authorities in relation to international cooperation. The Commission meets twice yearly; its first official meeting took place on 11 December 2006.

### a. At federal level

374. In 2004, new federal legislation reforming the adoption process was approved. The Act of 24 June 2004 approving the 1993 Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption entered into force on 1 September 2005 (*available on request*). The Convention had to be ratified to guarantee that international adoptions actually took place in the child's interest and respecting the child's fundamental rights. Belgium consequently introduced a new procedure for international adoption, both for what are described as "conventional" and for "non-conventional" adoptions. There have been a number of changes to domestic law.

(i) The Act of 24 April 2003 *reforming adoption* and the Act of 13 March 2003 *amending the Judicial Code in relation to adoption* (*available on request*). The main changes in relation to international adoptions may be summarized as follows:

- In relation to the adoptee: the focus is on the adoptee's interest in the adoption. The adoptee's consent is required from the age of 12. The adoptee may also be the subject of a new adoption if there are serious grounds justifying this.
- In relation to the original parents: they must consent to the adoption and cannot give their consent until the infant has reached the age of two months. They must be provided with information on the consequences of the adoption, but also on the social welfare and other help available to them, and be given counselling.
- Persons adopting minors must be prepared by the relevant services of the Communities and then assessed by the children's judge as to their ability and fitness to adopt, on the basis of a social report.

375. These provisions apply both in relation to an intercountry adoption that falls within or outside the scope of the Convention, and also in relation to an adoption that takes place in Belgium, without the child moving to or from another country.

376. In outline, where Belgian residents adopt a child resident abroad, the procedure is as follows:

- the potential adopters approach the Community central authority to take part in a training course;
- on completion of the course, the Community central authority issues them with a certificate of preparedness;
- the potential adopters approach the youth court which orders a social report carried out by the services appointed by the relevant Community authorities;

- on the basis of the social report, the court hands down a judgment of fitness to adopt;
- the State Counsel's Office draws up a report for the relevant authority in the [adoptee's] State of origin;
- the proposed adoption is supervised by a body approved by the Community central authority or by the authority itself, and the adoption is established abroad (matching stage);
- the adoption is recognized and registered by the federal central authority.

377. In accordance with certain procedures, adoption is open to married persons or persons cohabiting *de jure* or *de facto*, without distinction as to gender, and to single persons.

378. Five central authorities for intercountry adoption have thus been set up: the Federal Central Authority (in the FPS Justice), the Central Authority for the French Community, the Central Authority for the Flemish Community, the Central Authority for the German-language Community and the Central Authority for the Joint Community Commission (for the bilingual Brussels-Capital Region).

379. As regards the recognition of adoptions that take place abroad, the new Act requires the federal central authority to recognize adoptions that take place abroad. It does so after more or less detailed checks have been carried out, depending on whether or not the adoption took place in a State bound by the Hague Convention.

380. We should, finally, note that the federal central authority centralizes the information, thereby making it possible to obtain a better overall statistical view of adoption, cohesive case-law in regard to the classification of foreign adoptions (simple or full), as well as consistent case-law in relation to determining the child's name. (Statistics on adoption are at annex 15.C).

(ii) The Act of 6 December 2005 amending certain provisions relating to adoption (*available on request*). The Act contains provisions arranging for a child to be adopted, subject to certain conditions, where the domestic law to which the child is subject recognizes neither adoption nor placement with a view to adoption.

(iii) The Act of 18 May 2006 amending certain provisions of the Civil Code to permit adoption by same-sex couples (*available on request*). The Act entered into force on 30 June 2006; it deletes the references to adopters of different gender, and special provisions regarding the name of the adoptee have been made, for both simple and full adoption. The principle is that same-sex spouses or cohabitantes who adopt a child must decide which of them is to give their name to the adoptee; this will be the family name for any children they subsequently adopt together.

(iv) Publicizing the reform (*available on request*). Several booklets have been produced and circulated to inform people about this reform of the adoption process. Moreover, the necessary forms, as well as other practical information, are available on the website of the Federal FPS Justice.

(v) The Aliens Office remains responsible for issuing "adoption visas" and takes its decision after it has been informed of the decision of the relevant Community central authorities.



**b. At the level of the federated authorities**

*b.1 Flemish Government*

381. The new Decree on intercountry adoption (*available on request*) was approved on 15 July 2005. Under the new decree, K&G continues to be the Flemish central authority for adoption. The new legislation essentially makes the following changes in relation to Flanders:

- A coordinating centre will monitor the availability of children for adoption. Associations of adoptees, adopters and/or biological parents will be able to obtain approval as target groups.
- A new responsibility is accorded to the Flemish central authority which will be responsible for storing and consulting adoption case-files. As a result, all adoption case-files (including old files) will be archived with it. The effect will be to guarantee a child's right to be informed of his or her origins. Under supervision, an adoptee may consult his or her case-file from the age of 12.
- A regulation has been drawn up in regard to new case-files and applies to their storage. In 2006, the consultation process was clarified in collaboration with the adoption services and the research register. The process of centrally storing old adoption case files, that is to say, case-files relating to adoptions that took place before the new legislation entered into force on 1 September 2005, is under way.
- The new legislation requires that anyone who has been either closely or more distantly involved in an adoption must be informed of the new procedures. New booklets have had to be produced for potential adopters. They unfailingly emphasize the interest of the child and the philosophy of the Hague Convention on adoption. In addition to the Federal Central Authority, the system of allocating responsibilities has introduced a new partner into the process, namely the youth courts which now have jurisdiction to assess the fitness of persons applying to adopt. The Flemish central authority has cooperated in the training of children's judges to highlight once again the interest of the adopted child. There has also been cooperation with university study days to explain the legal framework and the psychological and social background of children who are adopted.
- In 2006, members of the judiciary dealing with youth matters were directly informed of the vision and operation of the services involved in adoption in Flanders —an example of the flexible cooperation with this new partner (youth court). The philosophy of the Hague Convention on adoption has been disseminated and is included in reporting manuals which all professionals can employ as handbooks. Interested third parties can obtain information in digital form on the K&G website.

*b.2 Government of the French Community*

382. The Decree of 31 March 2004 on adoption (*available on request*) is designed to provide the guarantee required by the both the Convention on the Rights of the Child and the Hague Convention of 29 May 1993 on the Protection of Children and Cooperation in respect of Intercountry Adoption and to set in place arrangements compatible with the requirements of the federal Act of 24 April 2003 reforming adoption. The criteria underlying the introduction of the decree are as follows: subsidiary nature of adoption; measure of protection for the child; preventive measures and professional supervision of all adoption procedures from preparation to matching and including post-adoption support. While the reform gives priority to the interests of the child, it still reconciles respect for the needs of the applicants to adopt and makes proper provision to support them in adopting successfully. A Decree of 1 July 2005 (*available on request*) amends the Decree of 31

March 2004, shortening the preparation period for applicants to adopt and arranging for post-adoption support.

383. Reform of the adoption process is now complete. Since 1 September 2005, the date on which the reform entered into force, all applicants to adopt undergo a process of preparation, and all adoptions are supervised either by approved adoption agencies or by the Community's central authority.

*b.3 Government of the German-language Community*

384. For its part, the German-language Community has regulated the issue of adoption by the Decree of 21 December 2005 (*available on request*) and the Government Order of 28 September 2006 (*available on request*).

385. The German-language Community does not have an approved adoption service; consequently, a new agreement amending the sectoral agreement on youth welfare of 27 April 2001, between the French Community and the German-language Community, has organized cooperation between the two Communities in this regard. The agreement provides that applicants to adopt in the German-language Community must approach the approved services of the French Community.

## **H. Illicit transfer and non-return (art. 11)**

### **a. At federal level**

International abduction by parents

386. The Federal Government has set up a federal Contact Point "International child kidnapping" at the FPS Justice, which is accessible every day, including outside working hours. The functions of the Contact Point are:

- to centralize and circulate all primary information concerning international child abductions and cross-border rights of access (including the aspect of prevention);
- to process individual dossiers in accordance with international instruments, including coordination with the other relevant bodies;
- to steer the parties towards other relevant bodies if the application does not fall within the remit of the FPS Justice (FPS Foreign Affairs, the Belgian courts or, indeed, foreign courts);
- to provide psychological support to families in connection with individual dossiers;
- an intervention fund makes it possible to provide financial assistance to families, depending on the resources of the parent seeking assistance; the main purpose of is to cover, wholly or partially, the costs of repatriating children or the transport costs of a parent accompanying his or her child back to Belgium.

387. The Federal Government has, at the same time, set in place an Interministerial Coordination Unit, as well as a Study Group made up of representatives from the relevant federal authorities (the [different] administrations, the judiciary and the police) and various experts.

388. Divided into three working groups, the Study group has considered various issues pertaining more particularly to preventing child abductions and supporting parents during abductions and after a child has been returned. It has, for example, been involved in preparing the draft legislation enabling Council Regulation No. 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in

matrimonial matters and matters of parental responsibility (known as “Brussels II *bis*”) to be implemented and has been tabled in Parliament. The Regulation contains provisions that supplement the 1980 Hague Convention and, therefore, marks progress in the processing of judicial and administrative procedures designed to secure a child’s return to his or her country of habitual residence. During 2005-2006, it became clear that there was a need to draft a specific protocol on cooperation between various players in relation to international abductions by parents and cross-border rights of access (see para. 863 below).

In relation to adoption

389. The legislation on adoption is designed to prevent the transfer of children who have been the subject of an adoption procedure within a State, so long as there is doubt concerning the legality of the adoption; the new legislation on adoption will now require the requisite checks to be carried out before the child arrives in Belgium.

In all cases in which there is sufficient evidence to suggest that the child has been abducted, sold or the subject of child trafficking, the resulting adoption will not be recognized in Belgium on the ground that it is incompatible with public policy, bearing in mind the best interest of the child and the fundamental rights conferred on children under international law. The State Counsel’s Office is required to review such adoptions. Members of the child’s original family also have the right to challenge the adoption before the courts.

**b. At the level of the federated authorities**

*b.1 Flemish Government*

390. When international parental abductions have been resolved, it is possible for the Youth Welfare Agency to intervene to support the child concerned. In several cases, including that of Baby Donna, it has requested the placement of a child from another State, pursuant to Regulation No. 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility, and specifically article 56 thereof. In such cases, the authorization has been specifically given by the Flemish Minister for Welfare in conjunction with the central authority of the FPS Justice.

**I. Abuse and neglect (art. 19), including physical and psychological recovery and social reintegration (art. 39)**

United Nations study on violence against children

391. Belgium has worked closely with an independent expert, Professor Pinheiro, in preparing the United Nations study on violence against children. Belgium’s involvement took the form of a financial contribution to the study (€100,000) and the organization of a conference (Brussels, 6 December 2006) in conjunction with UNICEF. Professor Pinheiro attended the conference, and the study was discussed. Belgium has since reviewed the recommendations contained in the study and drafted a report on the measures already taken in response to the recommendations (see annex 26). In that connection, the Study Group on Flemish Policy on Young People and the Rights of the Child also held discussions, with Professor Pinheiro, in December 2006. In 2004, the Flemish Government answered Professor Pinheiro’s questionnaire. In June 2007, a follow-up report on the study was submitted to the Federal Government. It should also be pointed out that, through the intermediary of the Commissariat-General for International Relations, and on the initiative of the OEJAJ, the French Community also took part in the study in question, in 2004.

## Violence within the family – National Action Plan

392. Violence within the family does not only affect the partner of the perpetrator of the violence, but, frequently, the children also, either directly or indirectly. Belgium's second National Action Plan on Combating Domestic Violence (2004-2007) is therefore significant in terms of fleshing out the rights of the child. It was drafted on the basis of six vital strategic objectives: the development of measures to raise awareness, educate and train, prevention, reception and protection of victims, punishment, registration and statistics (see <http://www.igvm.fgov.be>). All of the measures adopted on the basis of these objectives can contribute to the welfare of children. The process of evaluating the Action Plan is near completion. One proposal that has already been highlighted within the working groups tasked with coordinating the Action Plan involves paying greater attention to the plight of children where there are problems of domestic violence. In determining how to care for the victims of domestic violence, children who are, normally, able to remain with the victim, are always taken into account. A number of local initiatives also target young people who have witnessed domestic violence.

393. The governmental *Action Programme* specifies that the Communities are to make an active contribution to the implementation of the national Action Plan. Depending on where their responsibilities lie, the Communities can act in three areas:

- Advocacy: drawing attention to the phenomenon of domestic violence, naming it and shaming it through information and awareness-raising campaigns.
- Training: training people who may have to deal with domestic violence in a professional context, to identify violence and provide guidance for victims.
- Prevention: changing sexist prejudices and models based on the notion that one or other of the sexes is inferior, to effect changes in behaviour.

394. The Government of the French Community has thus agreed on various priority measures, set to take effect between 2006 and 2009, which form the basis for French Community action in regard to combating domestic violence but are not prescriptive (see annex 11, para. 22).

395. Attention should be drawn to two initiatives in relation to young people more particularly:

- A quantitative and qualitative study on violence between partners among young people was conducted in 2007.
- A new campaign on awareness-raising and the prevention of violence between partners, particularly young people, was launched in November 2004. The campaign is entitled *I love you but violence is hazardous to love* (*Je t'aime. La violence nuit gravement à l'amour*) (see annex 11, para. 23).

The Flemish Government has invested in care and support for families confronted with violence between partners (victim support, therapy for the perpetrator, domestic violence teams, shelters, programmes to help children who have witnessed violence between partners, etc.). The general welfare centres have been better equipped to help the victims and perpetrators of violence between partners (and their children).

396. In addition, VRT (the Flemish Community's public TV) has broadcast a commercial condemning violence between partners, as part of the Council of Europe's campaign to prevent violence against women, including domestic violence. Posters have also been sent to all police stations, all general practitioners and all the relevant social welfare and health structures, as well as all religious and non-denominational communities. *Tele-Onthaal* (a telephone helpline accessible to all) and the general welfare centres (the frontline psychological and social services) have been called upon to answer questions and help the

individuals concerned move forward. Children too have responded to the campaign, which did focus, particularly on its website, on children who witness this kind of violence between partners.

397. In addition, the Education Department has taken a number of initiatives to draw attention, in schools, to violence within the family. For example, an issue of *Klasse* (a public service publication for teachers, students and their parents) was devoted to the issue of violence within the family.

398. The Flemish Community has also subsidized various initiatives relating to violence within the family focused on children (theatre productions designed for schools or training for social workers on how to deal with children who are living in a family faced with violence and/or in the process of splitting up).

#### **a. At federal level**

##### Violence within the family

399. On 1 March 2006, a joint circular was adopted by the Minister of Justice and the College of Principal Public Prosecutors on tackling violence within couples under the criminal law (COL 4/2006 – in force as of 3 April 2006), concerning more specifically the action of the police services and the prosecutors' offices. The key words are: prevention, mediation, prosecution and zero tolerance. For example, from now on, whenever there is a complaint of violence, a report or record must be drawn up. On 1 March 2006, another joint circular of the College of Principal Public Prosecutors was adopted. It defines violence within the family and the ill-treatment of children outside the family framework and relates to the identification and registration of case-files by the police services and prosecutors' offices. It is important to underline that the designation of these offences has, in the meantime, become mandatory, and that the general description "violence within the family" has been replaced with the more specific designations of: "violence within the couple", "violence against descendants" and "violence against other family members". These changes are designed to facilitate a better understanding of the complex issue of violence within the family.

##### Indecent assault, rape, assault and battery

400. In relation to indecent assault, rape, assault and battery, the Act of 28 November 2000 on the protection of minors under the criminal law protects minors against abuse within the family environment in the broad sense (foster parents, half-brother, stepfather, mother's male partner, etc.) (see para. 837 below).

##### Genital mutilation

401. In repose to the recommendations of the Convention on Families (*Etats généraux des familles*), as well as the Senate's adoption of the resolution on genital mutilation, on 3 April 2004, the State Secretariat for Families and Persons with a Disability took action in relation to the issue and, at the Interministerial Conference on "integration within society", of 21 November 2006, presented a draft national action plan on the prevention of genital mutilation. The plan sets out a variety of proposals in terms of both the law and training, health and the international element to supplement the existing arrangements to punish and prevent genital mutilation. A working group has also been set up to deal with this specific issue, and is due to complete its work during the course of 2007 (see para. 413 below).

#### Child abuse

402. An information booklet drafted by the FPS Justice in collaboration with the Flemish Community and designed for the general public was prepared in 2002, covering the social welfare and justice sectors, and way in which anyone can help where there is suspicion or knowledge of sexual abuse. The booklet is designed to raise the awareness of and inform people, who are aware of abuse or suspect that it is taking place, how to respond, the stages in the procedure and which services to contact. A booklet produced by the FPS Justice in collaboration with the French Community was finalized in 2007. It sets out the possible action that could be suggested to someone faced with a situation of ill-treatment, abuse or negligence, and provides information on the way in which the different services operate, how the youth welfare and justice services work together in synergy, and their respective responsibilities.

#### **b. At the level of the federated authorities**

##### *b.1 Flemish Government*

#### Ill-treatment of children

403. Between 2000 and 2005, there was a 34 per cent increase in the number of children referred to the confidential counselling centres for child abuse (*Vertrouwenscentra Kindermishandeling*). The increase highlighted in the last periodic report (see para. 465 of that report) has continued in recent years. This does not necessarily mean that the problem is getting worse but that child abuse is attracting ever more media coverage. The statistics also show that the centres are easily accessible, as they may be approached as soon as there is any suspicion of abuse, and the assistance is provided by confidential counsellors, which encourages even perpetrators to turn up in person. To encourage that trend, K&G conducted an information campaign on the centres in 2005, with the aim of encouraging people to contact them if they had concerns or suspected that a child was being neglected or abused. The campaign was also designed to provide general information on the confidential counselling centres and their role.

404. K&G has its own area of responsibility in regard to child abuse, and is also the body that approves and subsidizes the confidential counselling centres. It fulfils this role in two ways. The prevention of child abuse is a key element here, and K&G is committed to providing better support to families with young children and analysing the problems. It also has a significant role to play in relation to the detection of child abuse. Identifying situations where children are being raised in circumstances that pose a serious threat to those children is one of the responsibilities of K&G's regional teams. There is a scale of "risks posed by serious problems of upbringing" (minors at risk) that is used to support the teams in their work. Within departments responsible for providing families with preventive support, there is an official specializing in the issues of child abuse. There is also regular consultation with the confidential counselling centres for child abuse, and general policy is set out within that framework. Last year saw a process of consultation with the centres for the purpose of establishing a development plan that would clarify the role of the centres and provide a clearer definition of their main responsibilities, enabling them to acquire a still higher profile in terms of expertise in the field of child abuse. An initial measure under the development plan has been to devise a more uniform approach to the notification of instances of child abuse, with the aim of helping to provide effective assistance to families and children and obtaining uniform registration data. The feasibility of having a central contact point to make it still easier to notify child abuse has also been considered. Setting up a contact point of that nature was reviewed with the centres.

405. The FPS Justice has also set up a working group, within which representatives of the welfare sector, the police and the justice system have made recommendations for better tackling child abuse. The final report containing the recommendations was sent to the Minister of Justice in late March 2007. The main aim is to provide every child who is the victim of abuse with the most appropriate assistance, without such assistance being dependent on where the child came from.

406. It should also be emphasized that article 28 of the Decree on the status of minors within the integrated youth welfare system (*decreet rechtspositie*, see para. 326 above) prohibits corporal punishment in youth welfare institutions, including centres caring for children with a disability. For further information on the prevention of violence against children with a disability, please see para 473 below.

#### Violence, psychological harassment and sexual harassment in schools

407. In the light of the recommendations of the United Nations Committee on the Rights of the Child that strategies for prevention, detection and response should be developed centrally, attention may, in particular be drawn to the Flemish strategy plan for preventing and combating violence, psychological harassment and sexual harassment in schools, which was finalized in late 2003. Under the Act of 11 June 2002 on protection against violence and psychological and sexual harassment at the workplace, employers are required to implement a policy of prevention and remedy, and to protect their employees against violence and psychological and sexual harassment. The Ministry for Education and Training and the non-profit-making association Limits have worked on a strategy plan that schools can use to apply the Act of 11 June 2002. The strategy plan did not relate exclusively to problems with and between staff members, but also focuses to a considerable degree on possible action and measures that might be taken at school in relation to children and harassment; it contained two sections devoted to students: a prevention plan and an intervention plan. The plan has been sent to all schools and may be downloaded at: <http://www.ond.vlaanderen.be/antisociaalgedrag/beleidsplan/>. Under the plan, a “*Steunpunt Grensoverschrijdend Gedrag op School*” (Support point for abusive conduct at school) was set up; this both provides telephone support and advice and information, and has also developed two prevention and intervention plans, in each case one for students (and the other for teaching staff). Awareness-raising campaigns were held in 2004 and 2005.

408. Another initiative that might be mentioned here is the *JoJo-project*, a project that focuses on preventing anti-social behaviour in schools. A “*JoJo-er*” is a “*startbaner*” (a young person with few qualifications who does not have a secondary school certificate) who is able to carry out certain tasks to support the activities of the school’s staff. The project is designed for schools whose students have difficulties with schooling, and where the “*JoJo-er*” can provide a link between students and teachers and take on responsibilities that can help improve the atmosphere in school.

### b.2 Government of the French Community

#### Child abuse

409. A Decree of 1998 made provision for assistance to children who had been the victims of abuse in the French Community. After remaining for nearly four years without an implementing order, it was the subject of an evaluation which resulted in the adoption of a new Decree of 12 May 2004 on assistance to children who have been the victims of abuse (see annex 27). The following progress has been made:

- A *coordinated response to situations of abuse*: the assistance and protection arrangements concern all professionals connected with the child and his or her family; a system of network-based care is thus set in place. The role of the structures

for prevention that exist at [judicial] district level is thus reinforced. Coordination commissions are also set up to support the organization of network-based action. They were established, in 2006, within each [judicial] district. The role of the commissions is to ensure that the procedures for dealing with situations of child abuse are improved, and they bring the different network players together.

- The creation of a Support Committee for Abused Children (Comité d'Accompagnement de l'Enfance Maltraitée, CAEM) within the Birth and Childhood Office (ONE). The Committee is the internal reference point for all issues concerning assistance to children who have been the victims of abuse.
- *Multi-disciplinary teams to deal with situations of abuse*: harmonization and approval of the “SOS-Enfants” (SOS-children) teams under a single supervisory authority (ONE), in accordance with a definition of their tasks and a multi-disciplinary framework.
- *A cross-cutting policy of prevention* within the French Community: a programme of abuse prevention is set in place to support the work of the professionals in the field.
- *In-service training to secure more professional practice*: training and tools are made available to professionals involved in the provision of assistance.

410. The Order of 14 June 2004 (*available on request*) determined the conditions in which the “SOS-Enfants” teams are approved and subsidized. Fourteen “SOS-Enfants” post-natal teams were approved in 2005, 2006 and 2007; their role is to prevent and deal with situations in which children are the victims of physical, psychological, sexual or institutional abuse or negligence.

411. As regards team training:

- (a) two training days took place in 2005, two in 2006 and two in 2007, on the theme of: diagnosing abuse of infants within the “SOS-Enfants” teams;
- (b) there were also peer review sessions by professional group: 24 days (four days per professional group), in 2006 and 2007.

The aim of the working groups was to discuss the diagnostic tools used by each group and to identify the clinical indicators of abuse relevant to each.

412. The Coordination Unit for assistance to children who have been the victims of abuse is behind the YAPAKA Programme. The programme is an initiative of the Ministry of the French Community and the result, under the auspices of the Coordination Unit for assistance to children who have been the victims of abuse, of cooperation between several authorities and associations: ONE, Directorate-General for Youth Welfare, Directorate-General for Compulsory Schooling, Directorate-General For Health, “SOS-Enfants” teams and so on. This programme of prevention and awareness-raising of abuse is aimed at the general public; it was approved in April 2001 and is updated at least once a year (see annex 11, para. 21).

#### Genital mutilation

413. The French Community has supported various measures taken in relation to the issue of female genital mutilation (colloquy, teaching aids directed more particularly at young people, etc.).



## J. Difficulties and future objectives

### Separation from parents

414. As regards [the child's] the right to family life and not to be separated unnecessarily from his or her parents, the insecurity of a family's situation cannot still be used as the basis for a decision on placement of that family's child or children. Taking into account the basic tenet of the Committee on the Rights of the Child, according to which placement must be considered the very last resort, the system of assistance to families is subject to a continuing process of assessment to avoid, so far as possible, children being taken into care because of a family's financial difficulties, and, also, to ensure a child is returned as soon as this is feasible. Assistance to and supervision of families must be organized systematically, taking a multi-faceted approach (financial assistance, housing assistance, help with renovation, access to energy, employment assistance for the parents, support at school for the children), in order properly and positively to help and support the families concerned. Particular attention is given to the tools needed by the services that support families to enable them to provide comprehensive and high-quality information.

415. The focus must also be on communication between the bodies providing assistance to young people and families. To achieve this, the training given to the professional groups concerned, to raise their awareness of these issues of poverty and caring for the families in question, will be intensified.

416. Finally, if placement is the only option, care is taken to ensure that particular attention is paid to the specific circumstances of the family, and that the parents' situation is properly taken into account in the selection of the care institution or foster family. Indeed, children's right not to be cut off from their parents must be guaranteed by avoiding, among other things, placement that make it very difficult or, indeed, impossible for parents to visit (transport costs, accessibility of public transport, visiting hours incompatible with working hours). The competent authorities also confirm that siblings must be kept together as far as possible, avoiding sending children to several places of care.

### Recovery of maintenance

417. Single parent families have been identified as being more vulnerable and at risk in terms of poverty. Many maintenance payments regularly fail to materialize despite the creation of the Maintenance Recovery Service (SECAL) in 2003. While the creation of SECAL has already made it possible to resolve many problematic situations, obstacles remain. To help single parent families where the maintenance debtor is failing to pay, the responsible authorities will publicize SECAL, and the information provided to citizens will be regularly assessed to ensure that it is both clear and accessible. The authorities will extend the current conditions and sums provided by way of intervention and will ensure that advances are recovered. The requirement that recipients of assistance should submit the official copy of documents giving them entitlement to maintenance (notarial act or judgment) has been identified as an obstacle to the proper functioning of the assistance arrangements, and a solution will, therefore, be found to enable the SECAL authorities to obtain the requisite information without the need for the official documents to be formally and physically submitted (in compliance with the Act of 8 December 1992 on the protection of private life with respect to the processing of personal data).

### Violence against children

418. The relevant authorities will pay particular attention to violence against children in the national action plan for children. The recommendations produced by the United Nations study on violence against children will be taken into account in the action plan.

419. The competent authorities will redouble their efforts to see an end to corporal punishment and psychological violence. In accordance with the Committee's recommendation in paragraph 24 (b) of its concluding observations and article 19 of the Convention, positive and non-violent forms of conflict resolution will be further developed. The information campaigns organized in this context will be directed towards a broad target public, and care will be taken to ensure good coordination between the Federal Government and the Communities.

420. The competent governments will take care to ensure the proper implementation of the recommendations of Dutch-speaking and French/German-speaking working groups on child abuse, as set out in the *Vlaamse Afsprakenprotocol* (Flemish protocol of agreement) and the protocol for action of the French and German-language Communities. The competent authorities will place more particular emphasis on:

(a) Encouraging coordination and consultation between the various bodies by setting up a council for the prevention of abuse for each Community, as well as district councils (which already exist at various levels of jurisdiction), offering the various actors (police, confidential counselling centres, youth assistance services, legal protection services, prosecutors' offices, social welfare centres, mental health centres, etc.) the opportunity to consult with each other and coordinate policy.

(b) Guaranteeing the principle of non-discrimination and, in this context, respecting the specific needs of the individual child. To achieve this, it will be necessary to consider introducing contact judges (*magistrats de reference*), and for all persons who have to deal with child abuse (police, youth welfare services, child welfare service, health and social welfare services and the justice system) to apply the protocols of agreement.

(c) Trying to find an appropriate solution to the difficulties those working in the field face in terms of the action they can take (obligation of confidentiality, as well as the need for more training and a review of working methods).

(d) Taking the measures needed to provide information to children who are the victims of abuse.

421. The competent authorities will support the implementation of the *Vlaamse stappenplan* (Flemish road map) and the protocol for action of the French and German-language Communities, by means of a circular which will be able to provide further clarification of a number of points, where necessary.

422. The competent authorities will evaluate the Act on provisionally assigning use of the family home to the spouse or legal cohabitee who is the victim of physical violence by his or her partner, looking, if necessary, to analyse its effects on the children in the family, both in terms of safety and with a view to incorporating it into a policy of assistance in which the focus is on the family, taking account of the abilities of the parent who is caring for the child.

423. The competent authorities will optimize research into the effectiveness of and valid alternatives to child placement. The research will be set under way or continued, as appropriate.

424. Finally, in relation to child psychiatry, the competent authorities will determine criteria to show how measures of confinement can be made more compatible with the rights of the child —something that is already happening at some levels of government. They will ensure that young people are, in particular, automatically informed of the way in which the decision was taken; the location, duration, procedures and limits to confinement; the rights and duties of the person supporting the young person and of the young person him- or herself, including the right to make a complaint; third party reports and assessment of the measure of confinement, after it has taken place, by the institution and the young person.

425. The competent authorities will redouble their efforts to bridge the gap between supply and demand in relation to assistance, and to respond to the need for an analysis of requirements in this sector. The current circumstances do not always enable children to receive appropriate assistance, including placement in the right structure.

## VI. Health and well-being

### A. Survival and development of the child (art. 6, subpara. 2)

#### a. At federal level

Road safety – general provisions

426. In 2001, as part of the first Convention on road safety (*États généraux de la sécurité routière*), Belgium gave its support to the European goal of cutting by half the number of deaths on the road by 2010 (compared with the average for 1998, 1999 and 2000) and to cutting the number of deaths by 33 per cent, by 2006. Over a five-year period (2001-2005), Belgium has managed to reduce the number of deaths on the road by 25.7 per cent, and this naturally means that fewer children have died on the roads. At the second meeting of the Convention on road safety, held on 12 March 2007, new recommendations were drafted and should help consolidate the positive results recorded in recent years. In point of fact, additional measures will be needed to achieve the 50 per cent reduction in road victims. A new strategic objective has also been developed: by 2015, the number of deaths on the road must not exceed 500.

427. The positive results recorded between 2002 and the present are discussed below.

Awareness-raising and education in relation to road safety

428. The Belgian Road Safety Institute (*Institut belge de sécurité routière* – hereafter: the IBSR) conducts various awareness-raising campaigns annually. Some campaigns target the safety of road-users categorized as vulnerable, and children more particularly.

In recent years, there have been various campaigns on the use of seat belts (Short journey? Be seat-belt safe. *Tatouceinture* (the “Armadillo” campaign) and “I’ve got a friend for life”) and on child seats (“Under 135 cm: use a child seat!”). The campaigns are part of the European Eucyres project, a road safety campaign that targets children and encourages the use of seat belts and child seats. *Tatouceinture* plays a central role here. In addition, there have, in recent years, been frequent campaigns, on the danger of speed on the road and child deaths (“Put life first”, “Thomas, aged six. Rest in peace”/“Sarah, aged eight. Rest in peace”, “Every year, speed kills more than 50 children – Drive more slowly for Sophie”, “Speed kills me” and “I don’t have nine lives”). Different campaigns have also targeted the place and vulnerability on the roads of users categorized as vulnerable. (“We aren’t wax models”, “Pavements aren’t car parks”). The campaigns are conducted through a variety of media (posters, radio and television). The main element in the media planning for each campaign consists in posters on billboards along roads and motorways, which are made available to the IBSR for six months of the year. The themed campaigns are always announced at a press conference and explained in a television broadcast “*Kijk Uit*” (VRT), “*Veilig Thuis*” (VTM), “*Contacts*” (RTBF) and “*Ça Roule*” (RTL/TVI).

429. Important changes to legislation (such as the new Road Traffic Act and the amended legislation on seats, see below) are also announced in media campaigns.

430. As well as the campaigns familiar to the public, IBSR also provides education in road safety by supplying a wide range of educational material that can be used by

individuals (both parents and children) or in schools (leaflets, booklets, reading cards for teachers, work sheets and exercises for students, videos, posters, etc.) and using specific projects. Examples of these include: a practical guide designed for (future) primary school teachers entitled “How to set about giving a driving lesson”, a guide on bicycles “Cyclists and the highway code” and the 2005 project “*Knipperlicht Nieuw*” (method for learning about road safety focusing on experience and designed for the first stage of primary education). If young people are caught committing an offence during police checks (souped up mopeds, bicycle not in proper working order), various districts organize road safety courses and invite young people (aged between 12 and 16) to come along; police officers try to explain clearly to them the consequences of their unlawful conduct. They are also advised on how to ensure their own safety on the roads in the course of this road safety training. Another example of education in road safety is the accident prevention project “Young but not stupid”, a format for cooperation between the police districts and the IBSR that is being adopted by an increasing number of police districts. The three-day accident prevention and awareness-raising projects include a theoretical component on road safety and a practical component.

431. As far as the treatment of young victims of road traffic accidents is concerned, in 2006, the Minister for Mobility accorded financial assistance to the non-profit-making organization *Ouders van Verongelukte Kinderen* (Parents of children involved in accidents). In 2007, IBSR prepared an information package in conjunction with *Ouders van Verongelukte Kinderen*, the non-profit-making organization Zebra and the general welfare centre to provide the police services with an opportunity to optimize the way in which victims of road traffic accidents are treated. The information is designed, firstly, to help the police services understand the experiences of the victims of road traffic accidents and their close relatives, and to tell them about the help that is available and the existing measures to enable them to care for the victims of road traffic accidents and those close to them (their close relatives), as the “first point of contact”. Finally, the police services can also obtain this information and material for their own use and to offer to the victims of road traffic accidents and their close relatives.

#### Infrastructure

432. Since 1 September 2005, 30 km/h zones have been introduced around schools throughout Belgium. In many cases, this has necessitated changes to the existing infrastructure (installation of road signs and road marking, humps and other speed control devices). The introduction of the 30 km/h zones was accompanied by a campaign called “*Octopus*” (erection of coloured posts with an octopus on top alongside pedestrian crossings close to schools), which was conducted using posters, activities in schools and the circulation of educational materials. In 2002, the IBSR published a booklet for road operators containing advice on the appropriate layout of the 30 km/h zones around schools.

#### Legislation

433. The introduction of the concept of the “street code” (*code de la rue*) into road safety legislation (Royal Decree of 4 April 2003 amending the Royal Decree of 1 December 2005 on the general regulation of road traffic policing) made it possible to focus particular attention on safeguarding vulnerable road-users in traffic. Article 7 requires road-users to exercise greater caution when vulnerable people are present (children, the elderly or persons with a disability).

434. The requirement to fit out 30 km/h zones around schools, as of 1 September 2005 (see para. 432 above), was made legally binding by the Royal Decree 26 April 2004 amending the Royal Decree of 1 December 2005 on the general regulation of road traffic policing and use of the public highway. Since 1 September 2005, only exceptional cases

may justify derogating from that requirement. Adopted in an effort to reduce the number of road fatalities by half, by 2010, this measure is specifically targeted at improving the safety of children around schools. It would, in fact appear, that many children fall victim to road accidents on the way to school, and, although most road accidents involving children do not occur in the immediate vicinity of schools, this is where the sense of insecurity is greatest.

435. Since 1 September 2005, the two-thirds rule applicable to the transport of children has been repealed (Royal Decree of 18 December 2002 amending the Royal Decree of 1 December 1975). Before that, children under the age of 12 were considered as occupying only two-thirds of a seat in cars, dual-use vehicles, minibuses, buses and coaches used for school transport. In the past, five children were able to occupy a vehicle's back seat for three. For safety reasons, each child must now occupy an entire seat in a vehicle, as there is only one seat belt available per person.

436. The new legislation on road traffic entered into force on 31 March 2006 (Act of 20 July 2005 amending the coordinated legislation of 16 March 1968 on road traffic policing). Crucially, the new Act revises the categories of offence and classifies them more rationally. The more dangerous the offence, the heavier the penalty. Under the new Act, there are four categories of offence: there is no longer any reference to "serious offences": the danger a specific offences poses to people (in particular vulnerable road-users) is the cornerstone of the new system. There are different categories of speeding. If the speed-limit is exceeded by 10 km/h, the fine is calculated by reference to the kilometre/hour excess, and, in that connection, the penalties are more severe if the offence is committed in a residential area, in a 30 km/h zone, in the vicinity of a school, a residential quarter or a heritage zone: if the maximum speed-limit is exceeded, the flat-rate €50 fine (up to 10 km/h above the permitted speed-limit) is increased by €10 for every kilometre/hour excess. On other roads, a €5 supplement applies.

437. On 1 September 2006, the new legislation on child seats entered into force. The new legislation (Royal Decree of 22 August 2006 amending the Royal Decree of 1 December 2005 on the general regulation of road traffic policing and use of the public highway) was adopted in response to a European directive (Council Directive 91/671/EEC of 16 December 1991 on the approximation of the laws of the Member States relating to the compulsory use of safety belts in vehicles of less than 3.5 tonnes, amended by Directive 2003/20/EC of the European Parliament and the Council of 8 April 2003). Every child under the age of 18 and measuring less than 1.35m must now be seated in a child safety seat or properly use the seat belt. In practice, this means that the youngest children must be in a [child] seat while older children must use a seat booster (with or without seat back). The aim of the measure is to help ensure that parents appreciate the risk of failing to make children secure and use seat belts, basically on the back seat, notwithstanding the vast amount of information previously provided on the issue. By making it a statutory requirement and carrying out checks on whether seat belts are in fact being used, accidents in which children are injured as a result of the failure to wear a seat belt can be avoided.

438. In terms of the safety of children on bicycles, there have been several changes to the law in recent years. A bicycle, moped, motorcycle or three —or four— wheeler may not carry more than the number of permitted persons. This rule entered into force on 31 May 2002 (Royal Decree of 14 May 2002 amending the Royal Decree of 1 December 1975). It now prohibits children from being transported on luggage carriers unless they are properly secured. There is also a ban on carrying a person who is sitting side-saddle (with both legs on the same side of the frame).

439. Since 1 January 2003 (Royal Decree of 18 December 2002 amending the Royal Decree of 1 December 1975), children can be transported in a bicycle "trailer", which may at most accommodate two passengers under the age of 8. The Royal Decree of 9 May 2006 abolished the age-limit for passengers in a "trailer" of this nature as it impeded the mobility

of older children and young persons with a disability needing to be transported in wheelchairs. The Royal Decree also provides that the “trailer” must be fitted out with seats that properly protect the hands, feet and back.

440. The same Royal Decree of 9 May 2006 also legalizes the use of detachable lights and flashing lights for bicycles, making it significantly easier to see children (of school age): lights of this kind can in fact be worn on the body, clothing or rucksack, cannot be vandalized or damaged by weather conditions, and can also be used as reserve or supplementary lighting. Belgium has also cooperated in the drafting of European technical standards for bicycles and bicycle parts designed to guarantee the safety of cyclists. New technical standards are currently being established for child seats and bicycle “trailers”. In addition, the drivers of all kind of motorcycles without a passenger seat have been required to wear a protective helmet since 1 January 2003 (Royal Decree of 14 May 2002). In the past, that requirement applied solely to motorcycles able to exceed 25 km/h.

441. Since 15 March 2007, a new category of vehicle has been added to the legislation on road traffic: non-motorized means of personal locomotion (Royal Decree of 13 February 2007 on non-motorized means of personal locomotion). The aim of this change to the legislation is to give legal status to a number of slow-moving vehicles that are increasingly in use on the public highway (roller skates, for example, skateboards and push scooters). The legislation is also designed to give children greater independence in terms of transport. In terms of speed, the user of a mobility vehicle must comply with rules identical to those which pedestrians must observe (when moving only at walking pace) or cyclists (when moving at more than walking pace).

442. Between 2005 and 2007, the FPS federal Mobility and Transport services worked with the Federal Ministry for the Economy, SMEs, the Self-employed and Energy and a number of police services to prohibit the marketing of vehicles and products that could prove to be harmful or dangerous to children, such as two and three-wheel vehicles which fail to meet the minimum technical safety standards cited in Directive 2002/24/EC, “pocket bikes” (miniature motorcycles), for instance. Two kinds of booklet have been produced: a technical publication addressed to the relevant sector and a general booklet drawing public attention to the dangers of “pocket bikes”. The manufacture of dangerous child carriers has also been prohibited. In addition, the manufacturer has been required to take back the seat if it fails to meet the proper standards.

443. Finally, the legislation on “nudge bars” (namely the metal protector mounted on a vehicle’s radiator grille to move aside obstacles but also for decorative purposes) has been tightened up since 25 May 2007. “Nudge bars” increase the risk of serious injury if there is a collision with vulnerable road-users, and children more particularly. As far stricter safety requirements now apply to the use of “nudge bars”, they should gradually disappear from roads.

#### Road safety action plans in police districts

444. Since 2004 (the legislation was adopted in 2003), the Federal Government has been entering into agreements with the police districts in an effort to support and, to some extent, steer its road safety policy at local level. The financial resources derive from the collection of fines in respect of traffic offences and increase gradually year on year. In 2007, the resources available for the action plans will be approximately €100,000,000. In their road safety action plan, the zones can focus on responding to local road safety requirements. This enables them to take action in relation to a number of specific issues, such as speeding, driving under the influence of alcohol or drugs, wearing seat belts and so on. The measures taken in relation to these issues, whether in the form of awareness-raising through campaigns and road safety education in schools, or checks (on speed, alcohol or drug use and on whether seat belts are fastened), or investment in equipment (radar and vehicles)

should improve road safety. In the action plans chosen for 2005 and 2006, there is always greater emphasis on prevention and making citizens more aware of road safety. Under the action plans, additional checks may be carried out during specific IBSR campaign periods, as happened during the campaign on the wearing of seat belts or the “Back to school” campaign. The IBSR distributed a variety of materials (booklets, gadgets, etc.) to support the police activity. A graph showing the percentage of the total budget that is available for the road safety action plans envisaged for 2006, on different issues, is available on request.

**b. At the level of the federated authorities**

*b.1 Flemish Government*

Road safety

445. In terms of the right to life and development, mobility is an important basic right and a precondition for the other rights under the Convention. The Flemish youth policy plan 2006-2009 sets out three strategic objectives in relation to mobility and children and young people: greater mobility in all independence, greater sustainable mobility and safer mobility (see annex 32, para. 32). The latter objective is crucial: Belgian statistics on the cause of death show that road traffic accidents are by far the main cause of death among children under the age of 15. The IBSR has estimated that some 65 per cent of the victims of road traffic accidents in Belgium under the age of 10 are passengers. In addition, when accidents occur, children are at greater risk of injury or death as they fall into the category of vulnerable road-users. The peak age for pedestrian involvement in an accident has been estimated at 6 years. For cyclists, it is 14; 17 for motorcyclists and 20 for car drivers. The figures are at their highest when children are faced with new means of transport or new transport situations. Traffic sense increases with age, but attitude and behaviour “deteriorate”, increasing the risks for young people. This does not mean that children and young people are only ones involved in road traffic or that the involvement of many of them in accidents is the result of their own thoughtless or careless behaviour. It should be pointed out that the road system is not (yet) properly adapted to children and young people. Mention may also be made here of the interactive exhibition “Road academy” (*Académie routière*) organized by *Technopolis* and subsidized by the Flemish Government. The exhibition has toured the Flemish provinces and had two objectives: to show adults the difficulties that children face in road traffic on a daily basis and to teach children how to move safely in traffic (see annex 6, para. 33).

446. On 16 February 2007, the Flemish Parliament decided to make provision for better care and support for victims of road traffic accidents, with particular focus on the situation of young victims. An important recommendation concerned the need to support victims on the sometimes difficult path to recovery and reintegration. The Flemish Government has drawn up a memorandum of understanding to enter into with partner organizations wishing to work together and use their experience and expertise to secure better care and support for the (young) victims of road traffic accidents. At local level, teams will be made up of volunteers and professionals who will monitor victims and support those near to them. In late 2006, the non-profit-making association Zebra was given a €70,500 subsidy, as part of Flemish policy on the rights of the child, to bring young victims of road accidents and their peers together, working with “*Jeugd Rode Kruis*”, and using appropriate campaign material.

*b.2 Governments of the French Community and the Walloon Region*

## Road safety

447. Some years ago, an extensive plan to make safe the approaches to 700 educational establishments situated along regional roads was set under way. About 100 establishments have already benefited from this kind of arrangement. In September 2005, in accordance with the legislation adopted at federal level, the speed-limit in the area around most schools was reduced to 30 km/h by erecting the appropriate road signs. In addition, a large-scale project in relation to the lighting for pedestrian crossings situated on the approaches to schools is being implemented along the regional roads. Finally, the installation of the lighting is being accompanied by road works to build out pavements and erect barriers separating footpaths from road traffic.

448. In the Walloon Region, the three-year plan makes specific provision for the funding of infrastructure to make roads around schools safe. Moreover, in 2005, “*Plan Mercure*” was launched for the purpose of carrying out road works to improve the safety of the most vulnerable road-users. It is designed to secure safe footpaths for vulnerable road-users and for children and adolescents on school approaches.

**B. Children with a disability (art. 23)**

449. As stated above, (see para. 53 above), Belgium will be ratifying the United Nations Convention on the Rights of Persons with Disabilities.

## Reasonable facilities

450. On completion of the Interministerial Conference’s work, a protocol defining the concept of “reasonable accommodation”, contained in the Act of 25 February 2003 to combat discrimination, was adopted on 11 October 2006. The initiative is designed to improve the social and professional inclusion of people with a disability, by ensuring the reasonable accommodation of the areas to which they have access, to enable them to take part in the active and collective life of our society. The protocol is designed to lay down the criteria that will act as a guide to interpreting what constitutes reasonable accommodation (allowing a person to be independent, making that person safer...). As the protocol is directed towards persons with a disability generally, children too are included in the initiative. It is currently with the relevant ministers for signature (see annex 29).

**a. At federal level**

451. Several initiatives should be cited here.

## Accessibility of federal public buildings

452. This plan was adopted by the Federal Government on 21 December 2006. Buildings, such as court buildings and museums, etc. will be adapted to make them more accessible, to meet the needs of persons with a disability. This measure will secure greater autonomy and improved participation for all persons with a disability, including children. The plan sets out a list of the work needing to be done.

## Support and assistance for the families of severely disabled persons

453. In October 2006, a working group was suggested in the context of an Interministerial Conference. Its task would be to establish a coordinated plan of specific measures to be adopted to support and assist the families of severely disabled persons.



454. It is, in fact, important to arrive at a precise definition of the real needs of families. In order to do this, a working group on “statistics” should consider the methodology to adopt, as well as the information available currently or in the near future. The authorities already exchange substantial amounts of data electronically in processing their dossiers. Collecting this data could, in the long term, make it possible to collect reliable data and adopt measures of support that are useful for families and, consequently, children.

#### Awareness-raising measures

455. Generally speaking, both persons with a disability, their families and the associations that represent them tell us that it is essential to inform the public and raise public awareness about the issues that affect the life of persons with a disability and their families. On the occasion of one-off events (family days, family festivals, etc.), activities and discussions about persons with a disability have been organized. Communication through the media made several initiatives possible in 2006, including a partnership for the production of ten television broadcasts about disability; several of the issues related to young people with a disability (special schools, leisure, housing, employment and so on).

#### Increased family allowances (*available on request*)

456. The system of family allowances for children with a disability has been substantially reformed as a result of the amendment of the coordinated legislation on family allowances for employed persons. Initially, only children born after 1 January 1996 were affected, but a Royal Decree of 29 January 2007 extends the application of the new assessment system to children born after 31 December 1992.

457. The previous arrangements were based on the existence of an at least 66 per cent physical or mental disability, established according to Belgian official scale of disabilities and/or list of pathologies. The extent of the child’s independence [was] measured, making it possible to determine the amount of the family allowance supplement.

458. Under the new arrangements, the consequences of the child’s disorder are assessed. This relates not only to the impact on the child, that is to say, the child’s physical or mental disability and the extent to which the child is able to be active and participate, but also the impact of the disorder on the wider family. Physical or mental disability is always determined by reference to a list of paediatric disorders and/or the Belgian official scale of disabilities. A complex points system has been set in place to calculate the impact on the child and/or the wider family. Six categories have been established based on the number of points awarded. The new system makes it possible to have a better understanding of the child’s experience and, therefore, grant a more appropriate allowance.

459. The Royal Decree of 3 May 2006 (*available on request*) increased, as of 1 May 2006, the level of family allowance supplements for children falling into certain categories. In addition, some award criteria have been changed to secure a fairer transition from the old to the new system and make it possible to award sums more in tune with the seriousness of the disability measured under the new system.

460. As regards the self-employed, measures identical to those applicable to employed persons have been taken, making it possible to improve the situation of children with a disability through the 2003 reform of the system of increased allowances for children under 21 with a disability (application of the programme law of 24 December 2002 – *available on request*). The levels of supplementary allowance have also been increased and the award criteria amended as of 1 May 2006. The extension of the new system to children born after 31 December 1992 has been in force since 1 January 2007, as under the system for employed persons.

461. Children with an at least 66 per cent physical or mental disability who meet the conditions for entitlement to increased family allowances may obtain the increased levels. They receive the increased allowances whatever their status. The Act of 27 December 2007 (*available on request*) has made it possible to take account of the percentage increases for the purposes of the increased insurance allowance.

Special support fund for children suffering from a chronic disease (*FSSbis*)

462. The Special support fund for children was set up in 2002, making it possible to accord specific assistance to children under 16 who are suffering from a chronic disease (programme law of 24 December 2002 – *available on request*). There are a number of developments worth noting: In 2003, the possibility was introduced of the Fund reimbursing the supplementary costs of medical treatment for children under 16 suffering from a life-threatening disease and requiring constant treatment for at least six months, or recurring treatment for the same period. In 2004, the Fund's activity was extended to children under 19 and, in 2005, the conditions for access were relaxed: among other things, the Funds' intervention may be sought by parties other than the medical officer of the mutual insurance company (social services, for instance).

Maximum charge for children with a disability

463. The "maximum charge" is the social security system that guarantees that individuals will not have to pay above a certain level of charges for health care that is needed and provided annually. Subject to certain conditions, children with a disability can benefit from this (see para. 560 below).

## **b. At the level of the federated authorities**

### *b.1 Flemish Government*

Support and assistance for children with a disability

464. The second periodic report (at paras. 522-530) already contained a general survey of the support and assistance given to children with a disability. Two initiatives were, however, neglected, and while these are not measures specifically geared to children, many children are able to benefit from them.

465. The first is the personal assistance budget (*budget personnel d'assistance*, BPA). This provides a person with a disability with the financial resources that will enable that person or their carer to arrange for the help needed for day-to-day activities (daily care, free time, teaching support and so on). For persons with a disability, the BPA is seen as an alternative to admission to a specialist institution.

466. Secondly, since 1998, the Flemish Agency has been approving organizations that provide adapted leisure activities for persons with a disability.

467. Efforts are also being made to get rid of waiting lists. The system of standardized registration of persons with a disability in need of urgent care has been constantly improved, particular in regard to the registration of matters relating to minors.

468. The Order of the Flemish Government of 17 March 2006 (*available on request*) on the system of support and assistance for the social integration of persons with a disability and the approval and subsidy of a "*Vlaams Platform van verenigingen van personen met een handicap*" (Flemish platform of associations for disabled people) has finally established a legal basis for a system of care that is uniform, transparent and more regional. The automatic registration of requests for assistance, coupled with a coding system denoting the

degree of urgency is the cornerstone of the policy of planning and programming and further endeavouring to match supply and demand.

469. In the residential and semi-residential sector, 407 additional places for minors have been created over the past five years, largely in residential or semi-residential centres.

470. As regards non-residential care, additional resources have been freed up to extend the provision of care services in the home, namely services that provide educational and psychological support to parents bringing up a child with a disability.

471. Special efforts have also been made to help children suffering from dyslexia. In particular, the Flemish Agency for persons with a disability meets the cost of providing them with specially adapted computer software.

472. Finally, it should again be stressed that the cooperation agreement concluded between K&G and the Flemish Agency for persons with a disability, to which the second periodic report referred (see para. 362 of the report), continues to have an impact. It guarantees that children whose parents are in receipt of assistance provided by a home support service, because their child has a mental disability, can remain within the family as far as possible. The children are closely monitored to identify possible developmental disorders.

#### Preventing violence and abuse

473. Special measures are taken in regard to preventing violence against and the abuse of persons with a disability generally, and children in particular. The primary focus is on children in residential or semi-residential care that is approved or subsidized by the Flemish Agency, or who use outpatient disability services. During October 2003, an awareness-raising colloquy called "*Over grenzen*" (Overstepping the mark) was held. The aim was to start discussion about abuse and violence and prompt establishments to reflect on and work towards the prevention of abuse and violence, or encourage them to continue in their efforts, as appropriate. The Agency has also issued a CD on preventing conduct that oversteps the mark. The aim of the CD is to give encouragement to establishments which are looking for practical ways to introduce a policy of prevention. Methodology, theoretical concepts and working methods may also be used as a teaching aid in training. A study was also set under way in 2006, with the emphasis on the prevention and impact of abuse, and creating a help point.

#### Non-discrimination

474. The rules applicable to establishments caring for persons with a disability provide that establishments may not refuse a person on the basis of ethnic origin, nationality, gender, sexual orientation, social ideological, philosophical or religious circumstance or because that person is financially insolvent.

475. It should also be pointed out the children residing in Flanders who do not meet the conditions laid down in the decree in relation to lawful or prior residence (notably unaccompanied foreign minors) may nonetheless obtain the special care provided by the sector responsible for providing care for persons with a disability. However, the application to derogate from the decree's requirements on lawful or prior residence must be approved by the official in charge of the Flemish Agency. Derogation is possible only if the situation of the child and the child's parents, or of the persons caring for the child, justifies this, and if registration with the Flemish Agency is the only way the child will be able to receive the requisite special care.

*b.2 Governments of the French Community and the Walloon Region*

## Support and assistance for children with a disability

476. In the French Community, a tender for projects to support the integration of children with a disability in the community care facilities subsidized by ONE was launched in May 2005. Work began in September 2006 and continued in 2007 (expected date of completion 30 November 2007). The project's objectives are to:

1. make care facilities better aware of the need to care for and integrate children with a disability (or disabilities);
2. use a training module to show care teams what they need to think about in setting in place a project to integrate a child with a disability;
3. inform parents and professionals in the care sector of trials that have already taken place and the conditions for success;
4. prepare parents and professionals in the care sector to be active partners in developing care projects tailored to children with a disability (or disabilities) and integrated into the structure's overall care project;
5. design a DVD that can be used to raise the awareness of and train the various actors.

477. Various measures linked to the integration of children and adolescents with a disability, and concerning the simplification of procedures, early care, support by the CPMS (psycho-medical social welfare centres) and support for the various pilot schemes under way will shortly be proposed to the Government of the French Community.

478. As far as the integration of children with a disability is concerned, AWIPH (Walloon Agency for the integration of persons with a disability) developed several initiatives between 2003 and 2007 (see annex 11, para. 24).

479. Firstly, physical assistance, care and accommodation. AWIPH provides financial support to encourage and/or restore, as far as possible, the independence of children with a disability (converting accommodation to improve accessibility, acquisition of computer hardware, communication aids, etc.). As far as care and accommodation are concerned, AWIPH subsidizes residential services for young people, transitional residential services and fostering services designed to enable young people to continue to move forward in the best possible conditions, under the supervision of a specialist team. Depending on the individual's requirements and the type of service, the team will have access to support in the following areas: medical supervision, nursing care, medical rehabilitation, educational, creative and recreational activities, psychological supervision or treatment and activities designed to make the individual more independent. It should also be noted that AWIPH also subsidizes early support services (for children from birth to the age of 8) and integration support services (for children and young people between the ages of 6 and 20). Finally, the cooperation agreement between the French Community and the Walloon Region on educational integration support for young people with a disability is being extended. The plan is to extend it to cover early assistance services and support services, as well as integration support services.

480. Secondly, in conjunction with ONE, AWIPH approves mixed day nurseries that care for children with or without a disability. AWIPH's action is in the nature of a support service, following after, accompanying or (where there has been a failure to act) taking the place of other public or private sector players. The integration of persons with a disability (or disabilities) is a cross-cutting factor par excellence in relation to all of the policies in place. In terms of progress achieved in the action taken by AWIPH to secure the integration

of children with a disability (disabilities), three important elements have been identified by way of illustration of the period between 2002 and 2005: physical assistance and care/accommodation within AWIPH itself and, also, synergy between AWIPH and ONE (French Community) (see annex 11, para. 24).

#### *b.4 Brussels Government and Colleges*

Support and assistance for children with a disability

481. The Order of 21 September 2006 of the College of the French Community Commission (COCOF) (*available on request*) offers new forms of care that include elements specific to the care of children with a disability:

- *emergency care* allowing for enhanced standards of supervision and the rapid taking in of children (by way of simplified administrative procedure);
- *respite care* enabling families to find temporary accommodation for their children with a disability in the event of hospitalization, family difficulties, etc.).

482. In conjunction with *CAP 48* (a not-for-profit organization working within the Belgian television service RTBF to promote disability awareness), COCOF has made it possible to set in place “*TOF Service*”, a specialist home-based care service for persons with multiple disabilities, including under 21-year-olds. The staff selected have been specially trained for this work, called “extra-sitting”, which involves not only ensuring the safety of a person with multiple disabilities but also providing that person with the usual treatment and involving them in activities.

483. COCOF has also supported the publication of a guide to good practices for integrating children with a disability into general education.

484. Finally, COCOF is supporting two training projects for care workers for children with a disability: one in relation to scouts and the other for free time care. It also supports sports activities (*Oxygène*), games (*LUAPE*), activities to encourage children to express themselves (*Créaction*) and performance activities (*handicirque*).

### **C. Health and health care services (art. 24)**

Environment

485. The cooperation agreement of 10 December 2003 (*available on request*) concerning cooperation in the fields of health and the environment has entered into force. An Environment and Health Unit bringing together the Federal Government, the Regions and the Communities has been set up. Three specific projects should be mentioned:

- The (joint) Interministerial Conference on the Environment and Health (CIMES) took its first initiative in deciding that Belgium should take part in the 4<sup>th</sup> WHO (World Health Organization) campaign on persistent organic pollutants in breast milk.
- The second project has been under way since early 2007, piloted by ONE and *Kind & Gezin* (K&G), with the support of the Environment and Health Unit. The aim is to reduce the negative impact of the indoor environment of day nurseries on children’s health, and to encourage increased awareness and prevention of indoor pollution in the home environment of young children. Once the problems have been identified, specific possible solutions will be drawn up by CIMES and clearly conveyed to the competent bodies.

- CIMES has decided that in relation to the National Environment and Health Action Plan 2008-2013, the Unit should develop environmental and health objectives and initiatives targeted on reducing the incidence of respiratory problems, with children as a priority group.

486. The French Community and Walloon Region have been involved in drawing up and implementing a national health and environment plan and in revising it. There has also been special cooperation between the Walloon Region and the French Community in the form of a health and environment task force. There has been particular focus on the quality of the air inside buildings where children are growing up, in terms of both housing, in relation to which standards of hygiene have been raised, and places in which children are cared for, a pilot project having been carried out in several dozen schools.

487. Several initiatives by the Walloon Region should be listed here:

- In 2004, the not-for-profit organization CERES produced a handbook for health professionals on indoor pollution: "Once upon a time there was... my bedroom, my universe, my health", in conjunction with ONE.
- The Hainault and Namur registry of congenital anomalies contributes to the EUROCAT network through the Gosselies Institute of Pathology and Genetics.
- Support and co-funding for projects under the auspices of the Interministerial Conference on the Environment extended to cover Health (CIMES), involving the Federal Government and the federated authorities (Day Nursery Project, Towns and Pollution Project to assess the impact of atmospheric pollution, with child health a priority, preparation of the second phase of NEHAP [*Plan national en santé-environnement* – national environment and health plan] 2008-2013) (see para. 485 above).

488. The Flemish action plan for the rights of the child makes provision, under strategic objective "10. Protecting the planet" for objectives and measures concerning research into the effects of environmental pollution and energy-related measures (see annex 6, para. 29), the environment and health. Education about nature and the environment was also considered during the discussion on article 29 (see para. 668 below). Since 2002, the Flemish Centre for the Environment and Health has been implementing a bio-monitoring programme: it collects data on the concentration of chemical substances in the blood/urine and on the health effects/complaints that may be connected with the environmental exposure measured. As part of the bio-monitoring campaign, bio-markers of exposure to and the effect of environmental pollutants were measured on people. The focus is on the relationship between the environmental pollution and the following effects on health: (1) development and fertility; (2) asthma and allergies and (3) cancer. In specific terms, measures were taken in relation to three different age groups during a period that ended in late 2006: the new-born, adolescents (14-15 years of age) and adults (50-60 years of age). The participants live in eight defined zones in Flanders with a specific environmental profile (see <http://www.milieu-en-gezondheid.be/resultaten/2001-2006/jongeren/Brochure.pdf> and annex 6, para. 30).

**a. At federal level**

Protection of young workers and trainees

489. The Royal Decree of 21 September 2004 (*available on request*) amending the existing legislation on young people at work provides that there is to be specific health-monitoring of young people at work. The status of trainees is also considered (see paras. 816 and 817 below).

### Sexual health

490. Belgium's development cooperation is involved in various projects that have a direct impact on child welfare. These projects include those being carried out by UNICEF with the support of the Belgian Survival Fund, particularly in Niger, Ethiopia, the Democratic Republic of the Congo, Uganda and Senegal. Health is one area covered by the projects, including combating HIV/AIDS (see para. 59 above).

491. A number of measures have been taken with the twofold objective of preventing unwanted pregnancies among young people and further preventing the spread of sexually transmitted diseases:

- Since 1 May 2004, young women up to and including the age of 20 have received an additional discount in the cost of contraception. This is accorded for all methods of contraception that are prescribed. In addition, the morning-after pill, which is not a contraceptive but is used as an emergency solution, is now free for that population group.
- Since 1 April 2006, the cost of a number of brands of contraceptive pill, which are regularly prescribed but were no longer included among the products covered by social security arrangements, has again been refunded.
- On 8 November 2006, Belgium launched a new information campaign to improve young people's access to contraception. The aim of the campaign to remind young people of the need for two forms of protection: condom and contraceptive device/pill.
- In 2006, the "Laura.be" initiative was launched: a 52-page book, more than 100,000 copies of which were sent to all parents with a 13-year-olds child. Written by professionals, it uses a language appropriate to young people. In addition, the website [www.laura.be](http://www.laura.be) is the information hub of the campaign and brings together, in an entertaining but educational manner, all of the information on "making love safely" in general. The site provides useful links to professionals working in the field.
- Finally, as during earlier campaigns, 750,000 condoms were distributed free of charge in family planning centres, pharmacies, mutual societies and associations working in the field of health.
- Under the Finance Act of 27 December 2006, the policy of reducing the number of unwanted pregnancies among adolescents is to be continued (*available on request*).

### Children in hospital

492. During the period 2002-2006, new legislation designed to guarantee the quality of care for children in hospital was adopted, including the Royal Decree of 13 July 2006 (*available on request*). The criteria for hospital approval have been developed in such a way as to meet the specific needs of children in terms of infrastructure and care. The new legislation provides for special care (different from adult care) for children in hospital. It also arranges for parents to accompany their children and be involved in the care process. Resources are provided to ensure the quality of food given to patients, the psychological and social support of child and family, and for the organization of leisure and educational activities. Finally, there is both internal and external assessment of the quality of care.

### Autopsy

493. The Act of 26 March 2003 governing the conduct of autopsies following the sudden and medically unexplained death of a child under 18 months of age (*available on request*)

is designed to make it easier to carry out an autopsy which, though medically advisable, too rarely takes place. The Act provides for the free transportation of the infant to specialist centres, for the process to be carried out free of charge and for psychological support for the family (parents and siblings).

#### Encouraging breast-feeding

494. A pilot project is under way to develop the “Baby-friendly Hospital Initiative” (BFHI) in Belgium. By way of reminder, the WHO-UNICEF “Baby-friendly label” is accorded to health-care establishments that satisfy the BFHI international standards, following an assessment by experts from outside the hospital. Accreditation is subject to a number of conditions: the implementation of key-points to encourage breast-feeding; obtaining a rate of 75 per cent or above exclusive breast-feeding from birth to the time the mother leaves the maternity unit; and the establishment must not accept breast milk substitutes free of charge or at a reduced price or distribute samples of breast milk substitutes.

495. The implementation of the BFHI in Belgium is a priority for the Federal Committee on Breast-feeding that was set up in 1999. With financial backing from the federal authorities, a plan of action has been developed to provide a real incentive to take the initiative forward: 16 hospitals and maternity units have been selected as pilot projects, with a budget of €600,000 over three years. In September 2006, the first six maternity departments were awarded the label. The short-term objective (2010) is to have 25 per cent of hospitals with a maternity unit accredited as “Baby-friendly Hospitals”.

#### Mental health

496. A pilot scheme by *SSM-Jeunes* (Mental Health Services for Young People) on the psychiatric care provided to children and young people in the home on an outreach basis is currently under way. Under the project, mobile teams offer support and/or treatment in the home or alternative home environment to children and young people with psychiatric disorders who cannot or do not wish to enter a residential establishment. Twelve mobile teams have been set up in Belgium: at least one per province. Each team is made up of at least 0.25 full-time equivalent child psychiatrist, one full-time equivalent child psychologist and one full-time equivalent psychiatric nurse, social worker or psychological social worker, qualified in remedial teaching or rehabilitation. During the first three years of the project, 2,100 requests have been received, resulting in treatment and/or practical support in more than 1,800 cases, giving (overall) average treatment length of 150 days.

497. A second project that ought to be mentioned here is the *SSM-Jeunes* project on intensive treatment for young people with serious behavioural problems and/or displaying aggression (GAS, General Adaptation Syndrome). The aim of the project is to give the two participating establishments the opportunity to provide an eight-bed unit for the high-quality intensive treatment of patients aged between 12 and 18 with serious behavioural problems and/or displaying aggression who have committed an act categorized as an offence. Units of this nature are unable to admit patients who have committed an act categorized as an offence but exhibit no specific pathological disability, or patients suffering from drug-addiction with no obvious problems of aggression. The staff comprises 16 full-time equivalents per eight-bed unit, namely 0.5 full-time equivalent child psychiatrist, three full-time equivalent university workers and 12.5 full-time equivalent A-1 associates.

498. A third pilot scheme in psychiatric care relates to the development of a course of treatment for young people with psychiatric problems who fall within the scope of article 36, subparagraph 4, and article 52 of the Act of 8 April 1965 on the protection of young



people, the care of minors who have committed an act categorized as an offence and making good the harm caused by the offence.

499. The aim of the project is to give participating institutions the opportunity to develop a course of care for this target group using different care modules (FOR-K intensive treatment units, emergency intensive psychiatric care for ex-FOR-K patients, K emergency beds, outreach as a specific form of care-monitoring —before and/or after intensive treatment— targeted on care structures [social welfare and justice systems], and coordinator for the course of treatment to liaise between the justice system and those involved in mental health care provision).

500. In this context, a protocol (and annexed to it a draft cooperation agreement governing the agreements concluded between the Ministers) was concluded, and published in June 2007 in the *Moniteur belge* (Belgian Official Journal), between the Federal Government and the authorities cited in articles 128, 130, 135 and 138 of the Constitution, concerning the organization of a course of care for young persons with psychiatric problems who fall within the scope of article 36, subparagraph 4, and article 52 of the Act of 8 April 1965 on the protection of young people, the care of minors who have committed an act categorized as an offence and making good the harm caused by the offence.

501. In specific terms, five action zones have been designated, based around the appeal courts (Ghent, Antwerp, Brussels, Liege and Mons). The following initiatives are taken in each action zone:

- In each youth court action zone, a “liaison facility” is established between actors in the mental health services and institutions in the justice and welfare sector. To provide this mental health liaison facility, there is additional funding for a university-level full-time equivalent for each youth court action zone. And so, in each action zone, the mental health services and justice system engage in dialogue to establish how best the mental health services can provide assistance and how the waiting list for young people in this group is to be managed.
- Total capacity of 76 intensive-treatment beds is envisaged for this target group to ensure that basic care and intensive treatment is available in each action zone. The possibility of emergency admission must be always be catered for.
- Extension of K-bed capacity, which must also be accessible to this segment of the population and be associated with the development of emergency intervention.
- Development and expansion of care, in the form of outreach care, using outreach-care teams from the mental health services, organized by the latter for the institutions and care facilities of the justice system (including Everberg), as well as welfare establishments and services (open and closed State youth protection institutions, institutions for the protection of minors, etc.).
- Cooperation between the various partners and consultation on patients’ actual circumstances must be provided for *in treatment plans*. Three treatment plans are provided and have been selected using the INAMI [National Office for Social Security] insurance committee procedure.

#### Preventing smoking

502. To prevent smoking generally, the Federal Minister of Health adopted a plan to combat smoking during the 2003-2007 parliamentary session.

- The Act on compulsory health care insurance and benefits, coordinated on 14 July 1994 (*available on request*), amended by the programme law of 20 July 2006, establishes a fund to combat addiction, including €2 to combat smoking annually.

Under the 2006 fund for the prevention of smoking, a number of projects targeted on young people have been financed, including a project designed for schools to help young people give up smoking and an arts project that uses theatre, film and dance to show young people the dangers of tobacco. The 2007 fund finances the continuation of the project to encourage young people to give up smoking and an awareness-raising project that also encourages young people to give up smoking in schools and sports clubs.

- Belgium has ratified the WHO's Framework Convention on Tobacco Control (which entered into force in Belgium on 30 January 2006).
- The Royal Decree of 3 February 2005 banning the sale of tobacco-based products to under-16s in vending machines currently applies (*available on request*). The decree makes it possible to prevent young people under the age of 16 from circumventing the earlier ban on the sale of tobacco to the under-16s (see annex 15.D).

The Royal Decree of 13 December 2005 banning smoking in public places prohibits smoking in all public places in Belgium (in force on 1 January 2006 and 1 January 2007 for hotels, restaurants and cafes) (*available on request*). This protects citizens, including all children, from harmful tobacco smoke in all public places.

#### Healthy eating

503. The advertising campaign by the National plan for nutrition and health was launched on 11 April 2006. The main pillars of the campaign were a television commercial, five guides to nutrition and a website. Three guides to nutrition were prepared for young people and children: one for children from birth to the age of 3, one for children from 3 to 12 and one for young people from 12 to 18. A total of 550,000 guides have been published, and 400,000 have already been distributed. The guides stress the importance of balanced and healthy nutrition and proper exercise. The “*mangepatou*” game that appears on the website of the National plan for nutrition and health was designed to encourage good eating habits in an entertaining and informal manner.

504. In 2006, the plan was converted into an operational plan comprising 60 practical measures to be put into effect between 2006 and 2010. The following measures have been envisaged for 2007:

- The creation of a working group made up of representatives of the Communities' different educational establishments. The working group is tasked with making recommendations and encouraging activities relating to a course in health education.
- The creation of an ad hoc working group with the sectors concerned and experts in nutrition to make recommendations on the nutritional quality of school meals.
- Encouraging consultation on nutritional habits and healthy living within the school environment, on the basis on an annual conference.
- Launching research, conducted by the Federal Committee on breast-feeding, on possible support measures to help hospitals gain BFHI accreditation.
- Drafting recommendations on nutrition for babies and infants in relation to both breast-feeding and the use of infant-feeding bottles and food supplements.

#### Combating cultural traditions that are damaging to health

505. The Act of 28 November 2000 (see annex 31) on the protection under criminal law of minors makes the traditional genital mutilation of women and girls an offence, even where carried out with their consent (a minimum of three to five years' imprisonment) (see para. 401 above and para. 837 below).

### Child safety

506. Belgium is one of the partners in the European “Child Safety Action Plan” project, which is designed to reduce the number and severity of accidental injuries to children from birth to the age of 17. The concept was first developed at European Union level in the form of the European Child Safety Alliance (ECSA), with the support of the European Commission, which provides Member States with tools and standardized procedures to enable them to develop their action plans. Belgium’s action plan should be finalized by mid-2007.

507. As regards road safety and children, please see paras. 426 *et seq.*

### Children who are seriously and/or chronically ill

508. The Special support fund for chronically ill children (*FSSbis*) was set up in 2002, making it possible to accord specific assistance to children under 16 who are suffering from a chronic disease (programme law of 24 December 2002 – *available on request*) (see para. 462 above).

509. Paediatric care procedures in the form of “continuing care for children” have been developed. These are pilot schemes that enable seriously ill children to be cared for at home rather than in hospital. This system is a response to what both children and parents have been asking for. It enables children with serious and potentially fatal conditions to be cared for at home. Curative, palliative and post-palliative care (support for the family if the child dies) is provided at home, in coordination with the hospital. Contact teams, who are on hand 24/7, ensure the continuity of care between hospital and home. The system has been developed alongside five university paediatric centres as part of pilot schemes funded by the Federal Government (budget allocation: €675,000 over three years).

510. Finally, as regards the treatment of chronic pain and chronic fatigue in children:

- The National Office for Social Security (INAMI) approved, in 2002, a *Convention on the treatment by reference centres of patients suffering from chronic fatigue syndrome (CFS)*. One of the chronic fatigue syndrome reference centres, the “*Academisch Ziekenhuis*” of the Free University of Brussels treats exclusively children and adolescents under the age of 18 who are suffering from chronic fatigue syndrome.
- In 2005, INAMI decided to enter into an agreement with nine hospitals acting as multi-disciplinary reference centres for chronic pain, including one that treats children and adolescents exclusively (the “*Academisch Ziekenhuis*” of the Free University of Brussels). INAMI has agreed in principle to conclude, in the coming months and years, an additional agreement with a hospital in the province of Hainaut and a hospital in the province of Luxembourg.

### Treating acute pain in children

511. The Royal Decree of 7 April 2005 (*available on request*) is the basis for the implementation of the Government’s plans for preventing and treating acute pain in children. The budget earmarked for pain management in children breaks down as follows:

- €297,472 for a convention on medical rehabilitation with a children’s acute pain reference centre;
- €885,909 for the pilot projects on preventing and treating acute pain in children.

**b. At the level of the federated authorities****b.1 Flemish Government****Preventive health care**

512. The Flemish Government views preventive health care as one of its priorities. In order to implement this policy, in early 2005, the Minister of Health, the Minister of Agriculture, the Minister for Sports and the Minister of Education and Training signed a declaration of intent setting out their determination to work towards good health for children and young people. The four ministers, who have jointly decided to implement measures to promote health in schools, basically wish to tackle the issues of nutrition and sport, smoking and harmful forms of drug-taking, depression and suicide, safety in the home and during leisure activities, as well as road safety and the prevention of infectious diseases. Latterly, the main focus has been on nutrition and sport. In March 2007, a general ban on smoking in schools was announced. Working with the Minister of Health, the Minister of Education freed up resources to be used to prevent and support students and teachers in their efforts to give up smoking, in preparation for the general and complete ban on smoking in schools. The general ban on smoking will take effect from 1 September 2008.

513. On 15 October 2005, the Flemish Minister of Education and Training and the Flemish Education Council (*Vlaamse Onderwijsraad*, VLOR) signed a protocol containing specific agreements on the promotion of health within the compulsory education system. It was agreed, *inter alia*, that the Health Promotion Commission would resume work. A health coordinator was also appointed and, under the guidance of VLOR's Health Promotion Commission, has drawn up a strategic and operational plan for the promotion of health in schools. The plan is intended to give schools the opportunity of applying a sustainable health policy as of September 2007, in other words, a health policy that will impact on young people.

**Preventing smoking**

514. Preventing smoking is one of the five priority issues on which the 26 Flemish *Logos* (*Lokaal Regionaal Gezondheids Overleg*, Local and regional health consultation platform) have compulsorily to work within their regions. They are supported in this by the *Vlaams Instituut voor Gezondheidspromotie* (Flemish Institute for the promotion of health, hereafter: VIG) which develops the necessary methods and resources and ensures that expertise is fostered and harmonized. The target groups are mainly children and young people. The establishments most targeted are schools. During every school year, the VIG organizes a competition, specifically geared towards preventing smoking among young people, to find classes where there are no smokers "Just be smoke-free". More than 2,000 classes in 250 Flemish schools have taken part in the competition.

515. In November 2006, the Flemish Minister for Welfare organized a conference on health as part of the process of updating the use of resources designed to secure the objective set for health. The following objective on smoking was set in that connection: "Improving the population's health by reducing tobacco consumption. More specifically, the following targets must be met by 2015: (1) fewer than 11 per cent of smokers among the under-16s; (2) fewer than 20 per cent of smokers among the over-16s".

**Healthy eating**

516. In 2002, VIG received an ever-increasing number of requests for advice and information on a balanced diet as a result of its role in support of the *Logos* and other intermediaries. The central issues concerned a balanced diet for children and young people.

And so, when new *Logo* projects were being set up or expanded, such as the implementation in Flanders of “Project fruit” (for primary schools) and “cold drinks in school” (for secondary schools), VIG recommended a “nutritional triangle” for infants and young children ... using these handbooks, VIG wants to make a system of reference on nutrition and how to change habits available to those providing dietary information, dieticians, workers in the field of preventive health care, *Logo* associates, trainers and anyone working in the nutrition and information sector. Mention should also be made of the “Eetexpert” (“Expert in nutrition”) project and the Olympic Health Foundation which work for the benefit of children, to promote sport and healthy eating.

#### Sexual health

517. In the field of sexual health, the Committee has asked that special attention be paid to AIDS and the rights of adolescents in relation to sexual health. *Sensoa* is a centre that provides services and expertise to promote sexual health by focusing, among other things, on the quality of life of persons who have contracted AIDS. *Sensoa* also supports the work of the services that assist children infected with AIDS (*Poenki, Zorgwonen*). Flanders endeavours to apply an integrated concept of sexual health modelled on the WHO definition and the United Nations International Conference on Population and Development (ICPD). The incorporation of the GGSO meeting point into the *Sensoa* centre makes it the Flemish Community’s main partner in promoting sexual health, including for children. Other organizations such as *Gh@pro*, *Pasop* and ITG are also working to improve the sexual health of very specific target groups, including children and, more particularly, children involved in prostitution and children from sub-Saharan Africa. New initiatives of or in collaboration with *Sensoa* are as follows: prevention of sexual abuse in children’s care services; promoting the sexual health of children of non-Belgian origin; preparation of a video on sexual violence targeted at young people; encouraging young people to take part in programme development; working with the federation of homosexuals, lesbians and bisexuals to promote sexual health among young homosexuals, lesbians and bisexuals; identifying parents’ needs and requirements [and] the needs and requirements of young people in residential establishments; prevention of sexual abuse, with special attention on children in primary education. Under the “Participation and information” section of the 2002 Decree on Flemish youth policy, *Sensoa* has been awarded €14,000 annually to help children and young people experience their relationships and sexuality happily and healthily. In that connection, it works mainly with those supporting the target groups.

#### Health of young children

518. K&G offers a range of services, tailored to the needs and requests of individual families, to the (future) parents of children from birth to the age of 3. A range of special services has been developed over and above the basic services. These are intended for disadvantaged families, families in which there is a risk of child abuse and families in which other individual risk indicators are identified (post-natal depression, multiple births, child with a disability, immigrant parents who have not become integrated, etc.).

First of all, there are the consulting facilities that have been set up by various organizing bodies and approved and subsidized by K&G. Families with young children can attend at 340 different places in Flanders to see a team of experts for nursing and medical consultation. The presence of a doctor highlights the medical aspect (growth, development, vaccinations and so on). K&G’s vaccination programme provides for vaccination against polio (required by law), diphtheria, whooping cough, tetanus, measles, mumps, meningitis B, pneumococcal 7 serotypes, type C meningococcus and rotavirus. All vaccines are provided free of charge, except for rotavirus. K&G does not wish to impose the vaccination programme just like that, but considers that a better approach is to provide clear

information and ensure that parents are made aware by drawing their attention to the need for vaccination (see also para. 217 above).

519. The INLOOP teams work in regions where there are numbers of disadvantaged families. K&G approves and subsidizes 13 INLOOP teams whose initial focus is on setting in place measures to support child-raising for future parents and parents with children from birth to the age of 3. The INLOOP teams are available to everyone and create, for families, an environment in which they can discuss parenthood with ease.

520. In addition, the K&G nurses and family support workers carry out home visits. They will often have already met the new mother in the maternity unit and have made appointments for a number of home visits during the first months of the child's life. If necessary, the regional nurse will be assisted by a family support worker (previously known as an "intercultural worker" or "person experienced in issues of poverty") to secure the link between the family and the provision of services. In practice, it has become clear that family support workers bring added value to the provision of the service to specific target groups of families of non-Belgian origin and disadvantaged families.

521. The regional nurses and family support workers form one team per region (63 regional centres in Flanders). K&G has a large range of information on pregnancy, nutrition, safety, development and upbringing, vaccination and care: the "*K&G lijn*" makes it possible to provide telephone advice services, detailed information booklets, DVDs, a website and a library, among others.

522. A vaccination report is published annually providing a survey of the percentage of children vaccinated.

#### *b.2 Government of the French Community*

##### *Prenatal health*

523. ONE (Birth and Childhood Office) provides a liaison service in most hospital facilities, as well as many prenatal and children's consultation services organized within hospitals. Until 2003, relations with hospitals were fairly informal, but, in September 2003, a hospital/ ONE model agreement laying down the obligations of the parties and the operational framework for prenatal consultations was approved. Five agreements were signed in 2004. Two were signed and entered into force in 2005, and have resulted in the closure of two perinatal centres that have been converted into ONE-approved facilities, guaranteeing properly structured care. Cooperation agreements between ONE and the hospitals have continued to be negotiated and signed in 2006 (16 agreements have been signed since 2004 and 14 are under negotiation).

524. Preventive health checks are carried out at ONE-approved prenatal consultation centres by independent gynaecologists, general practitioners or midwives. Such consultations take place throughout French Community territory. Medical social workers are an integral part of the system and provide medical social support to mothers-to-be and families. This is done, in particular, at consultation centres and in the homes of parents-to-be (if families want this or at least agree to it). This policy of prevention is addressed, on a voluntary basis, to all mothers-to-be (prenatal consultations) and all young children under 7 (children's consultations).

525. Research has been carried out on this support for prenatal consultation. In 2005, exploratory research into an interview guide for the fourth month of pregnancy was set in place. The aim of the interview is clearly founded on the need for professionals in the network to take better account of psychological and social data, forge better links between professionals and parents, and provide mothers-to-be with the kind of care that prevents problems and encourages participation. Two supplementary research projects were set

under way in 2006 (and will be rolled out until 2008): one on establishing support arrangements for parents-to-be in the prenatal centres and another on the profile of mothers who have recently given birth. The two research projects are directed more particularly at situations in which there are problems of a psychological and social nature.

#### Health of young children

526. ONE approves and subsidizes children's consultancies and children's centres, in accordance with the conditions and procedures laid down by the Order of 9 June 2004 (*available on request*). Pursuant to those conditions and procedures, ONE may authorize and subsidize the organization of medical social units for each children's centre or approved children's consultancy. Where necessary, ONE can also arrange for periodic consultations; it can also arrange for a mobile health unit for localities that do not have a specific structure.

527. There is also a budget that provides for positive discrimination (consultations in densely populated districts, for example) to cover, among other things, intensive monitoring (the idea being to provide, within the same programme, a universal service and intensive monitoring for vulnerable families). The universal service and the intensive monitoring service include a medical and a social element provided by the doctor and the medical social worker. Both are organized on the basis of the guide to preventive medicine and the *vade mecum* for medical social workers, as drawn up by ONE, and on the basis of ONE's recommendations.

528. For many years, there was no increase in the fees paid to ONE doctors, jeopardizing the preventive monitoring of mother and child. In 2005 and 2006, the decision was, therefore, taken to increase the fees paid to doctors to maintain the quality of preventive monitoring.

529. The health-parenthood project ("*projet santé-parentalité*", PSP) enables medical social workers, doctors and the committee of voluntary workers to determine the activities that take place with the ONE consultation system and explain them in detail to parents. The health-parenthood project includes vertical programmes that are mandatory for everyone (vaccinations, height/weight measurements, sensory testing, etc.) and preventive medical-social measures, health promotion measures and measures to support parenthood that are tailored to local circumstances. The project enables contributors to organize their work better (see annex 11, para. 18). For the period 2005-2006, 418 annual activity programmes were sent to ONE.

#### Health at school

530. Attention should be drawn to the following initiatives in the French Community:

- The Decree of 20 December 2001 (*available on request*) had already set in place a process of health promotion in schools. The schools medical inspection services were renamed school health promotion services (see annex 11, para. 25).
- The Decree of 20 July 2006 provides that the school health promotion services are now to be subsidized on the basis of every student registered (rather than properly enrolled), making it possible to cover practically the whole of the school population.
- The same decree also introduces the concept of service project for the school health promotion services, designed to encourage the latter to set priorities in terms of health promotion for the population groups they are monitoring.

#### Psycho-medical-social centres (CPMS)

531. The Decree of 20 December 2001 (*available on request*) on the functions of the CPMS places the primary focus on the following:

- educational and vocational guidance;
- support for parenthood (improving the dialogue between school and family, supporting parents through their children's school career, etc.);
- preventive measures in the psycho-pedagogical and social fields;
- health education.

532. Moreover, statutory machinery for consultation has been set in place to secure a comprehensive and systematic approach to health (Order of 17 July 2002 of the Government of the French Community – *available on request*). It is designed to establish a smooth process of consultation between the various players involved in health in schools and an exchange of information on practices that can be used to devise a global health promotion strategy. The CPMS have very clearly to be involved in this consultation process.

#### Family planning centres

533. The family planning centres in the Walloon Region provide care and information on all matters concerning emotional and sexual life. They organize consultations on medical, psychological, social, conjugal and legal issues. They also deal with issues of prevention for schools, associations and institutions, providing information, activities and training. Some centres work in specialist areas, including the voluntary termination of pregnancy in compliance with article 350 of the Criminal Code and in the context of consultation with the partners and family mediation. There are currently 68 approved family planning centres in the Walloon Region.

#### Preventing communicable diseases in the school and student environment

534. The Order of 17 July 2002 (*available on request*) makes it possible to respond properly to health emergencies in schools and stem the risks of contagion. The legislation also lays down a framework of clear responsibilities and areas of jurisdiction that makes it possible to guarantee respect for medical opinion where children have to be excluded, to avoid abuse and guarantee children's right to an education (for example, dealing with children who are HIV-positive).

#### Combating drug use

535. The Decree of 8 March 2001 (*available on request*) bans the use of drugs by any person engaged in sport, and sets in place a procedure of checks and penalties to protect the health of sportsmen and sportswomen. In the context of the anti-doping checks provided for in the implementing order of 10 October 2002, particular attention has been paid to the issue of minors engaged in sport by stipulating, among other things, that: "[t]he person engaged in sport may request that the checks should be carried out in the presence of a person of his or her choosing; a minor must be accompanied by one of his or her legal representatives or by a person authorized by one of the latter".

#### Vaccination

536. A French Community vaccination programme for children and young people between two months and 18 years is under way. Two new vaccines have been introduced, as well as, since January 2004, a hexavalent vaccine for all babies beginning their course of



vaccination which protects against six diseases at the same time: namely, poliomyelitis, diphtheria, tetanus, whooping cough, measles, hepatitis B and haemophilus influenzae type b. The vaccine therefore makes it possible to reduce significantly the number of injections needed to protect babies from these diseases, and the fact that it makes the process far less stressful clearly encourages parents to have their children vaccinated, particularly against hepatitis B, in regard to which current vaccination rates are insufficient to check the spread of the virus among the population.

#### Five-year health promotion programme 2004-2008

537. The French Community's Decree of 17 July 2003 (*available on request*) provides for the establishment of a Five-year health promotion programme and an Operational community plan (*Plan communautaire opérationnel*, PCO). Approved on 20 April 2004, the Five-year programme defines the thrust of the French Community's health promotion policy for the period 2004-2008. The issues it covers include: vaccination, trauma-prevention, safety and the promotion of cardio-vascular health (by encouraging healthy eating habits and exercise), and relate more particularly to children (see annex 11, para. 26).

#### Preventing smoking

538. A Decree on combating smoking was adopted in the French Community on 5 May 2006 (*available on request*). It introduces a ban on smoking in schools: since 1 September 2006, there has been a ban on smoking in areas used by students (whether or not there are students present), as well as in all open premises located within the confines of the establishment or outside the establishment but attached to it. In addition, information on the dangers of tobacco use will be provided annually for all students and staff members of educational establishments. The management of educational establishments will also be induced to play an active part in any campaign of prevention in relation to smoking.

539. The website "preventing smoking" (*prévention tabac*) has been set up and put on line to help implement the decree (legal references, institutional plans, resources available through support services, teaching tools and aids, training and awareness-raising workshops, help by way of methodologies for setting up teaching projects, etc.)

540. In 2007, compliance with the ban on smoking in educational establishments was assessed in relation to the provision of education by the French Community. Mention should also be made of a colloquy held to evaluate the ban on smoking in schools, on 26 February 2007, and intended for teachers, psycho-medical social workers, those working to promote health in schools, etc.).

#### Sexual health

541. The prevention of AIDS is organized on the basis of programmes targeted at groups exhibiting risk behaviour and, consequently, AIDS prevention is not directed first and foremost at the under-18s. That said, programmes on sex education and emotional education in schools will have, in the long term, to include AIDS prevention.

542. It should also be borne in mind that the Five-year health promotion programme 2004-2008 calls for the prevention of discrimination against and solidarity with individuals who are HIV-positive. In late 2002, a circular on the care of children infected with HIV in institutions run or subsidized by the French Community was issued. It is addressed to many players (organizing authorities, managements of establishments that take in children or adolescents, etc.), and provides information on the ways in which the disease can be spread in order to combat discrimination against or the exclusion of children who are HIV-positive.

#### Healthy eating

543. The Government of the French Community has adopted a plan to encourage healthy eating habits and physical exercise for children and adolescents in the French Community. The plan's objectives are: to improve the eating habits of children and parents; to improve nutritional education for children and parents; and to carry out a general review of the educational environment and the cultural, commercial and economic issues it involves (see annex 11, para. 30).

544. The Walloon Region has implemented various measures to provide information and raise awareness about responsible food consumption. For example, given the good quality of tap water, there have been a number of campaigns, including the provision of drinking-fountains in many schools, and the free supply of water to these schools by the distribution companies in an effort to stop children's excessive consumption of sweetened drinks. A guide to good practice, in terms of patterns of food consumption that respect the environment and safeguard sustainable development, has also been issued as part of the "Guides for the environmentally-aware citizen" (*Les guides de l'Eco-citoyen*) series. A study kit on nutrition called "*Consom'action*" has also been prepared to make young people between the ages of 10 and 14 aware of eco-consumption and fair trade.

#### Mental health

545. Of the 57 mental health services approved and funded by the Walloon Region, eight have been specifically approved to care for children and have specialist teams comprising a child psychiatrist, a speech therapist, a psychomotor therapist and a child psychologist. Every year, children account for more than half of the 30,000 new patients consulting the mental health services.

546. In December 2007, based within the mental health services of Braine-l'Alleud, a pilot scheme was launched to study the availability of care for children throughout the territory of the Walloon Region, as well as the specific practices currently developed in relation to support for parenthood.

### *b.3 Government of the German-language Community*

#### Mental health

547. As regards psychiatric care for minors who have committed an act categorized as an offence (see para. 497 above), pursuant to the protocol of 22 February 2007 on this subject, the German-language Community is preparing a pilot project on courses of care for young people in this category, which will soon be submitted to the Federal Ministry of Public Health.

### *b.4 Brussels Government and Colleges*

#### In general

548. The French Community Commission (COCOF) has taken a number of initiatives, including boosting the teams dealing with children and adolescents in the mental health services (since January 2004), increasing subsidies to parent and child centres, and strengthening the teams working to give hospitals a more human face (clowns in hospitals) by setting up a supervisory network for such teams (*Canal Santé*).

#### Seriously ill children

549. In 2002/2003, COCOF also launched a multi-sectoral study on the general care of seriously ill children; the study resulted in the establishment of *Hospichild* by the Centre for

Social Documentation and Coordination linked to the Joint Community Commission (COCOM) (see para. 551 below).

550. In June 2005, the Brussels ministers responsible for bi-communal health policy decided to set up the respite care home (*Maison de Répit*) for children suffering from a number of serious illnesses. Seriously ill children from birth to the age of 18 can be accommodated there for a limited period—with their parents if need be. Respite care will be able to be provided in a number of circumstances:

- where hospital is no longer required but arrangements are being set in place for the child to return home (transitional care);
- where the child's close relatives are exhausted and need to recharge their batteries or care for themselves;
- if it becomes temporarily impossible to look after the child at home;
- when there is no longer any hope of curing a seriously ill child and the final stages cannot be managed at home.

#### Children in hospital

551. Access to health care requires, first and foremost, that information on health care should be accessible for everyone. In regard to seriously ill children in hospital, the Brussels minister responsible for bi-communal health policy realized that the information was there but dispersed and not obviously available. In June 2005, the College of COCOM decided to create a website for the parents of seriously ill children. When children are admitted to hospital, their parents need a range of information, be it administrative, social or financial. The aim of the website is to bring together the information and present it in a manner that is succinct, clear, precise, practical, specific and readable. Since 20 March 2007, the website [www.hospichild.be](http://www.hospichild.be) has been up and running. There are more than 2,000 pages of information in French and Dutch organized in three sections (Before admission to hospital/During the stay in hospital/After leaving hospital) and four folders (Hospital, how much will it cost?/Hospital and working life /Hospital and school /Charters). The information is addressed both to the parents of seriously ill children and the social workers and services supporting parents.

#### Mental health

552. To care and provide the best support for patients with mental illness, COCOM approves and subsidizes a number of out-patient mental health services. These services are also open to children, and some have specialist children's teams.

553. The mental health service *Exil* is intended for refugees and asylum-seekers. For some years, increasing numbers of schools, which have been experiencing an increase in violent behaviour by migrant children who have been the victims of organized violence in their country of origin, have been turning to the *Exil* centre. As a result, the Brussels ministers responsible for health policy entered into an agreement with *Exil* in mid-2007. On behalf of COCOM, *Exil* is to carry out a study into the feasibility of developing a programme of training and support for teachers who have to deal with children who exhibit violent behaviour at school. In the long term, the objective is to devise a training programme for teachers working in schools in Brussels, with teaching guidance and tools to help them understand and respond appropriately when faced with violence. A Support Unit specializing in trauma in migrant children is also to be set up to provide teachers with systematic training.

#### Preventive health care

554. In 2007, COCOM included €758,000 in its budget to cover its contribution to the vaccination policy adopted at the Interministerial Conference, on 20 March 2003 that guarantees the same vaccination timetable for all children on Belgian territory, on the basis of the recommendations of the High Council for Public Hygiene (*Conseil Supérieur d'Hygiène*). Since 2007, pneumococcal vaccine has also been included in response to the decision of the Interministerial Conference of 19 June 2006.

### **D. Social security and childcare services and establishments (art. 26 and art. 18, subpara. 3)**

#### **(i) Social security**

##### **a. At federal level**

#### *Family allowances*

##### All kinds of workers

555. The protection of family benefits has been strengthened by the Act of 14 June 2004 on the unseizable and unassignable nature of the sums provided for in articles 1409, 1409 *bis* and 1410 of the Judicial Code (implemented by Royal Decree of 4 July 2006 – *available on request*). The Act is of general scope and safeguards all social welfare benefits.

##### Employees

556. The programme law (I) of 24 December 2002 (*available on request*), the programme law (I) of 9 July 2004 (*available on request*) and the programme law of 27 December 2004 (*available on request*) amend some provisions of the coordinated legislation on family allowances for employees. The following new elements have been introduced:

- In determining [birth] rank, children in receipt of family allowances paid by other States, on the basis of international agreements, are also taken into account (this amendment entered into force retroactively on 1 July 2001).
- Grand-parents and great grand-parents may now open entitlement to family allowances in respect of their grandchildren and great grandchildren, if they formed part of the beneficiary's household before being placed in an institution.
- The requirement that students, apprentices, doctoral students and job-seekers in receipt of family allowances must be able to prove at least five years' actual residence in Belgium has been abolished for nationals of the States of the European Economic Area, refugees, stateless persons and nationals of States that have ratified the (revised) European Social Charter.
- A new benefit has been created, namely the flat-rate benefit payable to the family of a child —more specifically the beneficiary who received the family allowances before the decision(s) on placement— where that child is placed with an individual. The benefit is payable to the beneficiary in question in addition to the amount of benefit paid to the foster family. The benefit may, however, be withdrawn if the beneficiary ceases to take an interest in the child.

- The concept of legal cohabitation becomes a factor capable of establishing the link that must exist between the recipient and the beneficiary child in order to establish entitlement to family benefits.
- Remarriage of the surviving predecessor in title or surviving spouse used to result, for the orphan of an employee or the orphan of a beneficiary with a disability, in the loss of the higher rate for orphans, and the loss of beneficiary status for the recipient of a survivor's pension or the surviving spouse of a beneficiary, establishing entitlement as beneficiary child. Entitlement was, however, re-established if the marriage was dissolved or the court assigned separate residences to spouses in the process of divorce. From now on, the entitlements forfeited on remarriage and the establishment of a *de facto* family are restored immediately on separation, if this is established on the basis of separate residences or, at the very least, formal evidence of the existence of separate residences.
- Young people engaged in vocational training within a company, organized by a Community or Region, were not entitled, on that basis, to family allowances for their children. They are now entitled to family allowances if they are bound by a company training contract; there can, however, be no concurrent entitlement, originating from either the young person in question or another person, in the system applicable to employees or the system applicable to the self-employed.

557. Following the restructuring of university and non-university higher education on the basis of European Union directives, the conditions under which family allowances are accorded for children attending a course of study have been fundamentally reviewed to bring them into line with the directives. The new rules are the subject of the Royal Decree of 10 August 2005 (*available on request*), making it easier to bring student beneficiary status into line with this new system.

558. The age supplements were increased as of July 2006 in both the system of family allowances for employees and the system of guaranteed family benefits. The increase was intended for children who were at least 6 years of age and at most 17 years of age in 2006 (Royal Decree of 20 July 2006 – *available on request*).

#### The self-employed

559. Various improvements in relation to family allowances for employees came into being from 2000 onwards. Generally speaking, they have been transposed into the system of family allowances for the self-employed. Developments in family allowances for the self-employed implemented during the period 2002-2006 are described below.

- Payment to the child's family of origin of a flat-rate family allowance to replace the benefit the family has lost because of the child's placement. The benefit may, however, be withdrawn if the recipient ceases to take an interest in the child. This principle was applied with retroactive effect from 1 January 2003, as a result of the reform of the Royal Decree of 8 April 1976.
- Improvements to the status of families who are separated under co-parenting arrangements: the father obtains the family allowances, simply on request, but only provided that he and the child have the same principal residence.
- The concept of *de facto* family was introduced in 2000: the legislation on family allowances operated a distinction, in relation to the composition of the household, between partners of different sex and same-sex partners, thereby giving rise to — some positive and some negative — differences in treatment in terms of the level of allowances paid. The legislature therefore replaced the concept of “cohabitation of persons of different sex” with the concept of “*de facto* family”, thus applying what is

fundamentally an economic criterion that better respects the private life of persons under the social insurance system.

- Production of proof of separate residence is made easier when it comes to establishing entitlement on the basis of a survivor's pension for a child subject to placement, but also in the case of minors declared to be of full age and capacity and children who have reached the age of 16 (Royal Decree of 17 September 2005 – *available on request*).
- The same applies to the award of family allowances at the higher rate for children who have lost a parent: the child forfeits the higher rate if the surviving parent remarries or forms a *de facto* family who is neither related nor related by marriage, including third-degree relatives. If the surviving parent and his or her new spouse or partner separate, the higher rate may be restored, but there was discrimination according to whether the surviving parent had remarried or simply set up home: if the surviving parent had remarried, the higher rate could be restored, if there was a court order assigning the couple separate residences, but, if that parent had simply set up home, *de facto* separation was of itself sufficient. The Royal Decree of 17 September 2005 (*available on request*) now stipulates that a child who has lost a parent recovers beneficiary status if the surviving parent is no longer cohabiting with the spouse with whom a new marriage was contracted or the person with whom a *de facto* household was formed. *De facto* separation must be evidenced by the separate main residences of the persons concerned, except where it is clear from official documents submitted for the purpose that they are indeed *de facto* separated.
- Other rules have been set in place in the interest of the child. For example, since 1 October 2000, the problem of appointing the beneficiary where the parents are no longer living together (as a result of separating, for instance), they jointly exercise parental responsibility and are unable to reach agreement on the payment of family allowances, has been resolved. They may refer the matter to the labour court (*Tribunal du travail*) which will determine who is to be the beneficiary, taking the interest of the child legally into account. Payment to the father or mother may also be appealed before the small claims court (*Juge de Paix*) in the interest of the child.
- Various measures have been adopted, looking to the interests of the child, to help the children of the self-employed in receipt of family benefits. They include measures for students, apprentices, trainees, young job-seekers, and also in relation to the ceiling on authorized remuneration in relation to child beneficiaries, in particular, the changes to the system of allowances for a child engaged in a course of study (changes now comparable to those applicable under the arrangements for employees – Royal Decree of 12 July 2006 (*available on request*)).

*Reform of the system of increased family allowances for children with a disability*

(See para. 456 *et seq.* above.)

*Maximum billing*

560. To remind the reader, “maximum billing” (*Maximum à facturer*) is the system of social security that guarantees individuals will not have to pay in excess of a certain level of charges for health care that is needed and provided annually. If the ceiling that has been set is exceeded, the patient is reimbursed. This principle has been extended in recent years:

- To improve the protection of seriously ill children, maximum billing was extended, in 2002, to cover the costs of “enteral feeding by feeding tube or stomy” in the patient's home, which is now classified as a patient contribution (*intervention personnelle*).

- The maximum billing in respect of children was extended in 2004: before 1 January 2004, only children under 16 were affected. Currently, young people under 19 are included, if during the relevant calendar year, they have in fact paid patient contributions amounting to €650.
- Maximum billing for children with a disability: children with a disability can now benefit from maximum billing subject to three conditions:
  - The child with a disability must be in receipt of increased family allowances because of the disability, on the basis of a decision to award the higher rate that took effect on 4 July 2002 at the latest;
  - The higher rate of family allowance must actually apply during the calendar year in which maximum billing is accorded, at least in part; and, finally
  - The child him- or herself must, in fact, meet the cost of patient contributions to the level of €450.

#### *Specific health care provision*

##### Dental care

561. In 2004, an experiment in awareness-raising and free dental care (except for dental prostheses and orthodontics) was carried out in relation to 15,000 socially disadvantaged children aged between 6 and 12, attending specific educational establishments. The process was continued during the 2004/2005 school year with a target group of 30,000 children. Following on from that, and since 1 September 2005, children under 12, who are insured under the general health insurance scheme, may be considered for free treatment for all dental care services included in the schedule of health-care provision, except for orthodontics. In addition, in 2005, reimbursement for tooth extraction was introduced for children up to the age of 14, and persons with a disability are entitled to have their teeth scaled and polished every three months, with no age limit.

562. As regards orthodontics, since 1 December 2006, the age limit for reimbursement by the mutual insurance fund has been increased from 14 to 15, and a new benefit added to the schedule.

##### Hearing aids

563. In 2006, the age limit giving entitlement to preferential reimbursement of insurance in relation to the cost of certain hearing aids was increased from 12 to 18.

##### Speech therapy

564. The age limit (5 years) giving entitlement to reimbursement of the cost of speech therapy for stammering has been abolished.

##### Spectacle lenses

565. Reimbursement of the cost of new lenses for children was extended from November 2006:

- for children up to the age of 11 (seven previously); a contribution is paid for lens renewal where the diopter varies by 0.5;
- whereas, previously, reimbursement was available for just one lens renewal, the child may now claim a contribution whenever there is a 0.5 change in the diopter.

(ii) **Childcare establishments**

566. A project has been under way since early 2007, run by ONE (Birth and Childhood Office) and K&G (*Kind en Gezin*, Child and Family) with the support of the National Unit for Environment and Health. The aim is to reduce the negative impact on children's health of the indoor environment of day nurseries (see para. 485 above).

**b. At the level of the federated authorities**

*b.1 Flemish Government*

Childcare and family support

567. In Flanders, K&G works in the field of both childcare and preventive family support to ensure that it is accessible to all families with young children.

568. The accessibility of childcare has, in particular, been extended by removing financial, social and physical bars. Several approaches have been taken to achieve this: extending local childcare services, supporting care structures, providing these structures with information on the rules that apply in relation to priority and encouraging them to focus on particularly vulnerable groups. For example, emphasis on the social function of childcare —paying special attention to vulnerable families, single-parent families, low-income families, etc.— has been made a prerequisite, if services are to be extended. Care structures that are approved and monitored are encouraged to accept children with a disability or with special needs and may obtain additional financial support for this. A total of some 140 places are available in establishments that offer structural provision and make available a number of places for children with a disability or special needs.

569. One of the principal objectives of *preventive family support* is to improve the accessibility and effectiveness of the provision of services to socially vulnerable families. In that connection, specific measures are applied, both centrally and regionally. These measures are targeted at families of non-Belgian origin, poor families, pregnant women who are vulnerable, refugees and asylum-seekers, travellers, the children of parents with psychiatric problems, children (with parents) in prison and families with a disability. One of measures involves developing pictographic materials for people with a communication problem (different languages, slight mental disability or (functionally) illiterate. The material gives members of the regional teams the chance to communicate the main messages of K&G to these parents, using photos and drawings. In this way, parents are informed about the care K&G can provide. A second measure involves working with individuals who may be described as family helpers with the K&G regional teams. They work independently to provide services but, at the same time, cooperate closely with the regional nurse. In this way, they offer vulnerable families a joint service but make their own contribution on the basis of their own responsibilities. Their expertise enables family helpers to identify and bridge the gap between socially vulnerable families and the services provided. They provide liaison in relation to the provision of services and thus improve accessibility and effectiveness, and the participation of socially vulnerable families.

*b.2 Governments of the French Community and the Walloon Region*

Specialist care services for infants

570. The Order of the Government of the French Community of 17 January 2002 (*available on request*) lays down the procedures for subsidizing “specialist care services for infants” approved by ONE. The specialist care services replace the establishments that used to be called “care centres and baby nurseries” and cater for children from birth to the age of 12 who are in private care (subsidized by ONE) or in care under the auspices of the youth



welfare services. In addition, ONE itself runs two specialist care structures, “*La Nacelle*” in Mons and the La Hulpe care centre.

#### Infant care facilities

571. The Order of 27 February 2003 of the Government of the French Community (*available on request*) lays down the general rules for care facilities structures. It sets store by the following principles:

- the care facilities must be governed by the principles of equality and non-discrimination;
- access to a care centre is a right of the child, enabling that child to develop physically, psychologically and socially, in accordance with an educational plan appropriate to his or her age;
- the care centre must enable parents to reconcile their professional responsibilities and their responsibilities in terms of training and job-seeking—in short, their role in society—with their parental responsibilities.

572. The aim of the order is to enable as many parents and children as possible to make the best use of the care places available, including through the introduction of a care contract.

573. The order also recognizes that care structures perform a function of social prevention and work in tandem with families, engaging in dialogue and listening. Socio-cultural background and the special features of children with a disability must be respected within care facilities. The order is also intended to facilitate the achievement of a number of objectives of *Plan Cigogne* (making new care places available), including by means of new cooperation agreements with the companies, with a view to the creation of new structures and funding mechanisms.

574. The process of introducing greater professionalism into childcare is under way, and the order lays down the new conditions for basic, accelerated and in-service training for those working in the sector.

#### Initial training for workers in care structures

575. An Order of 5 May 2004 of the Government of the French Community, as amended (*available on request*), lays down the initial recognized training and qualifications for the staff of care structures, covering:

- the directors of children’s homes;
- the initial qualifications deemed equivalent to the qualifications for nursery nurses caring for children above the age of 18 months in day nurseries, childcare play groups (*prégardiennats*), municipal childcare centres and children’s homes;
- parents who care for children in day nurseries run by parents, the staff of children’s homes and the assistant, as well as the parents, who provide care in day nurseries run by parents (see annex 11, para. 39).

576. Among other things, the order stipulates the length of modules, aspects of methodology and the basic concepts that the initial accelerated training modules must include for certain staff members mentioned above. Course completion certificates are awarded to individuals who successfully complete the training.

#### The in-service training programme for childcare workers

577. A programme of in-service training for childcare workers has been developed since September 2002, and has been prepared on the basis of an analysis of training needs. It lays down the principles for action and the issues to be worked on. This training is designed for all professionals involved in caring for children from birth to the age of 12, that is to say: care facility managers, nursery nurses, assistants in after-school centres, extra-curricular activity leaders and staff working in unsubsidized care structures.

#### The care quality code

578. The Order of 17 December 2003 (see annex 32) establishes a “quality-based” approach for anyone regularly involved in caring for children under the age of 12. The order is designed:

- to guarantee the kind of care that takes account of the wide variety of needs of children in care, particularly in terms of their physical, psychological, social, cognitive and emotional development;
- to secure consistency of care practices in the different care structures that a child has to attend, by defining common basic principles;
- to stimulate and encourage an ongoing process of review of professional practices in relation to the quality of care.

579. The care quality code begins by defining a set of objectives that children’s care structures must pursue, broken down into four categories: educational principles, the organization of activities and health care, accessibility and support. The care structure implements these objectives on the basis of a care plan drawn up as a team and in consultation, in particular, with the individuals who are entrusting them with their children’s care. To help the teams to do this, a booklet entitled “Guide to quality care practices” (*Repère pour des pratiques d’accueil de qualité*) has been published and support measures in the form of workshops organized (see annex 11, para. 27).

#### The *Cigogne* (“Stork”) I and II Plans

580. The *Cigogne I and II Plans* are designed to implement, within the French Community, the objective set by the European Union at the Barcelona Summit (15-16 March 2002), that is to say a level of cover, in terms of care places for children from birth to the age of 3, in the region of 33 per cent in 2010. The aim is, therefore, gradually to increase care capacity for infants, while guaranteeing a range of provision. The implementation of these plans is incorporated into ONE’s management contract (see para. 332 *et seq.* above). There have been two successive plans: the first covered the period 2003 to 2005, and was amended, in 2005, in order to achieve the targets set. The second plan, adopted in 2005, is designed to secure a further 8,000 places by 2009, prioritizing subsidized care places (almost 5,000) for which the parental contribution is determined on the basis of income. The French Community and the Regions have worked together in subsidizing jobs and infrastructure (see annexes 33 and 11, para. 28). An extra 650 nursery nurses, subsidized by the Walloon Region will thus be assigned to the care facilities, between 2006 and 2009, to meet the 33 per cent coverage target for the whole of the territory of the French Community.

#### Infrastructures and childcare in economic activity zones

581. The Decree of 11 March 2004 (*available on request*) on care infrastructure for the business sector makes it possible to subsidize auxiliary service centres in economic activity zones, housing day nurseries, among other things. In 2005, a number of inter-communal

economic development associations brought this to the attention of companies located in economic activity zones in an effort to move the project forward, resulting in the establishment of two day nurseries in Gosselies and Tihange. The aim is to achieve a better balance between working and family life. The Walloon Region has also mobilized a budget of €25 million to subsidize new municipal public care facilities for children from birth to the age of 3.

#### Helping children move from care structures to nursery school

582. In order to make the wider public and professionals aware of the importance of supporting children and parents when children start nursery school, ONE has organized an information campaign “Moving on to school”. Launched during 2004, the campaign continued in 2005 with the circulation of two resources on the issue: a teaching kit “Tell me, when am I going to school?” and a television clip *Air de Familles* (Family matters) “What do you do at nursery school?” (see annex 11, para. 29).

583. In order to improve still further the quality of care and support for children between the ages of 2-and-a-half and 3 in nursery schools, the Walloon Region and French Community have concluded an agreement for the appointment of an extra 300 nursery nurses, subsidized by the Walloon Region, in nursery schools, with priority being accorded to schools subject to special measures.

584. The Walloon Region will, in future, subsidize an extra 140 full-time jobs for extra-curricular assistants to improve care for the under-12s and help professionalize the sector.

#### *b.4 Brussels Government and Colleges*

##### Infant care

585. The French Community Commission (COCOF) and the Brussels-Capital Region are pooling their efforts to improve infant care:

- on the basis of a decree, COCOF is establishing preferential financing conditions for care infrastructure in disadvantaged districts;
- COCOF finances childcare initiatives under the decree on social cohesion;
- in 2006, COCOF more or less tripled the budget for infant care, thereby making it possible to create more places in the Brussels Region.
- a support structure for the development of care has been set in place and has drawn up a register of all the support available, with the emphasis on the care structures that meet families’ social and cultural needs (Centre for Child Expertise and Resources);
- based, in particular, on the European programmes (FEDER), district contracts, the day nursery plan and its employment policy, the Region is pushing forward the increase in the number of affordable places.

### **E. Standard of living (art. 27, subparas. 1 to 3)**

#### **a. At federal level**

##### *(i) Taxation*

586. Childcare costs are tax deductible against total net income to the level of €1.20 per child and per childcare day. Changes have been made to extend these childcare cost

arrangements, and this is bound to have a positive impact on the standard of living of the families affected.

- As of the 2006 tax year, the age-limit for this deduction has been raised to 12 (three years previously).
- The Act of 27 December 2005 (*available on request*) introduces an amendment concerning the type of expenses that can be set against tax. Until the 2005 tax year, for expenses to be tax-deductible, they had to be paid: to recognized institutions (subsidized or monitored by the Birth and Childhood Office (ONE), by K&G or by the Executive of the German-language Community), day-nurseries, or independent foster families monitored by the aforementioned institutions, or nursery or primary schools. As of the 2006 tax year, it will also be possible to take account of the costs paid to local, community or regional authorities, other than those mentioned above, as well as to institutions or care structures linked to the school or organizing authority. Consequently, the possibility of tax-deduction also exists for holiday camps organized by youth movements, the adventure playgrounds organized by the municipalities and the various courses in sports, science, languages, culture, etc. The measure does not cover school trips.

587. The Act of 27 December 2006 (*available on request*) has amended the tax rules on co-parenting.

- The taxpayers in question will no longer have to submit annually a joint application in writing; they will provide once only a copy of the court decision or of the agreement recorded or approved by a judge and explicitly stating that the children concerned will be dividing their time equally between the two taxpayers.
- An additional tax-free allowance for dependants that can be shared between taxpayers who are co-parenting is introduced for each dependent child under the age of 3 at 1 January of the tax year, though this supplement cannot be claimed concurrently with the childcare deduction. Previously, only the ordinary supplements for dependent children were able to be shared.
- Hitherto, the deduction of maintenance was precluded for children in relation to whom there had been a co-parenting application. It may happen that a parent who pays maintenance under the co-parenting regime finds it more beneficial from the point of view of taxation to ask for the maintenance to be set against tax rather than for the transfer of half of the supplements to which the child gives entitlement. To enable the taxpayer to opt for this tax advantage, the additional tax-free allowances to which the child gives entitlement will not be shared between the two parents, if one regularly pays, for the child, maintenance that is set against tax.
- The additional tax-free allowance for lone parents is accorded not only to a parent who is taxed individually and has one or more dependent children, but also to a parent who is taxed individually and is assigned half of the additional tax-free allowances for one or more dependent children (entry into force: 2008 tax year).

These tax reforms should enable parents to move towards a better standard of living for their children.

Fiscal arrangements in respect of children who have disappeared or been kidnapped

588. Subject to certain conditions, the Act of 27 December 2006 (*available on request*) considers children who have disappeared or been kidnapped to be dependent, which was not previously the case. The child must not have reached the age of 18; must already have been dependent on the taxpayer for the previous tax year; and the taxpayer must prove that, by 31 December of the taxable period at the latest, he or she had reported the kidnap or

disappearance to the police, or made a complaint. If the taxpayer meets those conditions, the child who has disappeared or been kidnapped will be deemed to be a dependant (entry into force: 2008 tax year).

(ii) *Social welfare*

589. There have been two changes to the law for the benefit of children designed to improve their standard of living in certain circumstances:

- The child of a recipient of the guaranteed minimum income benefit (*revenu d'intégration sociale*) will be taken into account regardless of the recipient's family set-up. In 2006, the legislature amended the Act of 26 May 2002 concerning entitlement to guaranteed minimum income benefit (*available on request*). Anyone in receipt of guaranteed minimum income benefit (social assistance accorded by the public social welfare centres), and living with a child, will see that benefit increase, whatever the family set-up (single person or cohabitee). Whatever happens, a person who lives with a child on a daily basis and is in receipt of this social welfare benefit will be accorded the increase.
- There has been progress in terms of taking into account children accompanied by their parents who are illegally resident in Belgium. In fact, pursuant to the framework law of 8 July 1976 on public social welfare centres, families who were resident illegally could not benefit from emergency medical assistance. The reform enables the public social welfare centres to determine that there is a need, where the parents are not fulfilling or are unable to fulfil their duty of care in relation to a foreigner under the age of 18 who is residing with them illegally. In those circumstances, the child will be able to benefit from material assistance that will be provided in a federal care centre. The presence in the care centres of persons who effectively exercise parental authority is also guaranteed.

**b. At the level of the federated authorities**

*b.1 Flemish Government*

Urban policy

590. The Flemish Government applies an urban policy which is designed to combat the urban exodus and reinforce the democratic base. The main aim is to attract young families with children (and the over-55s). The Urban Regeneration Fund (*Fonds des villes*) is one of the pillars of urban policy in Flanders and is designed to improve the quality of life in cities and districts, combat division and improve city self-governance. The Decree laying down the rules for the operation and allocation of the Flemish Urban Regeneration Fund was approved on 13 December 2002. A contract for the period 2003-2007 was concluded with the 13 urban centres (Ghent, Antwerp, Alost, Bruges, Hasselt, Genk, Courtrai, Louvain, Malines, Ostend, Roulers, Saint-Nicolas and Turnhout) and the Flemish Community Commission for Brussels. Given that the aim is to make cities attractive places for families with children, policy agreements under the Urban Regeneration Fund must include making them attractive to young people and children. The urban centres and Flemish Community Commission have incorporated provisions on children and young people in their policy contract. The desired outcomes basically relate to education, enhancing the attraction of cities for children and young people (see annex 6, para. 27) and greater involvement of children and young people in youth, sports and cultural organizations (see annex 6, para. 28). The *Stadsmonitor* 2006 (tool monitoring progress towards sustainable development in cities) shows that the exodus has been stemmed (see <http://www.thuisindestad.be/html/monitor/index.html>). Nonetheless, it appears that most

cities continuing to witness an exodus of young families and economically active young people.

591. The general principle of the right to life, survival and development may also be cited (see paras. 217-221 above).

#### *b.2 Government of the Walloon Region*

##### Housing

592. The Walloon Region's Multiannual action plan on permanent housing in tourist facilities should have an impact on the standard of living of the children affected. The plan comes in two phases: the first, implemented on 10 October 2003, is designed to help persons identified as living in a campsite or other facility situated on a floodplain to be suitably re-housed; the second phase, launched on 27 January 2005, involves a case-by-case review of the circumstances of facilities, apart from campsites, that are not situated on floodplains, to help the permanent residents concerned and ensure that the use of the zone is more consistent with its intended use, where necessary, reassigning zones and making them housing zones (see annex 28, para. 1).

593. An Order of the Walloon Government of 6 September 2007 governs "the rental of accommodation managed by the Walloon Housing Association or public-service housing associations". In calculating the points establishing priority entitlement to housing, the association must take account of a child or children accommodated with one or the other member of the household, officially confirmed in a court decision. Where custody is shared, this provision is designed to make it possible to ensure the child has his or her own bedroom. The order also provides for social housing to be allocated to pupils and students, in accordance with specific procedures.

##### Preventive measures

594. The [crime] prevention and neighbourhood programmes (*programmes de prévention et de proximité*) set in place by the Walloon Region, generally known as the "PPP" decrees, make it possible to support measures that respond to local needs in relation to preventing insecurity, poverty and exclusion. They should make it possible for some families, and, therefore, some children, to avoid situations of exclusion and poverty that prevent parents guaranteeing their children a proper standard of living (see annex 28, para. 1).

## **F. Difficulties and future objectives**

##### Children with a disability

595. It should first be noted that Belgium will ratify the Convention on the Rights of Persons with Disabilities as soon as possible.

596. In terms of informing the target group, families with a child with a disability must be able to be given help by providing a more systematic and centralized information system, in relation, for instance, to the accessibility of public transport and the existence of youth and sports associations for any minor with a mental or physical disability. In that connection, consideration will be given to the feasibility of setting up a centralized information point (for example, a general website with links to the various relevant bodies), particularly with a view to providing additional information about mobility. In terms of medical and psychological and social support, there is also a pressing need for better coordinated monitoring and information about possible treatments, and there will be a response to that need.

597. In terms of the social inclusion of persons with a disability, the media have an important role to play. Broadcasts about and by persons with a disability can help make disabilities seem less untoward. Promoting inclusion through the media—for instance, by showing that many people with a disability are perfectly capable of being fully integrated in many aspects of daily life, while at the same time showing how practical obstacles and prejudices can impede their integration—is the only way of impacting on the present reality which is that, on a daily basis, persons with a disability often live, inevitably, in a parallel world. With that in mind, the feasibility of making the award of public subsidies dependent on the media making real efforts to disseminate the philosophy of inclusion will be considered.

598. The Regions are responsible for town-planning and architectural issues concerning the accessibility and use of buildings. In addition to the regulatory requirements that apply in this regard in every region, and in compliance with those requirements and the procedures governing consideration of applications for planning permission, it is necessary to encourage improved accessibility for children with reduced mobility, on a voluntary basis.

#### Children in hospitals

599. Depending on the prevailing circumstances at the different levels of authority, the gradual implementation of follow-up to the following UNICEF recommendations on respecting the rights of children in hospital, will be the subject of ongoing assessment by the relevant authorities.

- Hospitals must all try to obtain the “child-friendly hospital” label and adapt to the specific needs of children;
- Information and communication between medical staff and families must be appropriate to the situation;
- Children must be helped to participate to enable their views to be heard as far as possible;
- The presence of persons whom children trust must be encouraged (flexible visiting hours, opportunity for parents to stay with children, etc.);
- There must be recreational facilities for children (activities and games);
- Appropriate schooling must also be organized for long-stay children;
- Better pain management is needed;
- There must be better child psychiatric support;
- It is vital to ensure that economic factors do not stand in the way of giving children better support.

In addition, where hospital emergency services are concerned, comprehensive monitoring arrangements for children who have been abused will be drawn up and decided upon before the child concerned is discharged.

600. The competent authorities will look at how the rights of children in hospital can be improved, particularly by taking greater account of children’s views, in the light of their age and capacity to understand.

#### Sexual health

601. As far as the issue of AIDS is concerned, the relevant governments undertake to ensure that special attention is again paid to preventive measures in regard to minors,

notwithstanding the progress that has been achieved, from a medical point of view, to reduce the number of cases of children infected in the womb, as a result of rapid and effective treatment during pregnancy. It is worth mentioning here the good practice of the Institute for Tropical Medicine, whereby account is taken of different cultural views and a system of consultation with contact persons from different cultures has been set in place to establish quality contacts with the communities concerned.

#### Excessive medicalization

602. The current trend in medicalization to make children “normal” to fit in with the model most convenient for adults (a good and clever child) must be called into question. Every child has the right to develop his or her personality, subject to respect for the rights of others. The competent governments will continue to ensure that measures in respect of children are taken in the light of their personal development and not exclusively for the benefit of adult society.

#### Childcare

603. As regards childcare for infants and after-school care, the lack of places is and remains the major difficulty. There is the further issue of the quality of care and the commoditization of the sector.

604. Consequently, the competent authorities undertake to continue to accord absolute priority to the problem of a shortage of places, while guaranteeing that the care provided will be high-quality. This continues to be based on an approach to child-raising that is geared to diversity and participation.

605. To ensure that the provision of care continues to be accessible and diverse, consideration will be given to whether the situation can be improved by promoting the retention and creation of care facilities that take account of parents’ income in determining the cost of care.

606. In addition, authorities with a specific involvement in after-school care will assess the existing rules in this area to determine whether they adequately guarantee proper continuity between the different locations at which care is provided, or types of care, and the quality of the child’s experience of after-school care.

#### Poverty and standard of living

607. As far as reducing the poverty rate in Belgium is concerned, UNICEF’s Innocenti Research Centre has estimated that the authorities could reasonably work towards reducing the rate to below five per cent. While aware that this decision is in itself a very ambitious first stage, the government will work towards reducing poverty as far as possible.

608. Two general points may be made in regard to poverty and children’s standard of living.

609. Firstly, a multi-faceted approach is required to cover all aspects and all types of difficulty encountered by families living in insecurity. It is also necessary to view these different facets as part of a comprehensive approach to the situation. The different areas of difficulty need to be approached and tackled on a comprehensive and simultaneous basis. To achieve this, follow-up to the national plan for combating poverty will be assured. Interministerial conferences on poverty will also be held at regular intervals to harmonize and coordinate policies in relation to poverty.

610. In addition, access to information about assistance and support for vulnerable persons will be systematized and expanded, but also tailored to the target audience (using the appropriate media, including pictographic material).



611. It has been established that, to get an accurate picture of poverty in Belgium, it is necessary to develop a uniform methodology making it possible to attach figures to poverty. A single method able to be applied by all of the bodies involved would make it possible to obtain an overall picture and devise the most appropriate solutions. Consequently, as part of the process of follow-up to the social inclusion action plan, the governments will endeavour to coordinate and optimize existing statistics in the field.

612. As regards access to energy, it appears that there are currently still vulnerable families whose electricity and gas supplies can be cut off (except during the winter from December until March), despite the fact that children are involved. A number of objectives have, therefore, been set, in accordance with article 27 of the Convention.

613. To tackle the problem in the full knowledge of the facts and take the appropriate action, annual statistics will be kept on vulnerable families' access to energy.

614. As energy legislation is complex (particularly since the market was liberalized and given the large number of different suppliers), and users can get further into debt in a complicated system that they do not fully understand, the relevant authorities, at all levels, are circulating a sufficiently clear information booklet.

615. A budgetary and financial impact study will be carried out on possible measures of assistance, where children may suffer the harmful consequences, to prevent gas or electricity being cut off completely (except in cases of obvious fraud or safety issues, subject to the requisite legal guarantees), including the impact of such measures on the charges to consumers generally.

616. It has become clear that financial insecurity may lead people to defer medical treatment because they do not have the means to pay. The competent governments undertake to ensure that everyone has access to quality health care. Moreover, the health problems that the families in question experience are often the direct result of their poor standard of living. General policy on combating poverty will, therefore, be reinforced (financial assistance, housing aid, aid for renovation and access to energy) to improve the living standards of vulnerable families and thereby make it possible to reduce the resultant health problems.

617. There continue to be difficulties for families with children in relation to access to proper housing. That circumstance has many negative consequences on the situation of children living in poverty, particularly in terms of health, family life and placement.

618. The measures taken in connection with the implementation of the national action plan to combat poverty will be intensified. Moreover, the recommendations contained in the December 2007 report of the department to combat poverty, insecurity and social exclusion, set up under the auspices of the Equal Opportunities and Racism Prevention Centre, and the recommendations of the United Nations Committee on Economic, Social and Cultural Rights, of November 2007, will also be put into effect.

## **VII. Education, leisure and cultural activities**

619. Follow-up measures relevant to this section taken in response to the concluding observations of the Committee on the Rights of the Child following the submission of the Belgium's previous periodic report are summarized in paragraphs 665-668, 670, 675 and 676.

## **A. Education, including vocational information and guidance (art. 28)**

### **a. At the federal level**

Children in hospital

620. During the period 2002-2006, new standards were announced which sought to guarantee the quality of the care of children in hospital, among them the Royal Decree of 13 July 2006 (*available on request*). These standards are intended, among other things, to allow the organization of leisure and educational activities for the benefit of these children (see para. 492 above).

### **b. At the level of the federated authorities**

#### *b.1 Flemish Government*

Compulsory education

621. The Act of 29 June 1983 on compulsory education confers on the Government of the Flemish Community the power, and thus also the responsibility, to inspect schools and to monitor compliance with the requirements for pupils to enrol and attend regularly. There are two aspects to monitoring of enrolment: monitoring enrolments on 1 October (providing a “snapshot” in time) and tracking developments in relation to pupils after 1 October (by means of an ongoing process). A variety of initiatives have been taken in the wake of a range of experiments and projects carried out in relation to compulsory education. In 2006, the Flemish Minister of Education and Training undertook an in-depth evaluation of the monitoring of compulsory education and of the approaches taken to problems associated with it. Despite a number of positive developments (for example, better preventive and follow-up measures in relation to pupils showing a tendency to truant and strengthened monitoring arrangements for home schooling), it was very clear that additional public initiatives were necessary. In response to this set of problems, the Minister announced a new plan of action on “a comprehensive approach to truanting and absenteeism in schools” (June 2006: see <http://www.ond.vlaanderen.be/nieuws/2006p/0217-spijbelen.htm>). The plan of action takes two lines of approach. The point of departure is the hypothesis that responsibility for absenteeism is shared. It is necessary for all those with a part to play to commit to resolving the problems involved. Secondly, the problem of absenteeism calls for an integrated approach: awareness-raising, prevention and support were clearly as important as punishment. Pupils who create disruption in class can seriously hamper the working of a school. Sometimes, temporarily excluding them remains the only solution. To avoid these pupils becoming permanently disengaged, an experiment with “time-outs” was carried out. Really difficult pupils have the benefit of external support provided by a specialist organization; the objective is that they should subsequently return to school with a new state of mind and then be able to pursue their schooling successfully. Based on experience gained with four pilot projects, “time-out” methods have become more mainstream in Flemish teaching practice. There is a distinction between short and long-term “time-outs”. Under long-term “time-outs”, pupils who exhibit extremely problematic behaviour or are extremely demotivated are excluded from school for between three and six weeks while benefiting from external support. Six long-term “time-out” projects on these lines have been approved, involving 182 places. In addition, 642 pupils are able to access 14 short-term “time-out” projects. Short-term “time-out” covers a period of five to ten days. Schools providing short-term “time-out” are also encouraged to organize remedial group sessions. Implicit in this is an invitation to the various parties concerned to take part in a joint effort to find solutions for the harm that has been caused.

## Free education

622. In Flanders, compulsory education is free. Primary and secondary schools may not charge direct or indirect enrolment fees. Primary or secondary schools may not levy contributions towards the inherent costs of the teaching which is necessary for achieving or addressing a developmental objective, and nothing which is essential to the pursuit of school education may form the basis of a request for a financial contribution from parents. No absolute principle of not charging applies in secondary schools; the inherent costs of additional school activities and of certain specified teaching materials may be charged to parents, or to pupils themselves where they have attained their majority. The costs concerned must however be real, demonstrable and in proportion to the nature and the target group of secondary education. Meals and transport in connection with school excursions are not costs inherent in teaching and are not free of charge. Nor are optional, non-obligatory activities such as outdoor classes (*classes vertes*), winter sports classes (*classes de neige*), sports classes and countryside classes (*classes à la campagne*) included in the free category. Where equipment, activities and services can form the basis for a request for a contribution from parents, the request must be discussed in the school council. Since 2002-2003, the provisions governing parental contributions have been communicated to parents in the school rules. The list of parental contributions is included in or annexed to the school rules and sets out the different categories of costs for which a payment can be requested from parents. As far as possible, an estimate is made of the maximum amount for each category. When the arrangements are set in the participation council or school council, a different rule is also set for less well-off parents. The exception that this makes from the arrangements for parental contributions is also included in the school rules. In addition, the Flemish Government aims at the greatest possible transparency in school charges and to limit the costs of compulsory education in Flanders. Within the Decree on primary education, the Decree of 6 July 2006 (*available on request*) has amended the principles relating to freedom from charge, and seeks to make primary education free and secure the principle of “maximum billing” (for activities of several days’ duration and for compulsory equipment). In addition, a school allowance has been introduced in primary education, the average size of scholarships for secondary education has been raised and the numbers of pupils able to benefit from them have been increased. Agreement has also been reached on a supplementary effort to support year seven pupils in special and technical education.

623. Even though the principle of free education is rigorously applied, parents will still be faced with certain school expenses (such as excursions, theatre performances, etc.). A system of selective financial support for parents in nursery education provides a way of resolving these problems. In addition to the application of the principle of free primary education, the system of school allowances has been amended from the beginning of the school year 2008-2009. Until the beginning of the school year 2006-2007, scholarships for secondary education were governed by the Act of 19 July 1971 on scholarships; it provides scholarships for less well-off students in secondary education, so that they have access to the financial resources necessary to meet the compulsory education requirement under by the law. As of the start of the school year 2007-2008, the regulations have been fundamentally amended, and the regulations dealing with scholarships in higher education provide a model. More advantageous income limits now apply, and a greater number of children (37,000) will be able to benefit from this allowance. The average amount will also be revised upwards (from €160 to €390 on average). In addition, the concept of “less well-off” will be defined in an identical way for all levels of education so that pupils from a particular family will be treated in a uniform manner: if a student in higher education obtains a scholarship, his younger brother or sister will benefit from a school allowance in secondary education. The management of every school will be able to promote its own educational programme and the range of courses that it offers and provide information about them, but, in the process, may not make comparisons with other schools, or refer to

or criticize them. All persons and services in schools are prohibited from engaging in propaganda and political activities. Two circulars (one addressing primary and the other secondary education) provide information about the legal provisions dealing with free provision and good governance. Schools, parents and children are given specific examples to explain what is and what is not permitted (see annex 6, para. 40).

624. Special measures apply to children who are undocumented migrants (see para. 785).

#### Statute for pupils

625. The purpose of a statute for pupils would be to identify, explain and define the application of the rights and obligations of pupils in relation to those of others with a role in the school community. To date, no formal statute for pupils exists, but this is not to say that pupils do not have any legal status. The position of pupils in secondary education has already been addressed at various points in schools legislation: the Decree on equality of opportunity in education (see para. 172 *et seq.* above), the Decree on participation in schools (see para. 234 *et seq.* above), the Decrees of the Flemish Government on the organization of full-time secondary education and on good administration, the Act on compulsory education, etc. Parents and pupils can put their questions to Support Points, and obtain information from guides, the booklet on schools *Klasse* and via the website (see also <http://www.ond.vlaanderen.be/leerplicht/>, <http://www.ond.vlaanderen.be/gidsvoorouders/>, <http://www.ond.vlaanderen.be/gidsvoorleerlingen/>).

626. The Flemish pupils' organization (*Vlaamse Scholierenkoepel*), the Commissariat for the Rights of the Child and educational lawyers have all drawn attention to difficulties in applying the current regulations. A proposal has been drawn up taking account of existing rules on rights and obligations and the different textual suggestions and points of view of the various participants. The following subjects have been tackled: broader communication, an extension of regulation in schools with, among other features, arrangements for regulating assessment, a reshaping of measures on order and discipline, provisions dealing with exclusions at the level of each school community and provisions dealing with opportunities for appeal where assessments are contested. The organizations with an interest are fully involved in the work and are able to express their views on the draft text.

#### Non-discrimination

627. See the commentary at paragraphs 172 *et seq.*

#### Supervision of pupils

628. The *Centra voor Leerlingenbegeleiding* (Centres for pupil support, hereafter: CLBs) began operation on 1 September 2000 following the merger of the psychological-medical-social (PMS) centres and the MST Centres (*Medisch Schooltoezicht* – health monitoring centres for schools). CLBs are tasked with guaranteeing the well-being of pupils, and must do so while observing the rights of the child, the law on privacy and the requirements of professional confidentiality. The interest of the child is key. To meet these objectives, CLBs carry out support activities in the following fields: learning and study, pathways to education in school, preventive health care and providing pupils with function psychological and social support. These activities are defined in collaboration with schools. The CLBs initiate action at the request of pupils, parents or schools. In addition, the Flemish Government has defined several measures in the context of a “guaranteed offer” (support for teachers, consolidation of the school’s educational mission, etc.). Some activities are provided compulsorily as part of “compulsory offer” (support in the event of problems relating to the monitoring of compulsory education and health monitoring in schools). Pupil support remains free, as in the past. A CLB must base its operations on demand and produce an emancipatory effect. Particular attention is paid to pupils facing

threats to their development and progress in their school career. The most vulnerable target groups should be the object of the most intensive support, and most staff are therefore trained with this in view. CLBs also engage with schools and parents where necessary. School, CLB and parents are jointly responsible for the support provided to the pupil. The work of CLBs is preventive, but can, if possible have a remedial effect. It applies a multidisciplinary approach: besides the specialists already on hand —psychologists or educationalists, social workers, doctors and nurses— other experts can be involved in the work of the CLB (for example physiotherapists, speech therapists, etc.). In addition, CLBs collaborate with other services through a network, and, since the 2005-2006 school year, have been given a clearer profile. By defining the responsibilities of CLBs very clearly and specifically, regardless of the region in which any particular CLB may be established and the supplementary support it may have, the Flemish Government wants to ensure that clients approach the CLB with realistic expectations. In defining CLB responsibilities, it also wishes to clarify how CLBs interact with the other agencies.

#### Pupils with specific needs

629. For children with specific needs (including children with a disability), it is the Flemish Government's intention to make specific provision for a continuous school career in which the education provided must vary in accordance with pupils' varying educational needs. The basic principle is always to seek the greatest possible degree of inclusion in mainstream education. The "care at school" approach has made it possible to take account of the requirements in both mainstream and special needs education: levels of educational need determine the extent to which teaching must be adapted to the needs of the pupil (and not the other way round). In this way, the Flemish Government hopes to step up the process of eliminating educational problems and optimize referral practice. The aim of including pupils with special needs in mainstream education is a widespread policy theme at the international level, but the continuing rise in the number of pupils in the separate facilities for special needs education in the Flemish Community is completely at odds with this. A policy which aims to combat parallel provision and achieve the acceptance of diversity ought to make it possible to bring the number of pupils in special education under control. This does not by any means imply that the expertise and skill found in special education and the resources which are currently devoted to supplementary care should be reduced. After several years of preparation (beginning in 2002), a policy agreement was reached, in 2007, on a new system acceptable to the Flemish Education Council, within a framework known as "care at school" which should guarantee that every pupil in Flanders receives education tailored to needs. "Levels of care" and "groups" are the main concepts in that connection.

630. Four levels of care replace mainstream and special education, and are defined according to the nature of the educational provision concerned, specifying the necessary adaptations. These adaptations relate to the range of care provided, the teaching approach and educational objectives. The higher the level, the greater the pupil's need of attention. The first two levels are intended for schools in the mainstream. The first level targets prevention, the identification of individual needs and remedial action. The second focuses on facilitation, compensation and provision. Schools achieve these objectives and pupils are awarded a diploma. At the third level, pupils are able to attend either mainstream or special needs education, with schools in mainstream education receiving the same measures of support as special needs facilities. Accordingly, this level offers a solution for parents for whom inclusion is the priority. The fourth level concerns pupils in special needs education. At levels three and four, schools prepare and apply management plans for each individual. They pursue developmental objectives, and pupils obtain alternative qualifications. Besides these four levels, a separate level exists for children who are not in school or who are in school on a temporary basis only. This level is designed for schools in hospitals and

sanatoriums, temporary and permanent education in the home and education in “K services” (*services K*).

631. Four groups replace the eight types of special education. The first group applies to pupils without restriction, and includes all pupils who are not part of any other group. It also includes pupils requiring special attention of some sort (for example, because their parents are speakers of another language). The second group contains pupils facing learning problems, such as dyslexia. The third group contains pupils whose faculties are impaired, for example by poor hearing. The fourth group contains pupils who have to contend with social impairments, such as autism. The four groups cover many specific problems; they are broader than existing types of group, allowing guidance to be provided for pupils in a more flexible manner. As a result of this system of grouping, both mainstream and special needs education should be able to deal with greater diversity. This approach can provide partial solutions to problems of pupil transport and to poor distribution of provision in special needs education.

632. Schools engaged in special needs education can thus open up a little more, by targeting groups that are fewer in number but broader in range, with the result that will be no increase in pupil numbers. Schools engaged in mainstream education can do the same, so that pupils who currently gravitate towards special needs education will stay in mainstream education while receiving the care they need. However, the framework for care in education is also made clearer by adjusting the level of assistance provided. For more information, see <http://www.ond.vlaanderen.be/leerzorg/>.

#### Alliance with the local authorities

633. The Flemish Government wants to get the towns to play a “liaison” role. The towns and municipalities are ideal partners in conveying and applying Flemish policy priorities at local level. The Government also wishes to form an alliance in education with the local authorities. A platform for consultation with the urban centres was therefore created, in 2005, and a total of over €2 million released to support school projects in these urban centres during the 2005-2006 and 2006-2007 school years.

#### *b.2 Governments of the French Community and the Walloon Region*

634. The Contract for Schools was adopted by the Government of the French Community on 31 May 2005 and sets the broad guidelines of educational policy for the coming years. It seeks to raise the level of education, to foster a social mix, in every establishment and within each course of study, to place the different courses on an equal footing (so that the choice of course is a positive one) and to combat all mechanisms whereby pupils are relegated that exist at the level of educational establishments. It is structured around ten priorities.

#### Free education

635. The Minister for Compulsory Education has adopted Circular 1461 of 10 May 2006 (*available on request*). The circular defines for everyone the current regulations on free school services and on charges which can be made to pupils and their families in connection with compulsory education in the French Community. It also sets out new measures, which will enter into force shortly, particularly regarding charges for activities outside the establishment and travel and discovery classes. In addition, in 2006, the Government of the French Community provided for the payment of additional grants and subsidies to educational establishments for the purchase of school textbooks and software.

### Supervision of pupils

636. Two agreements have been concluded between the Walloon Region and the French Community for further improving the quality of the supervision of children in primary, secondary and special needs education, with the help of 1,030 posts subsidized under PTP arrangements (*programme de transition professionnelle*, professional transition programme) and almost 2,000 posts subsidized through the “Aid for employment promotion” arrangements (APE).

### Strengthening measures to combat “ghetto schools”

637. The Decree of 28 April 2004 (*available on request*) sets in place differential arrangements for the allocation of operating grants and subsidies to school establishments in the light of their specific circumstances. The amount of resources allocated is calculated according to the size of establishment and socio-economic criteria.

638. A decree containing various measures intended to regulate enrolments and changes of school in compulsory education was adopted by the Parliament of the French Community in February 2007. It fleshes out Priority 9 in the Contract for Schools, making it easier to combat the development of “ghetto schools”.

639. A first measure concerns enrolment on entry into secondary schools, and more particularly the waiting lists drawn up by some establishments. The second concerns taking pupils who have been definitively excluded into account for the purposes of calculating the numbers of pupils under supervision and the subsidies allocated to establishments. The third concerns changes of school. Changing school in the course of a cycle in primary education or during the first cycle in secondary education is now prohibited in order to prevent relegation, failure and pupils dropping out of school.

### Teaching partnerships – Assistance for Young People

640. Pilot projects have been confirmed as part of the arrangements for services for engagement in schools (*services d'accrochage scolaire*, SAS): the Government has approved a plan to recognize 12 services distributed across the whole of the French Community, and an increased level of co-financing by the Directorate-General for Compulsory Education and the Directorate-General for Assistance for Young People has been provided. In 2006, agreements between the French Community and the Brussels and Walloon Regions made it possible to release payroll funding to increase the human resources available for these services. On 15 December 2006, the Parliament of the French Community adopted a decree strengthening arrangements to promote pupil engagement in schools. The decree relates, more particularly, to the operation of the services for engagement in schools (SAS), and various measures concerning the rules governing community life within school establishments. It confirms the number of SAS as 12. It also establishes arrangements for coordination between the Directorate-General for Compulsory Education and the Directorate-General for Assistance for Young People, with a view to establishing a process for cooperation between the two sectors' inspection services and the counsellors for assistance for young people and a protocol governing this collaboration (see annex 11, para. 31). In addition, 10 additional officials have been recruited to the monitoring service for school attendance for the 2007.

### Psycho-medical-social centres (CPMS)

641. The Decree of 14 July 2006 (*available on request*) on the functions of the CPMS places the emphasis on their main activities, including educational and professional guidance (see para. 531 above).

## Combating disengagement, exclusion and violence in schools

642. The Decree of 12 May 2004 (see annex 34) sets in place a system comprising six measures:

- Mediation in schools
- Mobile teams
- An administrative unit to coordinate measures to prevent children dropping out of school and violence
- Training in the prevention and management of crisis situations in school settings
- The creation of the centre for reintegration into school and society (not implemented)
- Arrangements to promote a successful return to school

(Annex 11, para. 31.)

643. The Decree adopted in December 2006 provides for measures to prevent children dropping out of school (see para. 640 above), including the requirement that school heads must notify the Service for Assistance for Young People immediately, on the first day of unjustified absence, in the case of pupils who may be in difficulty or whose health or safety may be at risk. The same applies to pupils whose development is jeopardized as a result of their behaviour or that of their family or associates. Measures specifying the procedures for consultation between the school, CPMS and the Service for Assistance for Young People are also laid down, including where pupils drop out of school or are excluded.

## Introduction of information and communication technology (ITC) in schools

644. The strategic plan governing the integration of information and communication technology into establishments providing compulsory education and improvement courses in the French Community was adopted in July 2002. The strategic plan is composed of 48 measures grouped around four distinct themes.

- Information technology for use in administration
- Information technology for use in teaching
- The exploitation of ITC in teaching methods
- Pupil training

The plan encourages better access for all to information technology and digital culture and contributes to equality of opportunity, to the development of young people and to opening up other cultures to them.

645. The *Cyberclasse* plan, which is the successor to the *Cyberécoles* project, allows all schools in the Walloon Region engaged in education of all kinds to benefit from modern, high-performance information technology equipment. This new plan for equipment is the result of a cooperation agreement, signed in August 2005, between the Walloon Region, the French Community and the German-language Community (see annex 11, para. 32).

## Mastering basic subjects

646. The Decree of 30 June 2006 (*available on request*) aims to improve all pupils' grasp (at the first level of secondary education) of basic subjects (French and mathematics), though clearly with neglecting the acquisition of other knowledge (languages, introduction to artistic, cultural, sporting activities and so on) which is essential for the harmonious and balanced development of the child. To achieve this:



- the standard weekly timetable comprises 28 teaching periods instead of 27, as previously;
- the role and organization of supplementary activities are redefined;
- pupils experiencing difficulty are able to benefit from a programme involving specific remedial or catch-up activities, or activities to restructure the learning they have acquired;
- the decree also retains the option of organizing a specially adapted first-level course designed only for those pupils who are embarking on secondary education without having gained the Certificate of Basic (primary) Studies, and thus have not reached the same level of achievement in these basic subjects.

#### School transport

647. The Walloon Region organizes school transport across the whole of the French-language region for children attending establishments for special needs education, as well as for children attending general education in establishments which are closest to their places of residence but which are not served by public bus services that allow them to get to school. Since 2003, the quality of the service has improved through the introduction of measures designed to improve safety (the implementation of legal provisions providing for a seat for every child carried and for training of support staff) and to reduce journey times (splitting routes, reversing the direction of circuits and assembling pupils at stopping points). In addition, a standing consultation facility allows all those involved to discuss together the problems they encounter (discipline, journey times and support arrangements) in order to arrive at solutions that suit everyone.

#### Linked work and training

648. The Walloon Government launched its Marshall Plan in August 2005. Investment under the plan includes resourcing vocational training and measures to help young job-seekers. The Walloon institute for linked work and training and for the self-employed and small and medium-sized enterprises (IFAPME) plays an important part in this task through its mission of providing linked work and training for businesses. The objective is to broaden the horizons of young people through training, promoting the entrepreneurial spirit and the development of professional competences.

#### Transition between primary, secondary and tertiary education

649. To ease the process of transition between the primary and secondary levels of compulsory education and secure of an uninterrupted educational experience, five pilot schemes have been launched involving primary and secondary teachers working together to ensure that all pupils master the basic skills set (*socle de compétences*) in order to strengthen both the links between the two levels of education and the role of the first stage of secondary education.

#### More coherent organization of the first stage of secondary education

650. In June 2006, the Parliament of the French Community adopted a decree aimed at improving the acquisition of the basic skills set by all pupils from nursery education to the end of the first stage of secondary education. A second decree passed in February 2007 proposes reorganizing the differentiated arrangements for the first stage of secondary education. The aim is to provide a supplementary year, at the conclusion of the first or second standard year, for pupils experiencing learning problems. This ought also to allow all pupils who do not have the Certificate of Basic Studies to acquire it.

#### Special needs teaching

651. The French Community has supported the publication of a good practice guide for the integration of children with a disability into so-called “ordinary” education. In September 2005, the French Community implemented the amendments made by the Decree of 3 March 2004 on the organization of special needs education, aiming for an in-depth reorganization of special-needs vocational education, and abandoning a structure made up of cycles in favour of a three-stage system.

652. Finally, the French Community is supporting three teaching experiments.

- Keeping children initially steered towards type 8 special needs teaching in “ordinary” education;
- Introducing the linked work and training approach into special needs education;
- Creating school structures to assist socialization, so as to deter students from dropping-out of special needs education.

#### A more effective school-family dialogue

653. The quality of the relationship established between school and home is a factor that influences pupils’ success. Within the framework of the Contract for Schools, a first invitation was issued, in March 2006, for the submission of project applications aimed at strengthening school-family ties. Twenty projects were subsequently supported, and were developed in the course of the 2006-2007 school year. The “good practice” thus identified will be circulated to schools generally, including through a website.

654. Rules on parents’ associations will be drawn up in 2008, and will be designed to provide a legal basis for existing parents’ associations, without calling into question the good practices which already exist in some establishments. The preliminary draft of this decree also aims to complement the arrangements for Participation Councils on the basis of better integrating parents into educational matters.

### *b.3 The Government of the German-language Community*

#### Children with specific needs

655. The German-Speaking Community is currently preparing developing a draft decree creating a committee for integration and special needs education and establishing a new procedure for the integration into mainstream schools of children who are in need of an enhanced level of support. A new definition of pupils in need of an enhanced level of support is being prepared and concerns pupils who are enrolled in an ordinary foundation-level school and for whom a support plan has been submitted to and approved by the Government of the German-language Community. The support plan is individually tailored, personal to the pupil in question and sets precise targets for the acquisition of skills. It is re-examined and, if necessary, modified each year. The Inspectorate for Educational Guidance will ensure that the plan is followed up.

656. The draft decree creates a committee for integration and special needs education and a new procedure for the integration into mainstream schools of children who are in need of an enhanced level of support. The committee and the new procedure already exist and are going through a pilot phase. The new procedure operates as follows: first, the need for special educational support must be established through the expertise of a CPMS (psycho-medical-social centre), following which the persons with responsibility for the child’s education decide whether he or she should attend a special school or an ordinary school. In the latter case, the committee must give its opinion on the objectives and measures appropriate to the enhanced level of support required, and also suggests the

resources needed to achieve them. It is on this basis that the committee makes its choice of a special school or an ordinary school. That decision is put to the Minister of Education, who takes final decisions on the allocation of resources to those ordinary schools in which projects for integration are in train or planned (it is possible to appeal against this decision). The head of the ordinary school and the head of the special needs school and a special needs teacher are voting members of the committee for integration and special needs education. The persons responsible for the child's education and, where involved, external advisers and experts have the right to express a consultative opinion. As time goes on, it will become clearer how the decree is working.

#### Introduction of information and communication technology in schools

657. The *Cyberclasse* plan, which is the successor to the *Cyberécoles* project, allows all schools in the Walloon Region engaged in education of all kinds to benefit from modern, high-performance information technology equipment. This new plan for equipment is the result of a cooperation agreement, signed in August 2005, between the Walloon Region, the French Community and the German-language Community (see para. 644 above).

#### Participation at school

658. The head of the school is obliged to make arrangements for pupil representation from the second level of secondary education onwards. Student representatives have a right to be informed and consulted. Arrangements governing the form that the involvement of the student is to take are developed with them within the Education Council and submitted to the organizing authority for decision.

### b.4 Brussels Government and Colleges

#### School transport

659. To help with access for children attending special needs schools in the Brussels-Capital Region, the French Community Commission (COCOF) is responsible for organizing transport for them between home and school.

660. School support workers are employed to provide support on the special routes concerned. The period 2002-2007 saw action to increase the quality of the transport provided, and hence the level of comfort for the child passengers, by increasing the number of routes (from 116 in 2002 to 157 in 2006-2007) in such a way as to reduce the duration of journeys between home and school, and by implementing legal requirements requiring a seat to be provided for each child carried (previously, three children aged under 12 could share two seats) and requiring all special buses to be equipped with seat belts. Training programmes are organized for the school support workers (learning about children and the various types of disability, how to manage conflicts in groups of children and first aid). The Government also organizes regular meetings in schools with the carriers and school managements. Such meetings allow problems (discipline, observance of timetables, etc.) to be jointly addressed and solutions that suit everyone to be identified.

#### Combating disengagement in schools

661. The School Engagement Programme (*Dispositif Accrochage Scolaire*), set up in 2000 by the Brussels Region, provides finance for school projects outside school hours and aims to prevent disengagement: the budget for this programme was increased by a factor of ten between 2002 and 2007, while the number of projects supported has quintupled. A number of these projects refer to the Convention on the Rights of the Child.

662. Under a decree on social cohesion, COCOF supports a large number of homework clubs and school support activities, as well as various voluntary associations offering a wide range of activities for children and adolescents, either throughout the year or during the school holidays.

#### Social cohesion

663. Under a decree on social cohesion, COCOF supports a large number of homework clubs and school support activities, as well as various voluntary associations offering a wide range of activities for children and adolescents either throughout the year or during the school holidays.

#### Sexual and emotional education

664. Planning Centres accredited by the French Community Commission organize educational courses on emotional and sexual life (EVAS). They are organized partly in primary schools and secondary schools for general or vocational education, and also in residential centres run by the youth protection services, in community centres and in centres for children with a disability. The preventive activities of these centres account for 6,404 hours per year in schools, and with young people or adults outside schools. The public involved in these arrangements is aged between 6 and 50 years and may be either of Belgian or foreign origin, or both.

## **B. The aims of education (art. 29)**

### **b. At the level of the federated authorities**

#### *b.1 The Flemish Government*

665. In teaching in the Flemish Region, certain minimum objectives must be attained each year: for primary and secondary education, objectives are final (attainment-based), while for nursery and special needs education they are developmental. They provide a guarantee of teaching quality. The list of final objectives for primary and secondary education is at annex 13, and not only human rights, but also the rights of the child are explicitly included. See the commentary on human rights education (para. 93 above and annex 6, para. 42) for examples of how racism and tolerance are dealt with both explicitly and implicitly.

666. Final objectives are useful for the authorities because they provide a good yardstick of quality, for example allowing the inspection service to assess the efforts of schools. They can also be used in checking children's knowledge when they leave the primary cycle. Since last year, there has been a procedure for monitoring and inspecting final objectives in Flemish schools, and school inspection arrangements cover all specific final objectives. In secondary-school teaching, the scope of monitoring includes the school's efforts to give positive expression both to the rights of the child and to human rights within the establishment and to ensure that they are respected. In primary-school teaching, the school itself monitors pupils and their knowledge of their rights, since schools themselves have an obligation to deliver results. A scientific study is also in progress which aims to evaluate these interdisciplinary final objectives and to demonstrate their social relevance. The results of this study should be available in a year from now and should allow final objectives to be more specifically defined. The developmental and final objectives are amended taking account of developments in society. In Flanders, the issue is examined using surveys, so that a number of tests are carried out on a representative sample of children, and not on all children. Information from the results allows either the objectives, whether final or developmental, to be adjusted, or learning and teaching practices to be modified, or both. A

scientific study is also in hand to evaluate the final and developmental objectives, and there is assistance for schools in implementing them. Final and developmental objectives are amended in the light of developments in society.

667. From September 2007, the rights of the child are also being taken into account in teacher training (see <http://www.ond.vlaanderen.be/nieuws/2007p/0420-basiscompetenties.htm>).

668. Health education has already been addressed (see: [www.gezondopschool.be](http://www.gezondopschool.be)). Various initiatives are also being taken in the teaching of nature studies and environmental education (see art. 29(1)(e) of the Convention). The project being carried out by the Flemish Government, five Flemish provinces and the Flemish Community Commission on “Concern for the Environment at School” (*souci de l’environnement à l’école*) ([www.milieu Zorgopschool.be](http://www.milieu Zorgopschool.be)) should also be mentioned. Since its launch, more than 2,900 schools, representing 57 per cent of Flemish schools, have signed up to take part (see annex 6, para. 41).

## *b.2 Governments of the French Community and the Walloon Region*

### *In the French Community*

#### Intercultural education

669. A charter for partnership between the French Community, Greece, Italy, Morocco, Portugal and Turkey, renewed in 2001 and covering the period from 2001-2005, is designed to strengthen intercultural education. For the year 2004-2005, under the “Intercultural Education” project, about 40 schools ran an LCO (“original languages and culture”) project (see annex 11 para. 8). These charters were signed by the Minister-President of the French Community and the partner countries.

#### Education and equal opportunities

670. Within the French Community, the Directorate for Equal Opportunities devotes a large part of its budget to the voluntary sector for innovative projects on equal opportunities. These deal for example with: preventing violence in relationships between young people, combating sexist stereotypes and preventing female genital mutilation. Some of these activities take place in secondary schools in the French Community. More details of these projects are available on the website of the Directorate for Equal Opportunities (annex 11, para. 33).

#### The development of education in citizenship

671. In January 2007, the Parliament of the French Community adopted a Decree on education in citizenship and the raising of pupils’ awareness of the contribution that active and responsible citizenship can make towards a better understanding of society. It provides for the following.

- The creation and distribution of a summary document entitled “*Being a Citizen, Becoming a Citizen*” (*Etre et devenir citoyen*) designed to help pupils acquire a framework of reference for understanding civil and political aspects of society;
- The development of interdisciplinary projects linked to citizenship in all general and special needs primary and secondary schools and in each cycle or level of education;
- The creation and recognition, as a standard arrangement, of structures for pupil representation (class delegates and pupil councils) in the fifth and sixth years of primary education and in secondary education.

*In the Walloon Region*

## Non-formal education

672. The initiative “*Été solidaire, je suis partenaire*” (“Inclusive Summer, count me in”) gives the young people who take part a real learning experience about citizenship. With the support of three different departments, the initiative allows municipalities, public social assistance centres (CPAS), public service housing providers and regional psychiatric hospitals to hire young people on student contracts, during July and August, to perform small tasks in their immediate environment. The aim is to help young people to learn about citizenship and build bridges between the generations, while at the same time providing a first experience of paid work. The initiative is intended for young people aged between 15 and 21 from the neighbourhoods in which the work takes place. They earn hourly net pay of at least €5, and each team of at least four is supervised by an experienced person over the age of 25. These activities are designed to involve young people in appreciating, improving and enhancing the attractiveness of their neighbourhood and environment, and to develop a sense of citizenship and inclusive attitudes towards people who are disadvantaged or in difficulty (the elderly, those with disabilities or in straitened circumstances, etc). As a result, in addition to their immediate practical value, the projects help to create links between young people and citizens generally, and their perceptions of one another are bound to be enriched, as contacts are made and work delivered. “*Été solidaire*” provides an invaluable first experience of work for many of the young people who are taken on, and is also genuinely about an introduction to citizenship.

## Environmental education

673. For nature studies and environmental education, the Walloon Region is taking forward an active approach under the general heading of “Education on the Environment” (*Education relative à l’Environnement*, ErE). To equip itself with an effective tool for the provision of education on the environment, the Walloon Region has created the Network of Regional Centres for Learning about the Environment (*Réseau de Centres régionaux d’Initiation à l’Environnement* or CRIE).

674. They provide a public service offering information, awareness-raising and training in relation to the environment from the point of view of sustainable development. The CRIE are distributed throughout the Walloon Region to be close to citizens; their activities are aimed at schools, from the nursery level onwards.

*b.3 Government of the German-language Community*

## Formal education

675. The objective of all primary and secondary schools is to transmit skills, and to allow all pupils to acquire as many as possible. The ways in which studies are organized and the forms that training are different, but equivalent, means to this end. They are available to boys and girls equally, without exception. Each organizing authority prepares or adopts a plan of activity for its nursery sector. For primary and secondary schools, each authority prepares or adopts curriculums or programmes of courses for each discipline or subject area and for each level. Additional skills also feature as objectives in the various course programmes.

676. In addition, each school run or subsidized by the German-language Community is obliged to carry out a mission entrusted to it by society. This takes the form of pursuing general objectives in all courses and other educational activities: all teaching or training activities are compulsorily based on respect for human rights. Schools contribute to the process through which their pupils mature. They foster equality of opportunity and teach

pupils to recognize that everyone else has the same right to self-fulfilment and self-determination. Pupils relations with each other must be organized on the principles of justice, inclusion, tolerance and equality between the sexes. Schools teach respect for other people and responsible behaviour in relation to the environment and nature. Schools have a mission to develop, in all pupils, a sense of the common good and of basic democratic practices. They teach pupils openness to culture and science and respect for the religious and ideological views of others.

#### Non-formal education

677. Non-formal education also needs to be considered. It has a logical relationship with the rights of the child, because it allows children and young people to experience situations that promote their personal development. Non-formal education puts young people in the position of active participants in social and cultural life, by giving them responsibility and scope for initiative in the context of constructive projects.

- The Government of the German-language Community organized the Benelux “Action and Discovery” seminar on non-formal education, held from 16 to 18 November 2005 (the final report is on the website [www.dglive.be/regierungserklaerung](http://www.dglive.be/regierungserklaerung)). The aim of this seminar, which was aimed at young people as well as at educationalists, experts and officials of the ministries dealing with youth in the five Benelux communities (the three Communities of Belgium, Luxembourg and the Netherlands), was to analyse the specific characteristics of non-formal education with the help of practical examples of projects for young people, and to define criteria for assessing the quality, and conditions for ensuring the success, of young people’s engagement (*available on request*).
- Measure No. 62 of the Government of the German-language Community (*available on request*) is intended to support the training of young voluntary group leaders in order to foster their engagement and develop their individual capacities. This training was proposed by the Youth Council of the German-language Community and accepted by the Ministry of the German-speaking Community, and is for young people from the age of 16. In the light of demand among young people for earlier involvement, pre-training was organized in 2006 for young people from the age 15.

#### b.4 Brussels Government and Colleges

##### Sexual and emotional education

678. See para. 664 above.

##### Environmental education

679. Between 2003 and 2007, awareness-raising about the sorting of waste, in connection with respect for the natural environment, was provided in more than 1,100 classes, catering for about 25,000 children and adolescents. More than 410 visits for those aged 14 and over were organized for schools to give children the opportunity to find out for themselves about the waste cycle and the impact of waste-sorting on the environment. The following initiatives have taken place on this subject.

680. During 2003, Bruxelles-Propreté (the Capital Region’s waste and environmental services agency) ran a schools campaign in collaboration with Fost+ (a private organization accredited by the Belgian authorities to promote, coordinate and finance recycling). For the first time, all primary and secondary schools received a pack containing documentation, posters, suggestions for group activities and advice about how to organize waste sorting,

etc. The aim of the pack was to make recommendations about sorting in schools and to spread information widely through visual material specially developed for schools and pupils. Schools which wished to do so could order supplementary material: posters, booklets, stickers and group activities and visits organized by Bruxelles-Propreté on the subject of sorting and recycling. The initiative ended with a competition, in which the schools which had achieved the best results through group work, initiatives and collecting activities received a cash prize to spend on teaching material of their choice.

681. “Operation Quality” also took place in schools in the Brussels Region, aimed at improving the quality of the sorting of waste presented for collection. More than 316 schools received visits to raise the awareness of their managements and maintenance services. Measures [included] group activities (157 classes), visits to sorting centres, composting centres and waste centres (123 school visits), distributions of documentation (19,800 copies).

682. In 2006 and 2007, a pilot project was also launched in French-language primary schools as a result of active collaboration between the French Community and the Brussels Region.

683. The project was divided into two parts. In one, information and organized group sessions were offered to all schools in Brussels. In the other, about 20 schools took part in a programme of activities called “Défi du Tri” (sorting challenge): This was a way of encouraging a better standard of sorting and inducing pupils and the teaching staff to take responsibility, and included periodic assessments of sorting. The results of the assessments, turned into graphics, allowed everyone involved in the school to know at any time what progress had been made, and draw constructive conclusions

#### Education about the heritage

684. Three separate initiatives have been carried out in the Brussels Region to raise the awareness of children and young people about their heritage, developing their sense of citizenship in the process.

- *Heritage classes* are provided for participants from ten to 18-year-olds from the vocational, technical and general courses in French-language and Dutch-language schools in the region. The aim of Heritage Classes is to awaken children and young people to their heritage and give them a sense of citizenship through “discovery days”. The development of a sense of collective belonging to neighbourhood and city, and a sense of responsibility towards heritage and environment, produces an imperceptible transition from mere inhabitant to citizen. The activities are free and provision is large enough to allow 2,165 French-language and 710 Dutch-speaking pupils to take part. Under this initiative a total of 123 one-day group sessions involving 85 primary and 38 secondary classes and 2,460 pupils will be made available in the course of the 2007-2008 school year.
- “*Heritage Mondays*” are a fun way for young people, as the future protectors of our heritage, to find out about it. The activities it offers are for children in the last two years of primary school and all levels of secondary education. Group activities specially devised for young people are given preference over traditional visits to particular places. In line with this, almost 30 group sessions have been organized to allow pupils from Brussels to get to know their heritage linked with light and lighting. The group sessions take the form of bike or bus circuits, exhibitions, games, treasure-hunts, rambles, interactive rallies or discovery-visits. In 2006, about 2,500 pupils from about 50 Brussels schools of all categories took part in the second series of “Mondays”.



- *When heritage takes off (Quand le patrimoine s'emballe)*. This project aims to make the youngest aware of various aspects of heritage by exploring remarkable buildings on which works are in hand. The first pilot took place in late 2006 based around the restoration of the Church of Our Lady of Sablon. This project, set up by the voluntary association "Festival of Childhood and Youth", with collaboration on the Dutch-language component from the not-for-profit organization "*Beeldenstorm*", gave children from Brussels the opportunity to decorate the tarpaulins covering the scaffolding around one of the iconic landmarks of the city, the *Porte de Hal* (a fortified mediaeval city gate). The experiment, involving five fifth year primary classes from five Brussels schools, was interesting at several levels. Children were made aware of the different aspects of the heritage: its architecture, its development over time, its integration into the city and the craft skills involved.

### **C. Rest, leisure, play, cultural life and the arts (art. 31)**

#### **a. At federal level**

685. Starting from the principle that article 31 of the Convention also contains a protective element, the following measures may be mentioned here:

- Efforts to resolve the problems linked to playground safety: (a) revision of the guide to "Playground safety" (several adjustments in the light of the current state of technology); (b) preparation of an international course on "Playground safety for inspectors"; and (c) the creation of a consultation body within the Consumer Safety Commission (CSC);
- The ban, introduced in 2006 in the wake of the European legislation, on the use of certain phthalates in articles intended for children (Royal Decree of 6 July 2006 amending the Royal Decree of 25 February 1996 restricting the marketing and use of certain hazardous substances and preparations (*available on request*);
- Practical information designed for producers and consumers concerning the safety of certain products and services: safety guide to "[inline] skating" and "pocket bikes" (see para. 442 above).

#### **b. At the level of the federated authorities**

##### *b.1 Flemish Government*

Socio-cultural activities to benefit children

686. The decrees that apply in the youth organizations sector guarantee the structural development of and support for many youth organizations that offer children and young people attractive leisure activities. The latter also use the existing organizations as a basis for constant renewal, to reach as many children as possible and attract attention to extend, if possible, the target group. But the challenge is to offer leisure activities that are appropriate for all children and young people so that the so-called "difficult" target groups are also brought in. The incentive here is provided by chapter VIII of the Decree on Flemish youth policy (see annex 5) which gives subsidies to youth organizations to enable them to launch experimental initiatives; the initiatives must respond to the new developments and new requirements expressed both within the youth organization and by young people more generally. They must be innovative in terms of the method used or content. Chapter VIII of the Decree on Flemish youth policy, on youth culture, offers a further opportunity for activities involving self-expression: this may take the form of subsidy to educational youth associations in the arts or for the artistic projects of young people and associations that are

carrying out a project or involved in the production of art. The ever-increasing number of youth self-organizations in the youth organizations sector is a remarkable development here. The youth organization has always been an example of the way in which children and young people manage their spare time —self-organizing “before the term was invented”— but this genuine opening up towards non-native types of youth organization and youth organizations directed towards a specific target group is a recent development. The Antwerp Platform for young people who are not of Belgian descent has set itself up as an experimental youth organization and taken an innovative approach, particularly in relation to framework definition. Unfortunately, young people have been unable to extend this initiative to the rest of Flanders. On the other hand, associations of mosques, for example, have, in the meantime, been subsidized under the local policy plans for young people.

#### Equality of opportunity

687. As set out in the above paragraph, Flanders has tried to promote equality of opportunity in relation to leisure and holidays. For example, the Flemish Government was also insistent that the financial threshold for participation in leisure activities should be brought down for less affluent parents, and that the tax deduction (a matter of federal competence) for childcare in all leisure activities, including youth organizations, should be extended. The Youth Section made sure that the relevant youth sector was properly informed. See also para. 6922 below.

#### Learning about heritage

688. Many establishments and projects for children and young people have been subsidized under the Decree on the arts of 2 April 2004 (annex 6, para. 43). For instance, many theatres, for which young people are a specific target group, benefit from a structural or project-specific subsidy.

689. In addition, many museums have, in recent years, been working to educate children and young people. The Flemish Government encourages initiatives through subsidies awarded for projects. As part of its policy on heritage, the Flemish Government concludes heritage protocols (*protocoles patrimoniaux*) with the local authorities to place special emphasis on the fact that heritage is here and now. In that regard, the project specifically [targets] young people.

690. Finally, there is a constant focus on learning to read. In that context, young people are a priority target group in terms of subsidizing projects carried out in the sector and the activities run by the *Stichting Lezen Vlaanderen* (Reading in Flanders Foundation) (young people’s book week and reading week, etc.).

#### Sport

691. Various surveys and research have shown that almost all Flemish children and young people are interested in sport, but only six in ten children regularly take part in it. There are a variety of reasons for this: lack of infrastructure, poor organization, etc. It also appears that children with little schooling are less keen on taking part in sports. Starting from the principle that participation in sports should be expanded as far as possible (both recreational sport and sport in clubs), the Flemish Government has developed measures to improve the situation. Between 2000 and 2004, the “*Contract Jeugdsport*” (Youth sports contract) was organized annually. The aim was to increase the involvement in sports of young people between the ages of 6 and 18 who had little or no involvement in sports, and to make local actors aware of their responsibilities by concluding local cooperation contracts between schools, sports clubs and the municipal authority. An annual sum of between €1,115,000 and €2,400,000 is set aside for this.

692. Since 2001, the “*Buurtsport*” campaign (sports outreach programme) has made it possible to encourage recreational sport for children and young people at home and in their lives, with a particular emphasis on young people who are not particularly sports-minded. An annual sum of €100,000 is set aside for this. The new decree on local sports policy, which was drafted in 2006, also pays special attention (covering at least 20 per cent of the municipal sports policy plan) to “sports organized differently”, and the sports outreach programme is a classic example.

693. Schools are also working to encourage large numbers of young people to engage in sport both inside and outside school. The project “Flexible assignments for physical education teachers” (*Missions flexibles des enseignants pour l’éducation physique*) (since 2001 with a budget of +/- €400,000) and the creation of a Flemish Centre for Sport in Schools (2006) have provided the resources for this.

694. In 2004, Flemish Youth Olympics were held following the Athens Olympic Games. The aim was to encourage young people to take part in sport, and the project was able to reach 77,212 young people between the ages of 10 and 14.

695. By organizing a symposium on “Sport tailored to young people” (June 2006), developing a website on the subject [www.sportopjongerenmaat.be](http://www.sportopjongerenmaat.be) and publishing a booklet, the Flemish Government lent its support, in 2006, to the Panathlon Declaration on Ethics in Youth Sports. Sports associations and clubs were invited to sign the Declaration and to draw on the different practical examples provided on the website. The Flemish Government also wishes to establish a legal basis for “ethical sports”, and it goes without saying that the Panathlon principles must be included. Negotiations are currently well under way to determine whether a new decree is needed or an order would be better or, indeed, whether another instrument will be used. The 2004 amendment to the Decree on healthy engagement in sport has already been taken up in relation to article 12. The Flemish Government is currently preparing modifications to the decree. A child impact report (see para. 29 above) has been drawn up and advice has also been sought from the Commissioner for the Rights of the Child.

#### Extended school

696. In late 2006, the Flemish Government put forward the concept of the Extended School. This amply demonstrates the Flemish Government’s intention to work towards a sectional youth policy: the policy areas of education, culture, sports, young people (and youth organizations) and welfare have been and are involved. The aim of the Extended School is to work, along with the Government and actors in the youth, culture and sports sectors, towards the development, in the broad sense of the term, of all children and young people, by creating or supporting a broad range of life experiences, by setting in place a vast network involving the different sectors (youth organizations, care, welfare, schools, etc.). Three key words are crucial here to offer added value to children and young people, parents, the organizations involved and the immediate general environment: diversity, connection and participation. In the context of the Extended School, particular and constant attention has been paid to disadvantaged groups and those who have dropped out of school. However, other factors have also been taken into consideration: the starting point is that of all children and young people (as both groups and individuals) are unique. In 2006, both the Minister of Education and the Minister of Culture, Youth and Sport freed up resources (totalling €450,000) to develop a number of experimental projects (systematically lasting for three years).

*b.2 Governments of the French Community and the Walloon Region*

## Culture and education

697. In March 2006, the Parliament of the French Community adopted a new decree covering both education and culture. The decree strengthens the links between school and culture, and encourages artists, cultural institutions and associations, as well as partner establishments providing part-time secondary education in the arts, to engage actively with schools. The measures provided for make it possible to continue activities which have proved their worth, while encouraging the creation of new initiatives. The decree provides for a number of further initiatives:

- a single information point operated by the Culture-Education Unit brings together all of the projects that have gained a seal of approval on the basis of the criteria suggested by the Consultation Council, guiding both schools in their choice of structure for developing cultural project with and cultural players themselves;
- a Culture-Education exchange designed to bring teachers and artists together;
- several methods of awarding subsidies, all of them subject to common standards of artistic and educational quality.

## Art in day nurseries

698. The Birth and Childhood Office's (ONE's) first management contract (2003-2005) stipulates that the "art in day nurseries" programme is to be continued by developing a partnership with approved operators. The idea is to offer a familiarization session at every public care facility, adjusting contributions to the cost to reflect the financial capacity of the individual care facility. The same objective is being pursued in 2006 and 2007, allowing all young children to benefit from this introduction to culture.

## Children's reading corner

699. Assistants can, if they wish, set up a reading corner, in the context of ONE consultations. As of 2004, the three-year training programme adopted by the Government of the French Community has included training modules for activity leaders as part of the "reading corner" initiative. A reading kit comprising a chest of more than 80 children's books, selected in consultation with the League of Families, a quilt and cushions provide support.

## After-school care

700. It has become very often difficult for parents to reconcile their working life and their own aspirations with their children's school hours and free time. As a result, caring for children during their free time has become a real challenge for society and a matter of concern for the French Community: parents must be guaranteed quality care for their children, ensuring their well-being and development outside school or the home. A series of pilot schemes have been carried out, from 1999. The initial assessments of these schemes flagged up the need for coordination and project assistance.

## In the French Community

701. The Decree of 3 July 2003 (*available on request*) responds to these requirements by directly supporting care projects and establishing a municipal care commission that brings together all of the players involved. The purpose of the decree is to encourage and not to impose, with each remaining free to opt in or out. It provides for and organizes:

- consultation at municipal level between the different actors;

- the drafting of a “free-time care” action programme, called the “CLE (local children’s coordination) programme”;
- the training of assistants and project leaders;
- funding at the after-school care location.

702. The decree took effect on 1 January 2004, and 199 of the total of 271 municipalities have signed up to it, covering more than 80 per cent of children between the ages of 3 and 12 in the French Community. In 2007, the number of approved CLE programmes was 195 (see annex 11, para. 34).

#### In the Walloon Region

703. Arrangements have been set in place to improve the care of children between the ages of 2-and-a-half and 12 outside compulsory school hours. The initiative, called the after-school initiative (AES), backs up the French Community’s initiatives. It has thus been agreed that the Region will support the municipalities by subsidizing facilities and running costs for after-school children’s care projects (AES-ATL), in consultation with the French Community and in compliance with the criteria that have been jointly determined (see annex 28, para. 2).

#### Youth centres, meeting and accommodation centres and youth information centres

704. The Decree of 3 March 2004 (*available on request*) allocates additional resources for running youth centres (gradual increase in the running costs’ subsidy, additional youth worker, etc; on that basis, 185 youth centres were approved and subsidized in 2007). The decree also introduces support for new arrangements: permanent assistance for young people to express themselves and be creative and innovative projects on citizenship and keeping young people informed. The special arrangements for youth centres have been activated, making it possible to pay additional staff in the context of the “partnership-information”, “decentralization”, “assistance for creation and expression” and “equal opportunities” programmes, and this has enabled a specific target public to be taken into account.

#### Youth organizations

705. The Decree of 19 May 2004 (*available on request*) implements new provisions in response to the way in which the youth organizations’ sector has developed. As a result, in 2007, 83 youth organizations were supported. Flat-rate subsidies may be awarded for new initiatives; these are pilot schemes carried out, in whole or in part, by young people, and, if the activity in question does not fall directly within the remit of youth organizations, the objectives are consistent youth organization objectives. The Observatory for Cultural Policies and the Observatory on Children, Young People and Youth Welfare (OEJAJ), were tasked, in consultation with the Youth Service and the Culture Inspectorate, with evaluating the current decree together with the sector, and producing recommendations with a view to preparing a new decree (see annex 11, para. 35). The recommendations have resulted in negotiations that will produce a decree in 2008.

706. Furthermore, under the Marshall Plan, and to promote links between young people and the world of work, 70 new youth worker posts, subsidized by the Walloon Region, have just been allocated to youth organizations, prioritizing those located in priority districts.

#### Homework clubs

707. Homework clubs have an essential and original function in relation to childcare. They provide a care structure for children and young people between the ages of 6 and 18, independently of educational establishments; and, outside school hours, on the basis of a work plan and an action plan, they provide educational and cultural support for learning and the development of citizenship. It is worth mentioning that homework clubs were awaiting recognition and structural funding from the French Community. The Decree of 28 April 2004 (*available on request*) and the implementing order of 25 June 2004 (*available on request*) meet that requirement (see annex 11, para. 37).

#### Holiday centres

708. The legislation on holiday facilities (holiday centres and camps) was revised by order of the Government of the French Community of 17 March 2004 (*available on request*). Some improvements have been made to the earlier provisions adopted in 2001 (approval procedure, etc.). Moreover, in the Walloon Region, the Regional Centres for Learning about the Environment host children attending courses to get to know about nature and the environment (see para. 673 above).

#### Sport

##### In the French Community

709. Many measures are taken to encourage sports, both for children specifically and for children on the same basis as adults:

- Under the Decree of 27 February 2003 (*available on request*), a local sports centre or local integrated sports centre can obtain [official] recognition only if it encourage “sports in all its forms without discrimination”.
- Every year, thousands of children are given the opportunity of taking part in quality sports activities, from the age of 3. The activities are many and varied: residential and non-residential holiday courses, sports days and part-time courses during the school year for nursery, primary and secondary school children, regardless of stream, sports training organized during the school year on Wednesday afternoons and at weekends, activities organized by “Sports for All” (*Sport pour tous*) of the Directorate for Physical Education, Sports and Outdoor Living, ADEPS, etc. All of these activities are offered at affordable prices to enable all children, from all socio-economic groups, to learn about taking part in sports. There are also special rates for enrolment in ADEPS courses for large families.
- The Community subsidizes the “Sports” component of the “Young People’s Summer” (*Été jeunes*) programme. The programme is designed as a tool to prevent social and cultural exclusion by bringing young people into a network of new social relationships and getting them to share positive experiences through sport. It is designed to encourage young people to engage in sport and discover and experience its values, encouraging them to join a team or group of young sportsmen and women. Respect for other participants and the rules of the game, team spirit and a sense of achievement, among others, are the programme’s objectives.
- The Fund for the Promotion of Policy on Immigrants (*Fonds d’Impulsion à la Politique des Immigrés*, FIPI) encourages initiatives in “priority action” zones for the purpose, among other things, of building or renovating sports infrastructure.
- The Decree of 12 May 2004 (*available on request*) lays down the conditions governing subsidies for the organization of sports activities within the district. The

decree seeks to make sport a vehicle for social integration, by making it possible to subsidize activity programmes designed to encourage participation in sports at district level and developed by the municipalities, the public social welfare centres, local sports centres, recognized youth centres and organizations, approved holiday centres and approved community support agencies. Consequently, a very broad range of children are able to take part in sports in a district sports facility.

- The Decree of 30 June 2006 (annex 36) provides for “sports vouchers” (*chèque sport*) designed to encourage the integration of socio-economically vulnerable young people into sports structures in the French Community. Children whose parents are clients, in the broad sense, of the French Community’s public social welfare centres are able to obtain these vouchers, which are funded in equal amounts by the French Community and the federal State. The vouchers cut the cost to parents of a child’s membership of a sports club or of enrolment on a sports course.
- The sports-related measures of the “Plan to Encourage Healthy Attitudes” (*Plan de Promotion des Attitudes Saines*) use regular physical activity to encourage young people’s physical and psychological development, thereby providing them with a source of well-being.
- The Decree of 3 July 2003 organizing psychomotor activities in ordinary nursery schools awards subsidies for support and the purchase of equipment for psychomotor activities in educational establishments.
- “First Year Sports” (*Classe six sportive*): since the 2005-2006 school year, this activity has enabled 11 and 12-year-olds to take part in sport, inside and outside school, on the basis of a programme developed by the services of the Directorate-General for Sport. The initiative is designed to make pupils aware of the benefits of taking part regularly in sports, by enabling them to pit themselves, in sports, against their counterparts from other schools.
- Doubling the time allotted to sport in schools – pilot schemes: since the beginning of the 2005 school year, a pilot scheme has been under way in some primary schools, in all streams, to encourage physical activity among young people. The aim is to double to time allotted to sport weekly. Eleven establishments are taking part. Two studies on the physical and motivational aspects have been commissioned to measure both the psychological development and changes in the attitude to work of young people taking part in the pilot scheme.

#### In the Walloon Region

710. The “street sport” initiative is designed to increase the number of open air facilities that enable young and not-so-young to take part in sports in their districts. It also encourages the different generations to come together. The programme enables the municipalities and social housing providers to obtain a subsidy from the Walloon Region to make certain types of public-interest investment in sports facilities and, more particularly, covered and open multi-sports complexes to which leisure facilities may be added (“*pétanque*”[bowls] pitches, playgrounds, roller-skating rink, etc.). The facilities must be part of a local community project that is accessible to everyone, and are designed to encourage participation in sports and all recreational activities that foster sport. The municipality must demonstrate that the project tackles the problems that exist and the social objectives that are being pursued and is backed by the necessary resources to encourage integration into the life of the community. A support committee ensure that the objectives are met.

711. The small-scale community facilities for districts (*petites infrastructures sociales de quartier*, PISQ) have been set in place: this is a programme that targets neighbourhood

centres and play areas as means of socializing and empowering young people. The aim is to breathe new life into districts and encourage different generations and cultures to come together (see 28, para. 1).

*b.4 Brussels Government and Colleges*

Culture and education

712. Since 2000, the French Community Commission (COCOF) has been funding partnership projects between schools and socio-cultural associations during schools hours. Funding has been substantially increased since 2006 (+ 44 per cent), and the number of projects supported has practically doubled.

Cultural activities for children with a disability

713. COCOF is supporting two training projects for activity workers for children with a disability, one involving scouts and the other leisure time care. It also supports sports activities (*Oxygène*), games (LUAPE), activities to encourage self-expression (*Créaction*), and performance activities (*Handicirque*).

Sport

714. COCOF supports various activities to encourage sport and physical activity in the Brussels Region. This takes the form of funding for various tournaments (football, athletics, judo, table tennis, etc.), as well as the implementation of “experience sport” programmes in collaboration with sports centres, schools, sports associations and school sports federations. Projects to raise awareness of racism in sport have also been set under way. COCOF also supports about a hundred sports associations in Brussels, in terms of their running costs and, more particularly, support for young sportsmen and women.

## **D. The difficulties and future objectives**

Free education

715. The National Commission on the Rights of the Child (NCRC) has reviewed the existence and application of the principle of free education, as a key principle giving access to education. It would appear that education is not absolutely free and that application of the principle is relative. Given that article 28(a) of the Convention explicitly states that primary education must be available free to all, Belgium undertakes to do all it can to implement that provision and establish genuinely free primary education, taking into account the exceptions to the principle that the United Nations Committee on the Rights of the Child accepts (parents asked to contribute to the costs of extramural activities and uniforms, provided that the contribution is reasonable and support arrangements are set in place).

While the NCRC stresses the importance of achieving free general education (see art. 28 of the Convention), it also stresses the need to integrate into mainstream education, by setting in place support arrangements, pupils with learning difficulties or who need other forms of support. The governments concerned undertake to step up their efforts in this field.

Supporting parents

716. In terms of helping parents as they fulfil their responsibility of supporting their children through school, the NCRC notes that there needs to be greater emphasis on communicating with students’ parents, as well as supporting them in fulfilling their responsibilities. Consequently, there will be a particular focus on encouraging the



School-Families Dialogue with a view to improving support for children as they progress through school.

#### Students with special needs

717. As regards the right to education tailored to needs, it still too often happens that as a result of a lack of support at or outside school (subsidized or provided by the family where there are adequate financial resources), some children are channelled into specialist education (or kept in that system) even though they could stay (or be reintegrated) into mainstream schools.

718. The programmes that already exist will be extended or expanded. There will continue to be an emphasis on the possibility of providing specialist assistance at or outside school, thus enabling all children to have the support they need for their educational and intellectual development in a system that is genuinely apt to their needs.

719. As regards additional support at school, particular attention will be paid to negative side-effects, as problems at school may compound the child's difficulties, making it more likely that he or she will be channelled towards specialist education. The authorities monitor whether schools are striving for and guaranteeing equality of opportunity in education for all students.

720. In the case of students with a disability, schools will consider the possibility of making adjustments to their physical environment to encourage the free choice of school for students with a disability. Attention will continue to be paid to a school environment founded on inclusion. The government is taking initiatives in this area, for instance, greater information, greater advocacy of and support for teachers and students, particularly on the basis of exchange projects and the views of children with a disability in relation to good practices.

#### Education in the rights of the child

721. The competent authorities will ensure that the rights of the child are laid down as the ultimate mandatory goal of education (minimum objective) within the education system, as already happens at some levels of government.

722. The competent authorities will take the measures necessary to improve support to teachers for the attainment of this minimum objective. The rights of the child must be discussed at least implicitly in classes. The ministers responsible will do what is needed to make additional appropriate teaching materials on the rights of the child available to basic and secondary education establishments and the teaching departments of teacher-training colleges. If necessary, they will enlist the help of specialist organizations to do this.

723. The competent authorities will ensure that the rights of the child are always included in the training given to future teachers, as already happens at some levels of administration.

#### Recreation and holidays for children in poverty

724. As regards the right to recreation and holidays, it would seem that many children continue to be deprived of recreation and holidays because of their family's straitened financial circumstances. Some children are excluded from recreational activities simply because theirs is a family in insecurity.

725. Consequently, a more resolute effort will be devoted to respecting the right to free time and recreation (art.31 of the Convention), as well as the right to development (art. 6 of the Convention) for children from poor families.

726. Training and awareness-raising initiatives will be arranged so that professionals and managers working in the recreation and leisure sectors understand that this right exists and that it must be guaranteed to all children, whether or not in poverty, and are informed of the resources that enable them to reach citizens in poverty. The provision of information to the target group will also be organized and encouraged.

## **VIII. Special protection measures**

727. In regard to this section, the measures taken in response to the concluding observations of the Committee on the Rights of the Child following the submission of Belgium's last periodic report are set out in paragraphs 7288-9, 7922-800, 8011-8122 and 8344-8466.

### **A. Children in crisis**

#### **(i) Refugee children (art. 22)**

##### **a. At federal level**

##### *a.1 Guardianship Service and guardians*

###### *Guardianship service*

728. The Guardianship Service was established on 1 May 2004, it was cited in the programme law of 24 December 2002, amended by the programme law of 27 December 2004 (see annex 37). The aim is to provide (legal) assistance to all unaccompanied minors in Belgium, by appointing each of them a guardian. The Guardianship Service operates within the FPS Justice and has the following responsibilities:

- to identify minors and determine whether the minor in question meets the legal requirements to benefit from the protection scheme;
- if so, to appoint the minor a guardian to represent him or her in regard to all legal acts and the procedures provided for under the legislation on access to the territory, residence, establishment and the removal of foreigners, and coordinate contacts with the authorities responsible for asylum and residence in regard to care and accommodation;
- approve guardians to secure the representations of minors, coordinate and supervise the practical arrangements for guardians;
- ensure that a sustainable solution, in the young person's best interests, is sought.

729. Given the scale of these responsibilities, the Guardianship Service has the staff and resources it needs to function at optimal level 24/7. It has 19 staff members.

730. The activities of the Guardianship Service comprise two stages: caring for minors until a guardian is appointed and monitoring the guardianship process.

731. The system of caring for non-accompanied foreign minors comprises two stages: establishing identity and coordinating contacts with the authorities responsible for care and accommodation, including the Agency for the Reception of Asylum-seekers (FEDASIL) for the provision of emergency accommodation and the youth welfare services at the level of the Communities and the Regions. Identification involves confirming the criteria for access to guardianship: the individual must be less than 18, not be accompanied by someone with parental or guardianship authority, come from outside the European

Economic Area and either have applied for asylum or have failed to meet the conditions for access and residence in Belgium. In addition to interviews for the purpose of identification, about 30 medical tests have been carried out monthly to confirm the age of individuals in regard to whom doubt remains following a review of statements and other information in the case-file. Furthermore, in conjunction with FEDASIL, a duty office was set up in September 2004, and has been up and running for some time now within the emergency care centre, to speed up the processing of foreign minors.

732. The second stage, involving the organization and monitoring of guardianship, is more of a second-line activity, with the guardians themselves in the front line, working with the other social welfare agencies. This second stage involves the day-to-day administrative supervision of the guardians' work: mainly, recruiting, pre-selecting, approving and training guardians, paying both them and interpreters and processing the social welfare reports they produce on the minors. It also involves coordinating with the services of the Aliens Office, the Commissariat for Refugees and Stateless Persons, the Federal Public Planning Service Social Integration, the Communities and Regions, and all associations working in the field. For example, monthly consultations are held with the authorities responsible for issues of asylum and access in order to resolve disputes.

#### Guardians

733. A guardian must perform the following tasks: assist the minor throughout all stages of the residence procedure, monitor care and school attendance, ensure that health care and psychological support are provided and act on the minor's behalf in dealings with the bodies responsible for asylum-seeking and immigration. The guardian must also submit to the Aliens Office a proposal for a sustainable solution.

734. Guardians are trained and supervised by the Guardianship Service, and observance of the rights of the child is a priority in that regard.

735. As well as the basic training that each guardian is given before being first appointed, the Guardianship Service, working with the relevant federal authorities and the non-governmental organizations active in the sector, has organized the annual in-service training provided for in the statutory requirements for guardians, including, in 2006 in particular, feedback sessions.

736. In 2006, the Guardianship Service offered guardians who had cared for many minors collective feedback sessions to help them further develop their expertise. Six groups of between six and seven guardians attended five collective feedback sessions. At the same time, individual sessions were provided for less experienced guardians who requested them. At the end of the year, guardians' requirements by way of training and support had become clear from the feedback sessions. A *vade mecum* for guardians was produced to help them fulfil their complex responsibilities. A veritable directory of procedures relating to asylum, access, residence, the courts, protection and social welfare, and of useful services, this 434-page handbook contains comprehensive information on caring for foreign minors. It was distributed on 20 November 2006 during a day organized for guardians—some 130 of them—to meet each other.

737. In 2004, the introduction of the legislation on guardianship caused problems because of a shortage of guardians. The situation improved, in 2005, when almost all minors whose cases were being processed did in fact have a guardian. Of the 326 applicants who have come forward since 1 May 2004, 43 were refused approval as guardians. In 2006, the Guardianship Service approved 49 new guardians and organized basic training for them. Thirteen of the current 212 guardians are employed within an organization and are responsible for 25 minors at once, whereas 200 [sic] are self-employed, under a supplementation scheme. Twenty of the latter are responsible for more than 20 cases, while

145 deal with between one and four cases. The remaining guardians support between ten and 15 minors.

#### Statistics on the minors affected

738. In 2005, 2,131 unaccompanied foreign minors were reported and 1,244 were assigned a guardian. The Guardianship Service began the year with 561 guardianships in place and ended it with 1,195.

739. At 30 November 2006, 1,602 had been recorded and 780 placed under permanent guardianship, including 175 registered in 2005 and 609 in 2006. The Guardianship service is currently administering 1,442 guardianships simultaneously.

740. On average, the Guardianship Service registers six reported unaccompanied foreign minors every 24 hours, including at night and at weekends or on public holidays.

741. Of the total number of minors reported since 1 May 2004 (namely 5,834), 43 per cent (2,519) were placed in guardianship. In 2006, the figure was 38 per cent of the number of minors reported during that year. At 30 November 2006:

- 364 (33 per cent) of reported minors had not been placed in guardianship, either because there was a source of parental authority (26), or because they were of European origin (55), or because of their age (11), or because they refused to be assigned a guardian (272);
- 1,238 (77 per cent) reported foreign minors were placed in guardianship, with 139 of them being declared to have reached their majority by decision of the Guardianship Service.

742. The Service recorded 565 cases of minors declared to have disappeared (35 per cent): either the reported minors refused to be accommodated or to enter the guardianship system, or were not living at the address they gave (271), or disappeared after being placed in guardianship (83), or shortly after being first housed at the care centre (210).

#### Cooperation between the various bodies involved

743. Cooperation between the various bodies involved—the Aliens Office, the General Commissariat for Refugees and Stateless Persons, the Guardianship Service and guardians—has been stepped up in recent years by maintaining regular contacts.

#### a.2 *Residence procedure*

The system in force to 1 June 2007

744. The asylum procedure as described in the second periodic report (see paras. 647-652 of that report) remained in force until 1 June 2007. In recent years, however, greater account has been taken of the special features of asylum applications by minors.

745. Firstly, unaccompanied foreign minors are now assisted and accompanied by a guardian throughout the asylum process. The minor may make the application for asylum in person to the Asylum Directorate (*Direction Asile*) of the Aliens Office. However, the Asylum Directorate will wait for the Guardianship Service to appoint a guardian before interviewing an unaccompanied foreign minor. Article 3, fifth subparagraph, of the Royal Decree of 11 July 2003 in fact gives minors the opportunity of being assisted at the hearing by the person exercising parental or guardianship authority in their regard under the [minor's own] national law, or the special guardianship authority provided for under Belgian law (*available on request*).

746. The same applies to the inquiry that is carried out by the General Commissariat for Refugees and Stateless Persons (hereafter: CGRA), an independent administrative body. The minor is also able to be accompanied during the inquiry by a trusted person (the social worker from the centre in which the minor is living, for example). For reasons specific to the inquiry and to safeguard the interests of the minor, the CGRA official may object to the presence of family members or the trusted person. This may happen if it is necessary to put questions concerning the possibly dubious relationship between the minor and the persons accompanying him or her. The CGRA official cannot, however, object to the presence of the person exercising guardianship authority over the unaccompanied foreign minor under Belgian law, and will interview the minor only if the guardian is present.

747. Secondly, specific measures are taken when minors are being interviewed. The interviewer will adapt the way in which questions are put and the interview method (using drawing, for example), depending on the minor's age, understanding and maturity. A specific questionnaire is used for unaccompanied foreign minors.

748. If a minor is not old enough to express him- or herself, the information is sought from the persons accompanying the minor, such as the guardian.

749. Minors who are citizens of EU Member States or are accompanied by their parents but have their own asylum case-file are dealt with in a particular way by the CGRA during the inquiry. The fact that they are minors is taken into account.

System in force as of 1 June 2007

750. The amended Act on residence of 15 September 2006 (see annex 38) entered into force on 1 June 2007. The amended procedure is set out in brief below. The Aliens Office is now responsible, as a result of the application of the Dublin Regulation (which involves ascertaining whether an application has already been made in another Member State), for reviewing multiple applications and applications which have a public order aspect, and the registration of applications for asylum. The CGRA continues to be responsible for recognizing or refusing refugee status, but will now be empowered to accord or refuse subsidiary protection (see para. 751 below). The CGRA officially reviews all applications for asylum, firstly under the terms of the Geneva Convention and then in relation to subsidiary protection. The Aliens Litigation Council (*Conseil du contentieux des étrangers*) is a new body replacing the former Permanent Refugee Appeals Commission and is a professional body authorized to confirm or set aside the CGRA decision. The Council's decisions may be subject to an appeal, on points of law only, to the Council of State. A filtering process is also provided for, with all appeals being subject to a review of admissibility. Appeals are deemed to be "inadmissible" if the Council of State lacks competence or jurisdictional authority or if appeals are without foundation or clearly inadmissible. If the Council of State sets aside the contested decision, the case is referred back to the Aliens Litigation Council, which must take a fresh decision on the application for asylum on the basis of the judgment handed down.

751. The new procedure in no way affects the attention that is paid to minor asylum-seekers. In addition to the specific measures set out in the second periodic report (paras. 653-659 of that report) and the measures described above (see paras. 744-747 above), asylum-seekers who are minors can now also be accorded subsidiary protection if they meet the requisite conditions. Subsidiary protection will be accorded to a foreigner who is not eligible for refugee status but is in real danger for serious reasons.

752. Moreover, a special procedure has been introduced for foreigners, including minors, who cannot return to their country of origin on medical grounds. A doctor will assess the seriousness of the illness and the opportunities for treatment in the country of origin.

753. Persons who are accorded medical or subsidiary protection will receive a residence permit; this is initially for a fixed period but may be converted to a permit of unlimited duration if the situation does not change.

#### Special training for staff of the Aliens Office and the CGRA

754. Particular attention has been paid to training specialist officials to process asylum applications. They are trained to interview asylum-seekers and have attended courses in intercultural communication. They have also been given basic information on the specific needs of vulnerable groups. Pursuant to article 13 of the Royal Decree of 11 July 2003 (*available on request*), these officials have also to be given specific training on the application of the Geneva Convention of 28 July 1951 relating to the Status of Refugees, the human rights conventions which are binding on Belgium and the other grounds for protection provided for under the legislation.

755. Since 2002, staff who review the applications for asylum of minors have also attended training on the issue of unaccompanied foreign minors. The training (provided by the federal police service in particular) has related to interviewing techniques and intercultural communication, as well as the circular on residence for minors. Lectures by specialist sociologists and psychologists have also been organized. As a result of the financial support accorded, in 2006, by the European Refugee Fund, a training programme for officials specializing in interviewing unaccompanied minors has been devised, as has a proposal to design and publish a comic strip describing the different stages in the asylum procedure and the CGRA's role in relation to asylum-seekers who are minors. The training was given during the first and second half of 2007. The final touches will be given to the comic strip in late 2007, with a view to circulating it in 2008.

#### *a.3 The reception of unaccompanied minors*

##### Coordination and cooperation

756. In May 2002, the "Agency for the Reception of Asylum-seekers" (FEDASIL) was tasked with coordinating and standardizing the reception of asylum-seekers, thus including unaccompanied minors. FEDASIL aims to provide a reception that is human, efficient, flexible and high quality for this particularly vulnerable target group.

757. Since late 2004, the Guardianship Service of the FPS Justice has been organizing monthly coordination meetings to bring together the various bodies involved in the reception of foreigners. The meetings are attended by FEDASIL, the Aliens Office, the CGRA, the Guardianship Service and the principal State prosecutor at the Brussels court of appeal.

758. In addition, monthly meetings are also held between the coordinators of the network's different collective reception facilities. Good practices are discussed at the meetings, but a framework is also established by taking account of specific circumstances.

##### A two-stage reception system

759. Since 2005, a two-stage reception system has been applied to unaccompanied foreigner minors, as referred to in the Act of 12 January 2007 (see annex 39).

760. During the first stage, the needs of minors are identified in order to channel them to the most appropriate reception facility. All unaccompanied foreign minors are received without distinction as to their administrative status (asylum-seekers and others). During the reception process, the children are able to rest, be registered and identified, and the Guardianship Service can appoint a guardian. This stage must be organized by the federal

authorities but should be co-financed by the Communities; cooperation agreements must, however, be concluded in this area.

761. After a maximum of two weeks (which may be extended just once), the minor is channelled to a more appropriate care facility. During this stage, children are cared for over a period of six months (with a maximum of one year) in what are essentially collective facilities. The facilities provide care 24/7. The care must be organized in such a way that the support the young people are given makes them independent and responsible (including in the sense of responsible citizens). Children stay there for eight months on average, but the aim is to reduce this to six months. This stage is organized by the federal authorities in consultation with the Communities.

762. On completion of this second stage, the young people enter a social care system — organized by the federal authorities and the Communities— that aims to empower them and enable them to live independently.

#### Creation of two monitoring and guidance centres

763. FEDASIL has set up two centres (each accommodating 50) which initially care for all unaccompanied minors, whether or not they are asylum-seekers. The Neder-Over-Heembeek centre has been taking in minors in both categories since 16 August 2004, while the Steenokkerzeel centre opened its doors on 8 June 2005. It takes in and monitors minors for a short period of two weeks which may, if necessary, be extended once. Unaccompanied minors who are seeking asylum are then channelled towards the collective care facilities in FEDASIL's care network, while the other group is, in principle, channelled to the care facilities run by the Communities. In reality, if the minors are not asylum-seekers, this period is often exceeded because of a shortage of places made available by the Communities. In order to resolve the problem, a policy working group has been set up and is working to establish a cooperation agreement between the various authorities. The group is continuing with its work, but is currently dealing with the issue of channelling non-asylum-seekers to the second phase of care.

#### Abolition of the closed centres

764. The “reception” Act puts an end to the practice of holding unaccompanied foreign minors found at the border and whose age is not a matter of doubt in closed centres. They are now taken in at a FEDASIL monitoring and guidance centre in Neder-Over-Heembeek or Steenokkerzeel until any decision on “refoulement” is enforced. In such cases, the centres are “equated” with specific sites at the borders. Minors remain in the centre for a maximum of two weeks which can, in exceptional circumstances, for which a proper statement for the reasons is provided, be extended by five days. If the “refoulement” decision cannot be enforced within the two-week period, the unaccompanied foreign minor is authorized to enter Belgium.

765. In exceptional cases, a young person may be held in a closed centre, if there are doubts as to whether he or she is a minor and the young person was found at the border without valid documents. In those circumstances, the young person can be placed in a closed centre for three working days which may, exceptionally, be extended by another three working days —if weekends and public holidays are taken into account, this may result in detention for 11 calendar days.

#### Giving unaccompanied foreign minors information

766. The CGRA has produced a comic strip for unaccompanied foreign minors, and the Guardianship Service has produced a booklet for them. The Aliens Office makes available to asylum-seekers a booklet on the asylum procedure that contains a section on

unaccompanied minors. The Aliens Office is currently also working on a specific booklet for on the asylum procedure for unaccompanied foreign minors.

#### Specific and continuing support

767. FEDASIL enters into agreements with specific organizations to support unaccompanied foreign minors, and does so both with a view to ensuring that support continues after the child has left the care network and in order to be able to provide more specialist care.

768. FEDASIL has, among other things, concluded a contract with the not-for-profit organization *Mentor-Escale*, a valuable partner in supporting and encouraging the autonomy of unaccompanied foreign minors when they leave care centres.

769. A contract has also been entered into with the not-for-profit organization *Synergie 14*. The particular objective here is to set in place alternative and harmonious care arrangements for minors for whom traditional care facilities are too limited.

#### Studies and training

770. In order to provide the best possible care to unaccompanied minors during the first stage of monitoring and guidance, FEDASIL has commissioned a study of it. The scope of the study is threefold: to determine, with staff, the appropriate care strategies for the different “categories” of young person; to draw up an inventory of the team’s requirements in order to define the methods developed; and to support staff in learning the new methods. The study is ongoing.

771. Several educational and training programmes for those working in the sector have also been set under way.

772. Firstly, FEDASIL organizes training on “Working with individual monitoring plans and psychological/psychiatric support for all childcare workers and assistants who work with minors in the FEDASIL centres”. The training is provided by specialists in childcare and specialists in migration.

773. Secondly, a new programme has been launched and is being co-financed by the European Refugee Fund, the AZK/VUB (University Hospital of Jette/Free University of Brussels) and *UGent* (University of Ghent). The “*Kleur in zorg*” project is basically designed for the “personal development” of children and asylum-seekers, and involves six months’ training for staff working with accompanied and unaccompanied minors in the federal care facilities, the centres run by the *Croix Rouge* and *Rode Kruis* and local care initiatives. The aim of the project is to develop individual monitoring to identify psycho-social problems among minors who are seeking asylum. The project basically involves training, supervision, peer supervision and methodologies in relation to identifying and preventing such problems.

#### a.4 Reception of accompanied minors

774. As mentioned above, unaccompanied foreign minors are no longer held in closed centres (see para. 764 above). Children (accompanied minors) who are illegally resident in Belgium with their parents may be held in a closed centre with their family (see para. 706 of the second periodic report). In this way, the family unit, as defined in article 9, paragraph 1, of the Convention, is preserved and maintained. Families held in a closed centre are always able to return to their country of origin, either using their own resources or with help of a non-governmental organization, such as, for instance, the International Organization for Migration which provides programmes of voluntary return.



Since 2002, specific measures have been taken in regard to families and minors residing in these centres. Recreational activities are, for example, organized, the group arrangement may be departed from (individual rooms are provided for families) and appropriate infrastructure is provided for minors to allow them to relax (see Royal Decree of 2 August 2002, *available on request*). Children may, for example, attend courses and take part in recreational, cultural and sports activities. In an effort to give closed centres a more human face, the Minister of the Interior secured the necessary budgetary resources to recruit specialist staff to increase the number of medical and teaching staff in the closed centres and take on additional staff with specialist knowledge of supporting families with children.

775. Since 1 September 2007, an educationalist has been coordinating the teaching activities of teachers working in the centres. New appointments are planned for late 2007, enabling every centre to have teachers for both resident children and resident adults. Priority has, however, been given to courses for children.

776. The educationalist is, in particular, responsible, for devising, with teachers, a strategic plan to develop educational activities for residents' well-being and development, in accordance with article 69 of the Royal Decree of 2 August 2002. To do this, the educationalist meets every week with the teachers from each centre, and the teachers take account of the residents' needs. Each teacher provides individual tuition using visual aids, adapting the course content to the child's age and academic level.

777. It is in fact necessary to bear in mind that some children have never been to school. The teacher also has contact with the child's parents to tell them about the kind of lessons being given and the child's progress. Where children have attended school in Belgium, their schools are contacted, so that their lessons can be adjusted accordingly.

Each centre also has a medical service providing health care. The services run by the Communities (ONE and K&G) provide the appropriate assistance in regard to the care needed for young children.

778. The average stay in such centres is 19 days.

#### *a.5 Statistics*

779. Annex 15.G provides statistics indicating the number of persons declaring them unaccompanied foreign minors, the number of persons whose status of minor is confirmed or uncontested, the different age bands (birth to 5 years, 6 to 10 years, 11 to 15 years, 16-year-olds, 17-year-olds, 18-year-olds and the over-18s) nationality, gender, state of progress in the asylum procedure and language of the procedure.

780. Annex 15.H provides a statistical survey of the data collected, in 2005, in the monitoring and guidance centres. Annex 15.I gives a general account of the reception of unaccompanied foreign minors, as at 31 December 2005,

### **b. At the level of the federated authorities**

#### *b.1 Flemish Government*

Reception and support of unaccompanied foreign minors

781. In 2000, an ad hoc commission stressed, within the working group "*Opvangbeleid van de Interdepartementale Commissie Etnisch-culturele Minderheden*" (Reception policy of the Interdepartmental Commission for ethnic and cultural minorities) (hereafter: ICEM), that the Flemish Community needed urgently to free up more resources for the reception and support of this very vulnerable group. In response, the Flemish Minister for Welfare freed up additional resources from the 2002 special youth assistance budget, to increase by

25 the number of places in the first specialist reception facility. On 31 March 2003, the Federal Government and the Communities concluded an agreement of principle on the reception and care of unaccompanied foreign minors. The aim of the agreement is to organize the reception of unaccompanied foreign minors with a view to assigning guardians to them. It was also decided to work on a cooperation agreement setting in place structured reception arrangements for all unaccompanied minors and based on the interest of the child. The cooperation agreement was to determine how much and how each of the parties would contribute to organizing the reception of unaccompanied minors. The parties are committed to concluding this cooperation agreement in the interest of the child as soon as possible; however, as mentioned above (see para. 760 above), a cooperation agreement has yet to be concluded. A commission of experts was set up in 2006 and submitted a final report to the Minister for Welfare, who then embarked on fresh consultations with the federal authorities. Flanders applies a standard procedure for the reception and support of unaccompanied foreign minors; it is transparent and consistent and the same for all unaccompanied foreign minors (regardless of status), with the main focus on their request for care or assistance.

782. In the field of special youth care, special establishments have been set up to provide assistance to non-asylum-seekers. Access to special youth care is possible only provided the *Comité voor Bijzondere Jeugdzorg* (Committee for special youth care) or the youth court decides that it is appropriate, based on an assessment of difficulties in upbringing (minor at risk), if an act categorized as an offence has been committed and depending on the availability of (special) capacity in the establishments. To respond to the urgent need for additional reception and support facilities for unaccompanied foreign minors, the Flemish Minister for Welfare allocated additional resources to the 2002 special youth care budget, to extend by 25 places the capacity of the first specialist reception centre. Total reception capacity was again increased in 2006 and 2007 and, at 1 July 2007, numbered 81 places.

783. It should also be stressed that the decree on legal status (see para. 326 above) recognizes the specific position of unaccompanied minors.

784. As regards the right to health care, it may be pointed out that, in late 2004, the K&G management board agreed in principle to the proposal designed to make provision for minors without papers and below compulsory school age (birth to 6 years) to be allowed to benefit from health insurance on the basis of a certificate issued by K&G. The arrangement should be up and running during 2007-2008.

#### Education

785. Like all other children in Belgium, unaccompanied foreign minors must attend school and can have access to education under the same conditions as Belgian children. The legal status of unaccompanied minors will be enhanced. As far as foreigners are concerned, the Act of 19 July 1971 on secondary education originally provided that children were entitled to a scholarship, only if residing with their family in Belgium.

786. The [conditions governing] the entitlement of unaccompanied foreign minors to financial help for their studies have since been relaxed. Until the start of the 2006-2007 school year, minors in secondary education had in fact to prove that they were no longer able to contact their parents because of serious situations, such as civil war or death. Moreover, the status of unaccompanied foreign minors was not taken specifically into consideration in higher education. A refugee was taken into consideration only if he or she had made an admissible application for asylum or had a permanent residence permit. Since the 2007-2008 academic year, the rules on financing studies recognize the special status of unaccompanied foreign minors; consequently, an unaccompanied foreign minor can obtain funding for his or her studies based on having the status of unaccompanied foreign minor.

## b.2 Government of the French Community

### Reception and support of unaccompanied foreign minors

787. Two centres should be mentioned: *Esperanto*, which focuses more particularly on caring for unaccompanied minors who have been the victims of human trafficking (see para. 864 below) at a secret location, and the *Association Joseph Denamur* in Gembloux.

788. In 2004, both were partially funded by the French Community as pilot youth welfare schemes. Specific provision has also been made to cover the medical costs of young people taken into the two centres. *Esperanto* cares for 15 unaccompanied foreign minors presumed to be the victims of human trafficking. The *Association Joseph Denamur* cares for 25 unaccompanied foreign minors and 13 other young people under the auspices of FEDASIL. These services providing care for unaccompanied minors continued to be supported in 2005 and 2006, and both services were approved, in 2006, under the youth welfare arrangements and continue to operate in 2007.

Ministerial circular of 1 July 2004 on the care of unaccompanied foreign minors by the Guardianship Service (available on request)

789. The circular is designed to clarify the responsibilities of the Guardianship Service and the procedures to be followed by those involved in youth welfare (advisers, directors, approved private services) when appointing guardians for unaccompanied foreign minors who are in the territory of the French Community. The circular stresses:

- the importance of telling the young person about the responsibilities and role of the guardian, and of respecting the young person's decision on whether or not to make use of the Guardianship Service, in accordance with the general principles laid down by the Decree of 4 March 1991 on youth welfare;
- the fact that the appointing authority continues to be the contact body for the approved private services;
- that the responsibilities of a youth worker may be incompatible with the role of guardian.

790. It should be noted that, on 24 March 2005, a similar communication was sent to the directors of the public youth protection institutions and the director for education for the French Community at the *De Grubbe* centre in Everberg.

## (ii) Children affected by armed conflicts (art. 38)

791. The measures taken are described in chapter IX (see paras. 906-911 *et seq.* below).

## B. Children in conflict with the law

### (i) Administration of justice in regard to minors (art. 40)

#### a. At federal level

792. Under the process of State reform, the Federal Government has retained legislative authority regarding the specification of legal measures in relation to minors who have committed an act categorized as an offence, while the Communities are responsible for implementing these measures of protection. The Communities legislate on the institutions that support these young people which they organize and/or subsidize.

793. The Act of 8 April 1965 on the protection of young people has been revised on the basis of three acts: the Act of 13 June 2006, the Act of 15 May 2006 and the Act of 27

December 2006 (see annex 40 for the coordinated version of these pieces of legislation). The changes are designed both to establish certain judicial practices in law and to introduce a number of innovations. What are the elements of progress?

- Making parents more accountable by encouraging them to be aware of their own involvement in their children's criminal conduct and to shoulder their responsibilities in that regard. Parents are involved in various stages of the procedure. In some exceptional cases, training in parenting may be suggested (by the public prosecutor) or ordered (by the youth court). The aim is to penalize the typical lack of interests some parents display in relation to the criminal conduct of young people for whom they are responsible; the fact is that their lack of interest is a contributing factor to the child's problematic behaviour. To achieve the maximum impact, the Communities organize training in parenting with a view to helping parents.
- Making the young person accountable. The new legislation supplements the current system and focuses on the rights of the victim and applying restorative justice to young offenders.
- More, and more varied, measures are available to public prosecutors and the youth courts. The development of alternative measures such as mediation or educational training and community service orders thus enable young people to act to "repair" the damage caused and reduce the number of placements.
- The procedures and time-limits are more clearly set out in the legislation to provide a better guarantee of legal certainty for the minor.
- Relinquishment of jurisdiction is now a matter of last resort. This relates to the special and exceptional option available to the children's judge to transfer the case of a young person (aged over 16 at the time the act was committed) to another court with jurisdiction. Before October 2007, the minor's case was referred to the criminal court, that is a court applying the criminal law for adults and competent to hear the case. Since October 2007, a specific chamber within the youth court deals with the cases of these young people who have committed an act categorized as an offence or serious offence able to be tried as a misdemeanour, and in whose regard the court has relinquished jurisdiction. In this way, Belgium is demonstrating that it is taking better account of the need to bear in mind the special circumstance constituted by the age of the minor. However, the assize court continues to have jurisdiction for acts categorized as serious offences that cannot be downgraded. This option is used only as a last resort if —on the basis of a medical and psychological report and an investigation by social services— none of the measures of protection is appropriate (in some circumstances, these reports and investigations are not required). Relinquishment of jurisdiction is not possible if the young person has committed an act classified as an indecent assault, using violence or the threat of violence, rape, manslaughter, (premeditated) murder, intentional homicide, robbery with violence or the threat of violence, extortion or attempted murder. From now on, the court may relinquish jurisdiction in relation to two categories of young person only: those who have already been the subject of a measure of protection or restorative justice and those who appear before the court in relation to a particularly serious act.
- The youth court has jurisdiction in relation to all minors with a mental disability, whether or not they have committed an act categorized as an offence.

794. As part of this process of far-reaching reform of the legislation on the protection of young people, detailed consultations were held with the Communities about the implementation of certain measures. The consultations resulted in the conclusion of three major cooperation agreements (see annex 6, para. 44).

795. As mentioned above, the Flemish Bar has, since 2005, been organizing special training in youth law for lawyers wishing to act for minors (see para. 82 above).

796. In addition, training on the new legislation is provided for legal practitioners. The compulsory training for judicial officers in youth courts (*magistrats de la jeunesse*) was due to be finalized by 1 October 2007. The training day held in early October 2006 was followed by a number of training days in March and mid-September 2007. Training is also planned for registrars, appeal court judges and criminal court judges. It will take place during October 2007 at the latest.

**b. At the level of the federated authorities**

*b.1 Flemish Government*

797. In this connection, we would refer the reader to the preventive and remedial assistance Flanders provides for young people who have committed an act categorized as an offence, in particular (see para. 331 above).

*b.2 Government of the French Community*

798. After it was partially amended in 2001, a number of important amendments largely designed to safeguard better still the rights of young people were made to the Decree of 4 March 1991 on youth welfare, on the basis of the Decree of 19 May 2004 (see annex 41). We would draw attention to the following amendments (see annex 11, para.2):

- The children's judge is no longer able to extend the measure of confinement beyond one week.
- Originally, an appeal to the youth court concerning the decision to grant or refuse an individual measure of support or the method of its application could be lodged by a child over the age of 14 or by the persons exercising parental authority in respect of the child. Persons with the right to maintain contact with the child are now also able to lodge an appeal, and grand-parents more particularly.

799. Moreover, the process of evaluating the 1991 Decree on youth welfare, begun in 2004, was continued in 2005 and completed in March 2006. A summary report was published in 2006 and is available on the website [www.oejaj.cfwb.be](http://www.oejaj.cfwb.be).

*b.4 Brussels Government and Colleges*

800. On 29 April 2004, the Joint Community Commission (COCOM) adopted an order on youth welfare (see annex 42). The provisions of the order refer to the measures to be taken in the interest of minors, thus removing the need to refer to the Act of 8 April 1965 which had, until then, applied to youth welfare in Brussels. A cooperation agreement with the Communities (currently being drafted) will give effect to these new provisions. It will then be possible to establish a genuine youth-welfare policy for the bilingual Brussels-Capital Region.

**(ii) Children deprived of their liberty (art. 37 (b), (c) and (d))**

Temporary placement of minors who have committed an act categorized as an offence

801. Once it was established that some measures of placement ordered in relation to young offenders could not be enforced because of a shortage of places in the relevant institutions, the federal Act of 1 March 2002 (*available on request*) gave the youth court and the investigating judge the possibility, subject to certain conditions, of assigning boys

over the age of 14, who had committed an act categorized as an offence, to a temporary placement centre.

802. The possibility of temporary placement still exists following the major reform of the Act of 8 April 1965 on the protection of young people (see para. 7922 *et seq.* above). However, the conditions governing recourse to this solution of placement have been tightened up: previously, minors who were persistent offenders and had committed acts categorized as offences that could, in the case of an adult, result in one year imprisonment or a heavier penalty, could be subject to this measure. But the 2006 reform changed that, and minors who have committed more serious offences can no longer be put in temporary placement—they must have committed an act categorized as an offence which, in the case of an adult, could attract a sentence of between five and ten years' imprisonment or a heavier penalty.

803. In order to meet public safety requirements while, at the same time, guaranteeing minors the appropriate educational support, a cooperation agreement was concluded, on 30 April 2002, between the federal State and the Communities (*available on request*). The cooperation agreement set out the provisions concerning the duties of the temporary placement centre, its organization and capacity (50 places). The agreement provides for an evaluation committee to be set up to assess the implementation of the cooperation agreement and the operation of the centre. Set up in January 2004, the evaluation committee is made up of representatives of all parties to the cooperation agreement and experts in youth crime. An initial report on the period 2003-2004 was finalized in 2006. It contains a series of recommendations concerning infrastructure, the use of languages, residents' handbook, house rules, cooperation between authorities, transfer to places in residential care run by the Communities, punishments, the centre's capacity and visiting. A second evaluation report was finalized in early 2007 and sets out the measures taken by the competent authorities in response to the recommendations contained in the first report. In addition, the institution's house rules have been supplemented and published by ministerial decree. In relation to the care of the young people, the rules determine their contacts with the outside world, the punishments they may incur, when they may be held in solitary confinement, daily life at the centre, the young people's bedrooms, the cafeteria, outside activities, the practice of religion and medical care for young people. The rules were adopted on 1 June 2002.

804. The centre is run by a federal director and two community directors, each with their own responsibilities. The federal director has exclusive competence in relation to all issues linked to the centre's security, and is responsible for the tasks assigned to the federal State under the cooperation agreement. The two community directors have sole responsibility for the educational support of the young people placed in the centre. Each community provides educational support for young people assigned to the centre by a court on the appropriate language list, in accordance with the established educational plan. Educational support includes the following functions at least:

- provision of care for young people;
- educational, social and psychological support;
- preparation of advisory reports with a view to (a) subsequent decisions to be taken by the prosecuting authorities and youth courts; (b) channelling young people towards the help and care the competent authorities can provide in the wake of a court decision;
- the organization of collective and individual activities (sport and leisure activities), including the provision of books;
- information about the possibilities of legal aid.

The Communities' support staff cover a variety of disciplines: childcare workers, social workers, psychologists, teachers and director of education.

Deprivation of liberty for minors in respect of whom jurisdiction has been relinquished

805. Minors sentenced to imprisonment or detention will, in a few years, serve their sentence in a closed federal centre reserved for minors.

806. In all closed federal centres, the sections for minors will be separate from the sections for adults, and the same applies to the sections for young people subject to youth protection measures and the sections for young people to whom the criminal law for adults applies; a further distinction is made between young people held on remand and young people actually serving a sentence.

Leave of absence for young people deprived of their liberty

807. The arrangements governing leave of absence for closed public institutions (including the Everberg centre) to allow a young person to make a family visit or engage in an outside activity were amended by the (programme-) law of 27 December 2006.

Based on the view that there needs to be the best possible communication between the Public Institution for the Protection of Young People (IPPJ) and the youth court, and given the importance of public safety, it has been decided that the children's judge must have access to more information so that he can, if necessary, intervene and prohibit the grant of leave of absence and some contacts.

The aim is to make sufficient specific information available to the children's judge and the prosecuting authorities to enable them to determine whether the activity involves the risk of flight, a risk to the investigation or a risk to the victim.

808. Article 52<sup>quater</sup> of the Act of 8 April 1965, as amended by the Act of 27 December 2006 laying down various provisions, governs the young person's leave of absence. Provision is made for three types of leave of absence:

- No special authorization is required for a young person to leave the institution for a court appearance, medical treatment or to attend a funeral in Belgium in the event of the death of a family member, including relatives in the second degree. However, in very exceptional cases, the youth court may decide, on special grounds, to prohibit the leave of absence.
- The second type of leave of absence —described in the education plan which the IPPJ provides to the youth court, citing the forms of supervision and forms of leave of absence— may be prohibited by the children's judge or the youth court on the basis of a reasoned decision on one or more grounds. These relate to the conduct of the young person which could present a risk to the young person himself or to others, the fear that if back at liberty, the individual concerned might commit further serious or minor offences, escape the justice system, attempt to get rid of evidence or collude with third parties, or if it is necessary to prohibit the leave in the interest of the victim or the victim's family circle.

809. The ban may also apply solely to certain types of activity and be linked to a lack of supervision.

- As far as the third type of leave of absence is concerned, involving activities that are not specifically encompassed by the IPPJ's education plan, an application must be made, on an individual case basis, to the children's judge or youth court detailing the kind of supervision envisaged.

**b. At the level of the federated authorities****b.1 Flemish Government**

Communication and consultation between the IPPJ and the children's judges

810. In accordance with the measures provided for under the Act on the protection of young people, the Flemish Government recruited 54 social workers in 2007, and the process of recruiting six criminologists has begun.

**b.2 Government of the French Community**

Communication and consultation between the IPPJs and the children's judges

811. The Order of the Government of the French Community of 15 June 2004 on the Public Institutions for the Protection of Young People (IPPJs) (*available on request*) is designed to improve communication and consultation between those institutions and the mandating authorities (children's judges):

- The judges responsible are to be furnished with a document informing them of the educational plans of each of the IPPJs;
- They are to be given an information, guidance and coordination unit which will carry out the following tasks:
  - (1) keep track, on a daily basis and in real time, of the number of places available in each of the IPPJs;
  - (2) keep the children's judges permanently informed of the total number of places available in the IPPJs and the approved youth welfare services that take in problem minors and/or young offenders;
  - (3) where appropriate, and in agreement with the judge, propose the best course of action and the assignment of a young offender to an IPPJ or any other appropriate facility;
- The director of the IPPJ ensures there is cooperation with the judges and the services involved in the application of the Decree of 4 March 1991 on youth welfare.

812. Following on from the youth welfare forums, some of which related more specifically to the care of this category of minor, the Government of the French Community has established the principles that will guide its action in line with the new circumstances at federal level, ensuring that the educational aspect continues to attract priority.

813. Some measures for which the Act of 8 April 1965 provides relate, in particular, to mediation and group rehabilitation sessions. To ensure that these measures are put into effect in the French Community, the Government adopted, on 25 May 2007, an Order amending the Order of the Government of the French Community of 15 March 1999 governing the particular conditions for the approval and grant of subsidies to the Educational or Philanthropic Service-Providers (SPEP). The SPEPs now have the additional responsibility of organizing the mediation and group rehabilitations sessions, as provided for under the legislation.

814. More generally, the French Community is constantly concerned that priority should be given to high-quality educational support, both inside the IPPJs and the Everberg closed centre, and in the services it approves.



815. Even before this new guidance was set in place, alternative proposals for caring for minors in conflict with the law made it possible to experiment with certain new practices, including:

- projects designed to encourage such children to talk about the perpetrator-victim relationship at group meetings, as well as group rehabilitation sessions (ARPEGE);
- projects designed to promote cultural activities, particularly music, among young people placed in IPPJs (music for young people);
- pilot projects that take a longitudinal and transversal approach to the provision of care for young people (“Meantime”).

## C. Children who are being exploited

### (i) Economic exploitation, particularly child labour (art. 32)

#### a. At the federal level

##### Legislation

816. Belgium has a comprehensive array of legislation on the employment of children (to the age of 15) and the employment of young people (from 15 to 18 or 21). The general principle is that making or allowing children to work is prohibited. There are exceptions: activities that fall into the category of education or training for children and, in addition, activities for which an exemption is accorded (for instance, child actors, extras, singers at cultural events, etc.). The law protects children, that is to say minors under the age of 15 or who are still subject to full-time compulsory education. (Children have to be in full-time compulsory education until the age of 15, spending a maximum of seven years in primary education and completing at least the first two years of full-time secondary education). Young workers are defined as minors aged 15 or above who are no longer subject to compulsory education. Their working hours and conditions are the subject of specific legislation.

817. The legislation on the protection of young workers and trainees was amended by the Royal Decree of 21 September 2004 (*available on request*):

- Young people in employment (that is to say minors at work) benefit from specific health checks if they are under 18, work nights or are engaged in what is in principle a prohibited activity for young people, involving specific health risks.
- Trainees are also protected. A trainee is a pupil or student who works with an employer as part of his or her course. The employer must carry out an analysis of the risks to which trainees may be exposed. Trainees benefit, as appropriate, from general or tailored health checks, or specific health checks in the form of a health assessment before first embarking on the traineeship.

818. The Act of 10 August 2005 on the trafficking of human beings (mentioned at para. 848 below) relates, among other things, to economic exploitation and exploitation for the purpose of begging. There is a special cooperation protocol between the Social Inspectorate (of the FPS Social Security) and the Social Legislation Control Unit (*Contrôle des lois sociales*, which has specific responsibility for the regulation of employment, including working conditions and pay, as well as social security fraud) designed to set in place coordinated checks. These checks are organized monthly in a number of sectors (foreign restaurants, agriculture, horticulture, cleaning industry, refurbishment, textile reclamation, prostitution, etc.) where there is a greater risk of trafficking in human beings than in other sectors.

#### Involvement in international initiatives

819. Pursuant to Convention 182 of the International Labour Organization (ILO), of 8 May 2002, concerning the prohibition and immediate action for the elimination of the worst forms of child labour, in June 2006, the Committee of Experts on the Application of Conventions and Recommendations of the ILO considered Belgium's first report on the worst forms of child labour and made its observations. Among other things, it asked Belgium to provide more information on the measures taken to ensure that no-one under the age of 18 is forced to take part in armed conflict (see para. 911 below).

820. The IPEC (International Programme on the Elimination of Child Labour) is an ILO programme designed to help secure the gradual abolition of child labour by enhancing the capacity of countries to tackle the problem. It relies entirely on the political will and commitment of governments to combat the exploitation of children and child labour, working with employer and employee organizations and civil society as a whole. The partner organizations are given support to devise and apply measures designed to prevent child labour, shield children from hazardous work by offering them alternatives and, until this form of exploitation has been completely eliminated, improve their working conditions.

821. Belgium contributes to this programme. Since 2001, the FPS Employment, Labour and Social Dialogue has been funding an element of Belgian bilateral cooperation to ensure that the problem of child labour is included on Morocco's political agenda. As well as projects designed to raise awareness of the issue of child labour in Morocco, Belgian funding has made it possible to implement several other important pilot schemes in a number of regions of Morocco. The projects target various sectors of activity such as: craft trades, textiles/clothing, begging, children working on the streets and in the countryside. Between 2001 and 2005, Belgium's contribution totalled €731,000.

#### Checks on potential suppliers

822. In March 2007, the federal Secretary of State for State-owned companies asked the management boards of all such companies to carry out an audit with a view to drawing up a plan of action for socially responsible companies. One aspect considered concerns the way in which State-owned companies select their suppliers and, more particularly, whether they check to ensure that potential suppliers comply with ILO standards, especially in relation to the ban on child labour.

#### Social label

823. The social label makes it easier for consumers to choose products that have not involved child labour. In recent years, the federal Government has introduced the following measures to promote the social label.

824. A handbook has been produced to help companies applying for a social label. The handbook sets out not only the significance of the label but how to apply for it.

825. Since September 2005, a support programme has also been established for companies applying for a social label for one or more products. This requires a financial contribution to the external costs linked to the independent check on the chain of production by a third party. The size of the contribution is limited and depends on the type of company (small, medium or large) and where the checks have to be carried out (African, Caribbean and Pacific States [ACP] and least developed countries [LDCs]).

826. In 2006, an information campaign on the social label was launched. It mainly targeted companies but also sought to reach other players (NGOs, trade unions, students and academics). A leaflet was distributed, as well as articles in periodicals (about 30); information days were held and talks given (about 15); presentations were given to

company managers (four) and interested organizations (about 15) and classes were given to university students (at four universities).

827. So far, five Belgian companies have obtained the social label for one or more of their products. An external audit of five other companies is currently under way. Several companies have stated their intention of applying for a social label.

**(ii) Drug use (art. 33)**

**a. At federal level**

**Drugs Act**

828. Act of 24 February 1921 on trafficking in poisonous, sleep-inducing, narcotic, psychotropic, disinfectant or antiseptic substances and substances able to be used in the illegal manufacture of narcotic and psychotropic substances (Drugs Act). The Act was last substantially amended by the Acts of 4 April 2003 and 3 May 2003. The new legislation on drugs strengthens the provisions on the protection of minors:

- The right to conduct a search has been extended to premises where certain substances are used “in the presence of minors”. Such premises may be visited at any time (including at night) without the occupier’s permission.
- Cannabis-related drug offences that are committed in relation to minors are also more severely punished.

**b. At the level of the federated authorities**

**b.1 Flemish Government**

829. The Association for alcohol- and other drug-related problems (VAD), mentioned in the second periodic report (see paras. 727-728 of that report), regulates the organizations working in Flanders and involved in the study, prevention and provision of assistance in relation to alcohol- and other drug-related problems (see annex 6, para.46).

830. In November 2006, the Flemish Minister of Public Health organized a conference on health to update the health objective regarding drug use. The following health targets were set in relation to alcohol consumption and drug use.

831. *Alcohol consumption:* The percentage of under-16 drinking alcohol once a month not to exceed 14 per cent. The percentage of 16-25 year-olds consuming 6 glasses daily once a week not to exceed 13 per cent. The percentage of males over 16 consuming more than 21 units per week not to exceed 10 per cent. The percentage of females over 16 consuming more than 14 units per week not to exceed 4 per cent.

832. *Illegal drugs:* The percentage of under-18s who have used cannabis or another illegal drug not to exceed 14 per cent. The percentage of under-18s who have used cannabis or another illegal drug during the 12-month reporting period not to exceed 7 per cent. The percentage of 19-35 year-olds who have used cannabis or another illegal drug during the 12-month reporting period not to exceed 8 per cent.

**b.2 Government of the French Community**

833. In the French Community, the not-for-profit association *Univers santé* (Universe Health) is behind the multiannual “Young people and alcohol” project. The project assesses changes in young people’s behaviour and commercial strategies, and also seeks to encourage responsible and less dangerous drinking by young people.

**(iii) Sexual exploitation and sexual abuse (art. 34)**

834. On 25 October 2007, Belgium signed the Council of Europe's Convention of 12 July 2007 on the Protection of Children against Sexual Exploitation and Sexual Abuse.

Working group on abuse

835. After the National Commission for the Prevention of the Sexual Abuse of Children had reported (1997), two working groups were set up (one French-speaking and one Dutch-speaking) to harmonize the way in which all cases of child abuse are dealt with, in terms of both the judicial aspect, protection and punishment, and the psychological, medical and social welfare perspective.

836. In 2006-2007, the working groups' recommendations were updated at the request of the Minister of Justice. The two working groups have drawn up a staged programme —a protocol for action that enhances cooperation between the various players (police, justice system, welfare sector) and establishes the same route to assistance for all children. The two working groups have also proposed setting up consultation arrangements at [judicial] district level and “overarching” consultation structures, as well as multi-disciplinary teams to provide advice to support the judicial decision-taking process.

**a. At federal level**

Act of 28 November 2000 on the protection of minors under the criminal law

837. This Act supplements the array of legislation set in place by the Acts on sex crimes adopted in 1995 and cited in the second periodic report (see paras. 110 to 116 of that report):

- Better protection is provided for all minors, regardless of age, in relation to prostitution, child pornography and deprivation of food or care.
- In relation to indecent assault, rape and assault, the minor will also be protected from acts committed by the family in the broad sense (foster parents, half-brother, step-father, mother's male partner, etc.).
- New aggravating circumstances are introduced, linked either to the fact that the victim is a minor, or the consequences of the offence for the child (a general aggravating circumstance linked to the status of the perpetrator of the crime is added in regard to hostage-taking, kidnap, abandonment of children or persons under disability, deprivation of food or care and neglect).
- The ritual sexual mutilation of women and girls, even with their consent, is currently an offence. Article 409 of the Criminal Code lays down specific penalties for female sexual mutilation, and, in §2, heavier penalties where the victim is a minor (imprisonment of between four and seven years). Paragraph 5 thereof also provides for heavier penalties if the offence is committed by the father, mother, or other relative in the ascending line or any other person exercising authority of guardianship over the minor.
- The extraterritorial jurisdiction of the Belgian courts has also been extended: a person located in Belgium, whether or not a Belgian national, who has committed outside Belgium the offences of indecent assault, rape or sexual mutilation of a minor (and not just a minor under the age of 16 as in the past), will be able to be prosecuted in Belgium.
- Audiovisual recording of hearings of minors who have been the victims or witnesses of various offences has been introduced. Minors are also allowed to appear before

the courts by video-link. This makes it possible to limit the traumatizing effect and secondary victimization that multiple hearings may produce, to relay the minor's statement accurately and to avoid the minor having to face the alleged perpetrator. Audiovisual recording may be ordered where the minor is the victim or witness of rape, indecent assault, corruption of a young person, procurement, child pornography or intentional assault. The recorded hearing may be produced before the court instead of the minor entering an appearance in person. The legislation also determines who is authorized to conduct the hearing and who may be present, as well as the legal status of the video cassette. A circular for court officials and police services has been adopted with a view to standardizing practice and defining the role of contributors and the practical organization of the hearing.

- A new article 458*bis* of the Criminal Code on professional secrecy has been incorporated to afford minors better protection against ill-treatment and abuse. It introduces a right to speak out for persons bound by professional secrecy that is limited (to situations in which there is an imminent and serious threat to emotional and physical integrity) and conditional (the person bound by professional secrecy must have personal knowledge of the facts, as a result of having examined the victim or because the victim has confided in him or her); this makes it possible to deal with cases in which voluntary assistance is not really the answer and judicial action is deemed necessary to protect the emotional and physical integrity of the child.

#### Evaluating the legislation

838. The federal Government undertook to evaluate the Acts of 1995 and 2000 on sexual offences, as well as a number of related instruments concerning the audiovisual recording of hearings of minors who have been the victims or witnesses of offences, and the protocol of cooperation to prevent unlawful acts on the Internet (ISPA). (Framework communication on all aspects of security of 30-31 March 2004, see [http://www.just.fgov.be/fr\\_htm/ordre\\_judiciaire/parquet/note\\_cadre.pdf](http://www.just.fgov.be/fr_htm/ordre_judiciaire/parquet/note_cadre.pdf)). The evaluation was made by the Criminal Policy Unit of the FPS Justice, assisted by a multi-disciplinary steering committee; it completed its work in May 2007. The evaluation includes a raft of recommendations that should make it possible to improve the existing legal instruments and fill the gaps in the current system. They relate, in particular, to treating and monitoring both adults and minors who have committed sexual offences, the problem of recidivism, professional secrecy and other procedural rules concerning the protection of minors under the criminal law, as well as the audiovisual recording of hearings of minors who have been the victims or witnesses of offences.

#### Information

839. Two versions of an information booklet designed for the general public have been produced, in 2002 (Dutch version) and in 2007 (French version). They may be consulted on the website of the FPS Justice and explain how the social welfare (psychological, medical and social) sector and the justice system can help where there is a presumption or knowledge of sexual abuse. The booklet is designed both to raise public awareness and to explain to people who are aware of or suspect abuse what they should do, the processes involved and which services to contact.

#### Protection against abuse caused by the mass media

840. In recent years, Belgium has set in place various instruments to provide children with safer telecommunications media:

- Conclusion with the internet service providers of the protocol of cooperation to prevent unlawful acts on the Internet ("ISPA protocol", in existence since 1997).

The protocol has recently been evaluated, as part of the process of evaluating the Acts of 1995 and 2000, by the Criminal Policy Unit of the FPS Justice. The new ISPA protocol will be signed by the competent ministers and the Belgian Association of Internet Service Providers (ISPA). The protocol provides that if an ISP (Internet Service Provider) identifies content presumed to be illegal or a user draws its attention to this, it is to report it to the new integrated complaints section of the website of the federal police service: (<http://www.ecops.be>), that has been up and running since early 2007, which will decide whether to take action in regard to the allegedly unlawful content. If the police service considers that the content is definitely not unlawful, no action is taken. However, if it does consider it unlawful, the file is passed on to the bodies competent to take the matter further. The ISPs undertake to work with the competent bodies and comply with their instructions, pursuant to the legislation. It is also worth mentioning the cooperation between the "Trade in human beings" Unit of the federal police service and the "Child Focus" association, which has established a civil society contact point that can, similarly, be used to report suspect websites, including anonymously.

- Entry into force of article 380 *quinquies* of the Criminal Code making certain types of advertisement of a sexual nature targeted at minors or referring to services provided by minors an offence.
- Adoption of the Act of 13 June 2005 (*available on request*) requiring the establishment of an ethics committee for the provision of Internet services that are not free of charge.
- The Act of 25 March 2003 (*available on request*) makes it possible for children of 12 and above to obtain, free of charge, an Internet access card, on which electronic identity card data are recorded. The card enables "chat-room" providers to determine whether users are in fact minors and not paedophiles wanting to get into contact with young people.

841. The College of Principal Public Prosecutors provides statistics on sexual exploitation, sexual assault and trafficking of children for sexual purposes (see annex 15.A).

842. The State Secretariat for Families and Persons with a Disability has acted to combat genital mutilation by tabling, at the Interministerial Conference of "Integration into society" of 21 November 2006, a draft national action plan on preventing genital mutilation (see para. 401 above).

#### Prevention

843. In terms of prevention, it is important to mention the national campaign to prevent the sexual exploitation of children, launched in September 2004 at the initiative of the non-governmental organization ECPAT (End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes) and the federal police service. Called "*stopprostitutionenfantine*", it is conducted in cooperation with various partners such as Child Focus, Belgian State Railways, the Ministry of Defence, the FPS Foreign Affairs, Foreign Trade and Development Cooperation, the Royal Federation of Belgian Hauliers (FEBETRA) and the Federation of the Tourist Industry (FIT). It is basically targeted at the problem of the sexual exploitation of children abroad and seeks to make travellers aware of the problem of child prostitution, advising them how to react and report it, if they are confronted with situations of this nature, either on the spot abroad or on return to Belgium, to bolster efforts to combat it. The campaign was relaunched in 2007.

**b. At the level of the federated authorities**

*b.1 Flemish Government*

844. As regards minors responsible for inappropriate sexual conduct, reference may be made to the Global Plan for Young People 2007-2009 which provides, including in relation to the revision of the legislation on the protection of young people, the development of different forms of constructive treatment geared to reparation (see para. 330) above. As part of the planned extension of training projects, the establishment of provision in the provinces for minors responsible for inappropriate sexual conduct is envisaged for 2009. The experience garnered under the *Exit* project, among others, will provide the foundations.

*b.2 Government of the French Community*

The SOS-Enfants teams

845. The Order of 14 June 2004 (*available on request*) determines the conditions governing the approval and subsidy of the *SOS-Enfants* teams. In 2005 and 2006, 14 SOS-Enfants postnatal teams were approved. They are tasked with preventing and dealing with the situation of children who are the victims of physical, psychological, sexual or institutional abuse or negligence (see para. 410 above).

Genital mutilations

846. The French Community has supported various initiatives in relation to the issue of female genital mutilation (colloquies, educational tools designed more specifically for young people, etc. (see para. 413 above).

**(iv) Other forms of exploitation (art. 36)**

**a. At the federal level**

The Act of 10 August 2005 supplementing the protection of minors under the criminal law (see annex 43)

847. In the light of the special treatment accorded to minors under the Act on the protection of young people, some adults seek to avoid prosecution while continuing to profit from offences committed by minors on their behalf. This Act is designed to amend the Criminal Code by introducing more severe penalties for persons who exploit minors to commit offences.

*The Act of 10 August 2005 amending various provisions to reinforce the prevention of the trade and trafficking in human beings and the practices of slum landlords (see annex 44)*

848. This Act (see para. 855 below) makes the exploitation of begging, in particular, an offence. The object is not to re-criminalize begging, but, on the model of the approach to prostitution, to punish those who exploit begging by others.

**b. At the level of the federated authorities**

*b.2 Government of the French Community*

Begging

849. For a number of years, increasing numbers of minors have been begging in Belgium's cities. The Ministers for Children and Youth Welfare have commissioned CODE

(Coordinating Body for the NGOs for the Rights of the Child) to carry out two studies on this subject in the French Community, and Brussels more particularly. CODE has decided to consider the issue within the Roma community, which has been identified as more likely to be affected by this problem.

- The methodology adopted has made it possible to implement a number of specific measures to raise awareness and provide information and training for the police authorities (basic and in-service training).
- It has made it possible to obtain a better picture of the education of children who beg —education being perceived as an essential vehicle for the integration of these children. Insecurity and residence status are significant obstacles to integration in schools. Cultural traits also mean that Roma children are less likely to meet educational pre-requirements, and communication between school and family is poor. The study concludes that it is important to guarantee the primary needs of the children and their families to improve their school attendance. It suggests creating a mediation programme for Roma specifically, in order actively to develop communication between the families and schools.

**(v) Sale and abduction of, and trafficking in, children (art. 35)**

**a. At the federal level**

International cooperation

850. During the Belgian presidency of the Organization for Security and Cooperation in Europe (OSCE) in 2006, Belgium, along with France and the United States, took an initiative in the battle against the sexual exploitation of children. The Ministerial Council Decision of the OSCE taken at a meeting in Brussels in December 2006 invites all States and institutions that are members of OSCE to take action to eradicate the various forms of sexual exploitation of children.

851. More recently, Belgium has cooperated closely with the United States in the context of introducing a resolution (entitled “Effective Crime Prevention and Criminal Justice Responses to Combat Sexual Exploitation of Children”) at the United Nations Commission on Crime Prevention and Criminal Justice. This resolution was adopted at the last session of the Commission in April 2007 (E/CN.15/2007/L.7/Rev.2) and calls for action including the organization of training courses, information campaigns and close cooperation with civil society.

852. A recent report to the Human Rights Council by Special Rapporteur J.M. Petit on the sale of children, child prostitution and child pornography highlights the effective work done by the organization Child Focus. Child Focus makes every effort to find children who have disappeared and to combat their sexual exploitation both at the national and international level.

853. Belgium chaired the negotiations begun by the Council of Europe in September 2003 on the preparation of a Convention on action against human trafficking, with the aim of strengthening the rights of the victims of trafficking. Council of Europe Convention No. 19 on Action against Trafficking in Human Beings was adopted on 16 May 2005 and signed by Belgium on 17 November 2005. The ratification procedure is currently being finalized.

854. Belgium ratified the United Nations Convention against Transnational Organized Crime, along with three additional protocols supplementing it: the first against the Smuggling of Migrants by Land, Sea and Air; the second to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (15/11/2000); and the last against



the Illicit Manufacture and Trafficking in Firearms, their Parts and Components and Ammunition (31/05/2001). The Act of 24 June 2004 (*available on request*) gives assent to these three international instruments.

#### Legislation

855. The purpose of the Act of 10 August 2005 (see annex 44) is to make the necessary amendments to the definition of the offences of trade and trafficking in human beings to bring national law into conformity with the international legal instruments.

- The new provisions make a distinction between trafficking and trade in human beings.
- The specific offence of trading in human beings is introduced into the Criminal Code and now protects all victims irrespective of nationality, and no longer just foreign nationals, as provided in the earlier legislation. The aim of this criminal offence is to prevent trade committed with a specific exploitative purpose: sexual (child pornography, exploitation through prostitution) and economic (work-based exploitation, begging, forced criminality and trafficking in organs). This offence is punishable by imprisonment of one to five years and a fine of €500 to €500,000.
- The commission of acts involving the trade in minors becomes an aggravating circumstance and is punishable by imprisonment of between ten and 15 years and a fine of €1,000 to €100,000.

856. The new Act on residence for foreigners, which came into force on 1 June 2007 (see para. 750 above), provides for the possibility of granting protected status to foreign victims of the trade in human beings, if they are willing to cooperate in criminal prosecutions against the perpetrators. An unaccompanied minor who is a victim of trade in human beings—there were 14 in 2006—receives a residence document (certifying registration for a period of three months, renewable once). If the victim satisfies three cumulative conditions (that the legal procedure has not yet concluded, that he or she is prepared to cooperate and that he or she has broken off links with the exploiters), the Minister or his representative issues a certificate of inclusion in the register of resident foreigners for a period of three months (extendable depending on developments in the legal proceedings). Conditions for the issue, extension, renewal and withdrawal of the residence documents are determined with reference to developments in the legal proceedings and to the fact that the three conditions must be cumulatively satisfied, and the need to avoid any risk to public order or national security. The maximum validity of the first document issued (three months, renewable for three months) is long enough to allow the authorities to search for the victims as such and to provide them with assistance, or to find an alternative solution for the minors concerned, if it becomes apparent that they are not able to have recourse to this specific system. If the public prosecutor brings charges that take account of one of the offences concerned, it is possible for a residence permit for an indefinite period to be issued to the victim.

857. A special protocol for cooperation between the Social Inspectorate (of FPS Social Security) and the Social Legislation Monitoring Service applies in regard to trade in human beings (see para. 818 above).

#### Mechanisms for implementation

858. From the operational point of view, a number of mechanisms have been put in place.

859. In December 2000, the Prime Minister created a Task Force, “*Trade in Human Beings*”, with the remit of establishing, for the short term, the conditions essential for an integrated policy to tackle trade in human beings. The work of this task force has resulted,

among other things, in the Royal Decree, approved on 16 May 2004, on combating trafficking and trade in human beings (*available on request*).

860. *The Centre for Information and Analysis on Trade and Trafficking in Human Beings* (CIATTEH) is an information network that relies on anonymous data from the various parties involved in combating trade and trafficking in human beings. Its remit is to collect, process and analyse information and to make it available in consolidated form to the various partners. This databank will allow relevant strategic analyses to be carried out, allowing the various partners to coordinate their activities to combat against these two scourges. The organization of the Centre is entrusted to a management committee chaired by the Criminal Policy Service (FPS Justice).

861. *Interdepartmental coordination unit to combat the trade in human beings*: the remit of the Interdepartmental Coordination Unit to combat the trade in human beings is to provide effective coordination between the departments involved in policies for combating trafficking and trade in human beings. It also makes a contribution to drawing up proposals and recommendations on the subject. An important set of issues addressed by a working group set up within the Unit concerns improving the status of the victims of trade in human beings and, in particular, victims who are minors. Accordingly, the working group drew up a set of recommendations relating to the reception of victims who are minors. A conclusion was that, while the system of guardianship for non-accompanied minors was an important advance in arrangements for their protection, it was still necessary to draw the attention of guardians and the bodies organizing guardianship arrangements to the fact that some of the minors concerned were also victims of the trade in human beings. Similarly, there was still scope for care provision for minors to be improved. The Act of 15 September 2006 (see annex 38) took some of these recommendations into account.

862. *An expert network on trade in human beings* has been set up within the College of Public Prosecutors. Its remit is to give assistance through specific projects to the public prosecutor responsible for developing and implementing a comprehensive, coherent and coordinated criminal policy in the field of combating trade and trafficking in human beings. The expert network is made up of members of the State Counsel's Office, the central unit of the federal police on human trafficking, the local police and external members such as the Centre for Equal Opportunities and the Fight against Racism. The work of the network has included the preparation of a new directive on investigating and prosecuting offences relating to the trade in human beings and child pornography, which came into force on 1 February 2007 and pays particular attention to victims who are minors (*available on request*). The directive, *Col. 01/07*, updates the previous directive (*Col. 10/04*), principally in relation to its scope, as it had ceased to be appropriate following amendment of the Act of 10 August 2005. The aim of the new directive is to develop a coherent and coordinated policy for investigation and prosecution in relation to the trade in human beings; it aims to secure a uniform approach on the ground and for that reason provides a standard form and common criteria in terms of priorities, first and foremost the fact that the victims are minors. Then come: the extent to which human dignity has been violated, the degree to which violence and threats have been used, the suspicion of involvement by organized crime and the persistence of the criminal activity over time. The new directive also contains a reminder of the particular procedures that are to be followed in relation to victims, and is subject to annual review.

863. *European centre for missing and sexually-exploited children* (*Child Focus*, see the *Belgium's second periodic report, paras. 90 to 96*). As a reminder, the remit of Child Focus, at both the national and international levels, is, on the one hand, to provide active support for enquiries into disappearances, abductions or sexual exploitation of children, and, on the other, preventing and combating these phenomena. An agreement governing the cooperation in relation to of child pornography on the Internet between the non-police

contacts of Child Focus (a private, independent association) and the judicial and police authorities was established in June 2002. The agreement was evaluated during 2005-2006 and brought to light the need for a specific protocol on international abductions by parents and cross-border visiting rights. Accordingly, in 2007 two new protocols came into being: the Protocol of 26 April 2007 governing cooperation between Child Focus and the judicial and police authorities on disappearances and sexual exploitation of children; and the Protocol of 26 April 2007 governing cooperation between Child Focus and the judicial authorities, FPS Justice and FPS Foreign Affairs in the sphere of parental abductions and cross-border visiting rights.

864. *Residential provision for minors who are victims of the trade in human beings:* Belgium has made various arrangements for providing minors who are victims of this trade with care better adapted to their needs. Accordingly, as far as is possible, minors who are presumed to be victims will be referred directly to specialized centres for non-accompanied minors who are the victims of trade in human beings. There, the minors will find someone to listen to them, medical treatment, education and psychological help. Although those working on the ground highlight the shortage of such centres, there has nevertheless been progress, as three new centres have opened during 2002: the Esperanto centre (Walloon Region), *Juna* (formerly '*t Huis*', which has already existed for several years in Flanders) and *Minor N'Dako* in Brussels, part of the Joseph Denamur Foundation (Walloon Region), which takes unaccompanied minors who are asylum-seekers and illegal unaccompanied minors.

865. In March 2004, a two-stage model for the reception of unaccompanied minors was approved by the Council of Ministers (see para 758 above). A first phase, organized by the federal services, allows an initial overall assessment of the psychological and social circumstances of the minor to be drawn up, and, in particular, allows vulnerable groups such as minors who are victims of trafficking to be identified. In the second phase, the minor is transferred to a care facility chosen according to his or her individual situation

#### Adoption

866. In all cases where there is sufficient evidence to show that the case is one of child abduction, sale or trafficking, any adoption which might ensue will not be recognized by Belgium, as it would be contrary to the public interest, taking account of the best interest of the children concerned and the fundamental rights accorded to the child under international law (see para. 374 above). Moreover, the State Counsel's Office has an obligation to take proceedings to seek a review of such adoptions. Members of the family of origin may also bring review proceedings.

### **D. Children belonging to a minority or indigenous group (art. 30)**

#### **b. At the level of the federated authorities**

##### *b.1 The Flemish Government*

867. The Flemish Government is pursuing the development of a policy to guarantee the rights of children for the original Dutch-language population (see the project of the not-for-profit organization *De Rand*, para. 171 above).

### **E. Children living or working in the street**

868. See paras. 848 and 849 above.

## F. Difficulties and future objectives

### Undocumented children

869. The responsible authorities will examine the problems associated with unaccompanied foreign minors who disappear shortly after their arrival in Belgium. It is often very difficult to find these young people owing to the lack of reliable information about their identity. Moreover, they are at risk of becoming victims of violence (for example through prostitution or human trafficking).

870. The authorities will attempt to gain a better understanding of the migratory flows of young people: how they arrive in Belgium, the reasons for departure, numbers, etc.

871. The various responsible authorities will step up their efforts to establish a picture of the situation of foreign minors using transparent, reliable and comprehensive data. This issue will receive special attention within the consultation mechanisms that already exist between public authorities at the different levels.

872. The responsible authorities will make sure that the statistics that the different authorities collect about disappearances are coordinated as a matter of urgent priority.

873. The responsible authorities will step up their efforts to establish the statistics figures for the detention of accompanied children, using comprehensive and reliable figures.

874. The responsible authority will take steps to clarify the mission conferred on guardians of unaccompanied foreign minors. It will take steps to clarify the role of the guardian in relation to those of the other professionals working with unaccompanied foreign minors (including youth assistance counsellors and those providing public and private services in the sector). In addition, it will take measures to define the obligations of guardians in relation to confidentiality and case management, code of ethics and, more generally, will provide the Guardianship Service with capacity to invest in the continuing training of guardians and monitoring their work, as provided for in the Act on guardianship.

875. The responsible authorities will step up their efforts to provide residential places or other forms of care that are better suited to the needs of unaccompanied foreign minors. Additional efforts will also be made in the sphere of guidance to such minors.

876. The responsible authorities will define the concept of “urgent medical assistance” in so far as it denotes more than urgent assistance in the strict sense. In addition, they will work to harmonize the relevant regulations as regards all unaccompanied foreign minors and to improve the information available to those concerned.

877. The responsible authorities will step up their efforts to make the procedure to be followed in relation to seeking urgent medical assistance less cumbersome and more accessible: medical cards will become standard. At some levels, the public authorities already have action in hand on the first of these items for children from birth to the age of 6.

878. The responsible authorities will extend the issue of SIS cards (*système information sociale*, social welfare information system) to all foreign minors, including accompanied minors.

879. The responsible authorities will make sure that basic prescription drug treatment that carries an implication of urgency is included in the concept of “urgent medical assistance”.

880. The Government of the French Community will do the following.

- Step up its efforts to increase the number of “bridging classes”.

- Make sure that all children of foreign origin who do not have a command of French, including those who are not asylum-seekers and who are not originally from a developing country or a country in transition and are not stateless, can have access to a bridging class.
- Make sure that bridging classes provided by the French Community are also accessible to children who have been in Belgium for more than a year.
- Examine the possibility that all children who could benefit from bridging-class arrangements should be able to receive a certificate of admissibility issued by the Council for Integration as referred to in Chapter III of the Decree of 14 June 2001 on the integration of pupils on first arrival into education organized or subsidized by the French Community.
- Make sure that participation in a bridging class provided by the French Community covers at least one complete school year. If a child joins a bridging class in the course of a school year, the French Community will make sure that he or she is also able to attend during the subsequent year, as is already the case with authorities at other levels.

881. The Government of the French Community has begun a review of the Decree of 4 June 2001 on the integration of pupils on first arrival into education organized or subsidized by the French Community, looking at the accessibility of bridging classes in the light of article 29 of the Convention, which provides that teaching must: “be directed to the development of the child’s personality, talents and mental and physical abilities to their fullest potential”.

882. The responsible authorities within the different Communities will scrupulously ensure that the young person receives sustained support (including language support) after making the transition to mainstream education.

883. Depending on the minor’s specific circumstances, close cooperation with, among others, the International Organization for Migration, with a view to a voluntary return, as regulated by the Circular of 17 November 2006, will be intensified when preparations for the return are being made and when accompanied return takes place.

884. Care will be taken to ensure that unaccompanied minors are informed of their rights and have access to legal assistance during the process of applying for asylum.

885. Cooperation and the exchange of information between those involved will be improved, including the Aliens Office and other authorities, the police services, the courts, residential centres and non-governmental organizations.

886. The Federal Agency for the Reception of Asylum-Seekers will prepare a booklet for asylum-seekers who are minors. The CGRA has prepared a comic strip for unaccompanied foreign minors. The Guardianship Service is distributing a booklet to unaccompanied foreign minors. The Aliens Office makes available to asylum-seekers a booklet about asylum procedures, part of which is about unaccompanied foreign minors. The Aliens Office is currently preparing a specific booklet for unaccompanied foreign minors.

887. The responsible authorities will continue their efforts to make adequate and comprehensible information available to young people, whether or not asylum-seekers, about their rights and access to justice. The responsible authorities will also continue, within the framework of existing coordination arrangements, to give priority to cooperation and information exchange between all those involved in relation to the position of unaccompanied foreign minors.

## Children in conflict with the law

888. A consequence of the distribution of responsibilities between the federal authorities and the Communities is that reform and application of the law on the protection of young people often call for coordination between several governments. Because it is based on constructive, reciprocal dialogue, coordination on this model can be a means of adding value, but it may mean that reform takes longer than would be the case if fewer partners were involved in the reform process.

889. The responsible authorities will examine whether the application in practice of certain provisions of the new Act on protection of young people, such as the imposition of community service orders (*prestation d'intérêt général*) during the pre-trial phase, allows sufficiently for the presumption of innocence, as guaranteed in article 40 (b) (i) of the Convention, to be maintained.

890. Research into the impact of youth protection measures on the young people to whom they are applied will be pursued. There will also be continuing research by the prosecution services into the development of a statistical tool to provide reliable statistics that contribute to a better understanding of crime by minors, and way in which the prosecution services and youth courts deal with this type of crime. In addition, the results of research which is under way or has already been carried out will be better disseminated, for example through the websites of the responsible services, as is done by some authorities already. Priority will also be given to considering whether inter-university research can be encouraged between different parts of the country on matters where there is an overlap of jurisdictions.

891. The responsible authorities will take the necessary measures to ensure that all young people placed in the Everberg centre have contact with trained personnel, as already happens at some levels of authority. There will be a guarantee, through training given by the FPS Justice in cooperation with the Communities, that supervisory personnel also possess a minimum level of educational skills so that they behave appropriately with minors. This will result in an improved implementation of articles 37(c) and 39 of the Convention.

892. The responsible authorities will review whether the condition imposed by the "Everberg Act", namely that young people placed at the Everberg centre should be directly transferred to an IPPJ, as soon as a place becomes available, is being applied. The reasons for any failure to apply it will be identified, and more appropriate ways established to improve the situation or to amend the legal position in favour of the young person and that person's legal certainty.

893. The responsible authorities will consider the value of monitoring the development of every young person placed in the Everberg centre, pursuant to article 39 of the Convention.

894. The responsible authorities will arrange for systematic evaluations of the compatibility of the operation of the IPPJ and the closed federal centre with the Convention. This will not focus solely on current practices. Forward-looking research will also be carried out to provide a qualitative basis for future development. There will be consultation for this between the public authorities at different levels.

895. The responsible authorities will seek a solution for outstanding problems in relation to minors who commit offences and exhibit psychiatric problems. The first problem is that there are not enough places in child psychiatry services in the legal system, so that that young people risk finding themselves in adult psychiatric institutions or in institutions for children with a disability. The second problem is that it also appears difficult to reconcile the compulsory (judicial) nature of placement in a closed centre with the therapeutic approach adopted by the health-care sector. The responsible authorities will engage with these problems through intensive consultations between the different levels of competence.

896. The responsible authorities undertake to draw attention to the principles inherent in the protection of young people where “acts categorized as offences” are committed by minors, and to inform the public accordingly.

897. Several objectives are even now being addressed in relation to the representation of children in the judicial system.

- The Bar Associations will be invited to set out the ethical obligations of lawyers to clarify their position and role in the context of representing minors.
- The Bar Associations will be invited to promote the general adoption of good practice observed by certain Bars, by setting up standing youth teams staffed by lawyers trained in youth matters, along with the idea of ongoing training arrangements (covering civil law, law on protection, the law of asylum and residence, welfare legislation, etc.). This would give individuals the opportunity of consulting persons trained in these matters.
- The system of guardian ad hoc will be reviewed with a view to extending it to all situations in which a young person (or a mandating authority) wishes his or her interests to be defended but the responsible parent takes no action.

#### Drug use

898. In relation to drug-use, the responsible governments undertake to maintain an intensive preventive and educative approach.

#### Violence towards children

899. The responsible authorities will make sure that an appropriate offer of aid (comprising medical and psychological assistance) is put together for the benefit of victims of the sale of children, child prostitution or child pornography, in a way that avoids superfluous interventions. They will also check that police officers, who often constitute the first “contact person”, properly apply the rules about information to be provided on the assistance available. The authorities will also ensure that, in cases where children are heard, they are, preferably questioned using methods which avoid the same child being questioned on several separate occasions.

900. The responsible authorities will examine the measures necessary to combat the disappearance of unaccompanied minors. The high numbers of reported disappearances among this category of minors is distinctly worrying and in marked contrast to the very small number of minors subsequently found. These minors are in a particularly vulnerable situation which increases the risk that they may be exploited (for example becoming victims of the trade in human beings or ending up in prostitution).

#### Begging

901. The review of the issue of begging by children from the Roma community has established that the provision of care and getting them engaged with school is key to any solution.

902. Support for families, aimed at extending school attendance by these children (by guaranteeing the material conditions for attendance at school and supervising the families during the process) will, therefore, be pursued and intensified. Measures to secure compliance with the compulsory education requirement, such as investment in guidance and in intensive monitoring at school, will also help.

903. Even though the number of (recorded) cases is limited, it appears that trafficking networks are exploiting children for the purposes of begging in Belgium. Specific

protective measures will therefore be taken, and a study will be carried out to help target this approach

904. As rapid detection and specific guidance for victims of trafficking are essential, multi-disciplinary training for the professionals concerned will be intensified to improve the present system of detection and care for these specific cases of trafficking.

#### Statistics

905. As regards the statistics that need to be established in connection with the trade in human beings, the process of standardizing encoding methods at national level will continue. The possibility of distinguishing, at the level of the statistical data, between victims who are adults and victims who are minors will be examined. A distinction of that nature would provide data that could be used in connection with the rights of the child.

## **IX. Optional Protocols to the Convention on the Rights of the Child**

906. In this section, the measures taken in response to the concluding observations of the Committee on the Rights of the Child following the submission of Belgium's initial report relating to the Optional Protocol on the Involvement of Children in Armed Conflict (CRC/C/OPAC/BEL/CO/1) are summarized in paragraphs 907, 911, 916, 922, 923, and 924 to 929.

### **A. Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC)**

#### The law on arms

907. Responsibility for matters connected with arms trading (governed by the Act of 5 August 1991, amended by the Act of 26 March 2003) was passed to the Regions in August 2003. The federal Act on arms, however, continues to have effect pending specific decrees on arms by the Regions. Under the terms of this Act, a licence is to be refused, if it appears from an overall analysis of the situation in the country concerned that there is flagrant violation of human rights, if there is a manifest risk there that the goods for possible export may be used for internal repression or if child soldiers are enrolled in the regular army. The use of child soldiers is one of the factors on which cases are reviewed under these arrangements. In future, the application of the Act is to be a function of the Regions. Further, the Regions comply with the European Code of Conduct on Arms Exports, which contains eight criteria including: the respect of human rights in the country of final destination; the internal situation in the country of final destination; the preservation of regional peace, security and stability; and the behaviour of the buyer country with regard to the international community, as regards in particular its attitude to terrorism, the nature of its alliances and respect for international law and the existence of a risk that the equipment will be diverted, within the buyer country, or re-exported under undesirable conditions.

908. In the Flemish Region, respect for human rights is monitored on the basis of publicly available sources and information from official bodies, non-governmental organizations and international organizations.

909. The majority of arms cases are dealt with by the Walloon Region and concern small arms and light weapons. In issuing licences, account is naturally taken of the problem of child soldiers. Licence applications are referred to a commission which takes account of the following in reviewing them: the country must not have recruited children aged under 16



into its army; the country must not engage children aged under 18 in combat and must respect the Convention on the Rights of the Child. A check is also made to confirm that the country has ratified the protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (OPAC).

910. No statistics are available on specific refusals of licences on the basis of the child-soldier criterion. Over the past two years, there have been a number of refusals on the grounds that internal tension or a situation of conflict exists. In each of these cases, however, the identity of the end-users and the motive for the proposed purchase suggest another major ground for refusal. In cases where re-export is involved, the Walloon Region requires the importer country to sign certificates of end-use and non-re-exportation. In cases where a country re-exports arms, the initial exporting country informs the other signatories of the European Code of Conduct.

**a. At the federal level**

Enlisting persons under the age of 18 in the armed forces

911. In its concluding observations on Belgium's first report on this optional protocol to the Convention, the Committee recommended that Belgium repeal all laws authorizing enlistment of persons under the age of 18 into the armed forces in time of war. The following initiatives should be noted.

- The new Act of 28 February 2007 determining the status of soldiers on active service with the armed forces explicitly provides that a soldier who is a minor or in training may not take part in armed operational engagements. This Act will come into force on a date to be determined by the King, and at the latest on 1 July 2011 (*available on request*).
- Conscription is governed in Belgium by the consolidated Acts of 30 April 1962 on military service. Provision is made for conscripts to form part of the reserve, to be called-up in the event of war or when Belgian territory is threatened, as of 1 January of the year in which they reach the age of 17. However, it is also provided that these Acts on the conscription apply only to conscripts from the levies for 1993 and previous years (provisions inserted by the Act of 31 December 1992). At present, therefore, no minor is affected by these Acts on conscription.
- Compulsory military service was suspended by the Act of 31 December 1992.

Extraterritorial jurisdiction of the Belgian courts over the offences dealt with in the Protocol

912. The Act of 5 August 2003 on the prosecution of serious violations of international humanitarian law (*Moniteur belge*, 7 August 2003 – *available on request*) defines conscripting or recruiting children under the age of 15 into the armed forces or armed groups, or actively involving them in hostilities (article 136 *quater*, para. 61, point 7 of the Criminal Code) as a war crime, and punishes it as such.

913. This offence also comes within the jurisdiction of the Belgian courts where the following conditions are met: in addition to cases where the suspected offender is present on Belgian territory, (article 12*bis* of the Code of Criminal Procedure, the Belgian courts also have jurisdiction where the suspected offender is Belgian or has his principal residence in Belgium (article 6, point 1 *bis* of the Code of Criminal Procedure), or when the victim is Belgian, has been recognized in Belgium as a political refugee, or has been genuinely, habitually and legally resident in Belgium for at least three years (article 10, point 1 *bis* of the Code of Criminal Procedure). Extraterritorial jurisdiction therefore exists in Belgian law in relation to the offences with which the Protocol is concerned.

914. Article 70 of the Belgian Criminal Code also stipulates that neither a provision of law (*ordre de la loi*) nor the order of a superior provides a ground of excuse in the event of the commission by soldiers or others of a serious violation of international humanitarian law —a category which includes the conscription of children below the age of 15 into the armed forces.

Particular measures relating to asylum-seekers who are minors who have been involved in armed conflict

915. While the services dealing with asylum do not have specific statistics available for this category of minors, they are able to state with confidence that they have been faced with fewer than 10 cases of former child soldiers over the past two years (2006-2007). The persons concerned have often reached the age of majority during the investigation of their claim to asylum. The following particular measures are taken in relation to this category of asylum-seekers.

916. First of all a programme has been developed for the social reintegration of these children. Action is taken to ensure that they have access to psychological, medical and social assistance in connection with their claim to asylum. In the first instance, this is provided by the guardian who ensures that a traumatized minor has the benefit of psychological support and appropriate medical care. In certain cases, the official who hears the case asks for a psychological examination to be carried out to establish the capacity of the young person to take part. If the expert psychologist's view is that the person does not have the necessary capacity, the examination of the claim is carried out on the basis of the material contained in the case- file.

917. Within the Office of the Commissioner-General for Refugees and Stateless Persons (CGRA), which scrutinizes claims to asylum, there is a psychologist responsible for preparing psychological reports on certain asylum-seekers suffering from post-traumatic stress syndrome.

918. Care facilities (namely, the open centres referred to above at paras. 756 *et seq.*) have teams of social workers to ensure that appropriate supervision is provided. If necessary, staff can refer the minor to a more appropriate provider such as a hospital or a centre offering psychological and medical support.

919. Secondly, specific criteria are applied in examining the case of a child soldier or former child soldier.

920. The CGRA pays particular attention to consideration of claims to asylum made by a child soldier or former child soldier.

921. The capacity of a child soldier to comprehend acts which have been committed is assessed on the basis of the following criteria:

- Age at the time of recruitment
- The voluntary or involuntary nature of recruitment
- What the consequences of refusing recruitment would have been
- The length of "service"
- What scope was there for refraining from personal participation in atrocities
- Compulsory use of drugs and medication
- Promotions awarded for "good service"
- The minor's education, environment and background

- Emotional development
- Present behaviour in relation to acts committed in the past

The assumption made in the case of minors aged under 15, which would be hard to rebut, is that they were not fully conscious of their actions and the consequences that they might have (non-responsibility). As with those of minors aged 15-18, these cases are considered individually.

#### Dissemination and training

922. In the course of the first half of 2006, training on the traumas suffered by refugees who are minors was delivered under the framework of the European Refugee Fund to specialists working with CGRA. Given the difficulties involved in identifying quickly which children have been involved in or affected by an armed conflict, the staff, not only of FEDASIL, but also of the whole network of organizations involved in providing residential services for unaccompanied foreign minors, have access to a variety of training which reflects the characteristics of the variety of clients with whom they deal. Different, purpose-designed forms of training are also undertaken by staff providing support to unaccompanied foreign minors. A number of residential courses are planned for 2008, in addition to other forms of training which are already in operation, such as training in listening, collective supervision, intercultural awareness and training dealing specifically with observation of and dialogue with individuals. Other courses focus more on other training in equally necessary subjects, such as personal development plans. In addition, most social workers in the federal structures for providing care facilities have undertaken, as part of their accredited training, training focusing on intercultural communication and communication with persons in distress.

#### Identification and systematic collection of data

923. The CGRA collects a raft of information on minors who are applying for international protection. In connection with data relevant to their identity, a list of key words is established so that child soldiers can be distinguished among the minors. This arrangement is too recent for specific figures on the subject to be given. Distinctions must be made on a number of points: those who were child soldiers at the time of particular acts and/or at the time when a claim for asylum was made, cases where an attempt to recruit by force was made and failed, as compared with actual recruitment which lasted for the medium or long term, etc. As stated above, fewer than ten cases of child soldiers have been recorded over the last two years (2006-2007). Only one child had been granted refugee status as a result of being recognized as a child soldier.

#### International cooperation

924. As indicated above (para. 59), Belgium has supported projects dealing with children and armed conflicts to the level of approximately €15 million.

925. In addition, membership of the Security Council for the period 2007-2009 allows Belgium to sit as a member of the Security Council Working Group on Children and Armed Conflict set up by resolution 1612 (2005). This privileged position has allowed Belgium to play an active role in relation to these problems at the highest policy level. In the context of close cooperation with the partners concerned, Belgium is urging the effective use of the tools approved in September 2006 and made available to the Security Council Working Group. On 25 September 2005, the Prime Minister made a speech to the United Nations Security Council in which he called for specific measures to be taken to combat the phenomenon of child soldiers: an embargo on arms exports to the countries concerned, the suspension of development aid to countries that recruit child soldiers into their armies, and,

above all, the criminal conviction of warlords or heads of governments that recruit child soldiers into their armies.

926. Belgium also maintains regular contact with Mrs. Coomaraswamy, who was appointed in 2006 as the Secretary General's Special Representative for Children and Armed Conflict. Belgium supported the revision of the Machel study [of the impact of armed conflict on children] carried out by the Special Representative in close collaboration with UNICEF.

927. At the beginning of February 2007, Belgium took part in the conference "Free Children from War", organized by France and UNICEF. Convinced of the need for effective and practical protection for children during armed conflicts, Belgium has subscribed to the "Paris Principles", an updated version of the initial "Capetown Principles".

928. In addition, Belgium continues to be actively engaged in the application of the European Directives of December 2003 on children and armed conflict. Its commitment takes the form of respecting the obligation for regular reporting by the heads of missions to the EU, maintaining political dialogue, taking initiatives and supporting projects.

929. Following the example of earlier initiatives on antipersonnel mines, Belgium is playing a pioneering role for the future in the process which should lead to an international ban on fragmentation weapons. As many reports testify, fragmentation weapons claim many victims among the civilian population, and more particularly among children, during and after warfare. In 2006, the Belgian Parliament passed an Act forbidding the use, production and transportation of dangerous fragmentation weapons. This national legislation (the first of its kind in the world) gives our country the opportunity to assert its authority at the international level.

930. In addition, Belgium continues to play an active role in combating illegal trade in small arms. Belgium recognizes the link that exists between the phenomenon of child soldiers and the distribution of light armaments and seeks to ensure that action in both spheres is mutually reinforcing. For the future, Belgium is supporting the process designed to encourage an international treaty on trade in arms which, ideally, would impose criteria for prohibition with the aim of protecting child soldiers. These criteria are already addressed in Belgian legislation (the Act of 26 March 2003 amending the Act of 5 August 1991).

## **B. Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography**

931. The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, adopted at New York on 25 May 2000, as amended by the Secretary-General on 14 November 2000, was ratified by Belgium on 17 March 2006. The Act of 9 February 2006 assents to the Protocol (*available on request*). The National Commission on the Rights of the Child is contributing to drafting Belgium's initial report.

### **b. At the level of the federated authorities**

#### ***b.1 In the Flemish Community***

932. Flanders has approved a Decree of 7 February 2003 approving the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and

child pornography, concluded in New York on 25 May 2000 and ratified by the Flemish Parliament on 29 January 2003 (*available on request*).

*b.2 Government of the French Community*

933. The Decree of the French Community dated 12 May 2004 gives assent to the Optional Protocol of 25 May 2000 to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (*available on request*).

## **C. Difficulties and future objectives**

### **OPAC**

934. The competent authorities will amend the consolidated Acts of 30 April 1962 on conscription in relation to the recruitment of reservists of 17 years of age. This will mean that, in accordance with the recommendations of the Committee on the Rights of the Child in paragraphs 10 and 11 of its concluding observations on Belgium's initial report on the Optional Protocol on the involvement of children in armed conflict (OPAC), the legal possibility of recruiting young people below the age of 18 into the army will be abolished, and the legislation will be brought into conformity with the practice already in operation.

935. The competent authorities will take additional measures so that compliance with the recommendation of the Committee on the Rights of the Child in paragraph 25 of its concluding observations regarding OPAC can be confirmed. The competent authorities will make arrangements for information and training regarding OPAC in the wider context of general education about the Convention and its protocols, rather than by arranging training exclusively devoted to matters connected with OPAC.

936. The criterion which must be met for a permit for light weapons to be issued, namely that the country concerned must not have recruited children under the age of 16 years into its army, has not been increased to 18 years. Moreover, this criterion applies only to the enlistment of children into the Government's army, and not to their recruitment by rebels. To respond to the recommendation of the Committee on the Rights of the Child at paragraphs 19 to 22 of its concluding observations on OPAC, the Governments concerned will request an in-depth review at European level with a view to possibly extending the condition to all minors (up to the age of 18) and considering problems associated with the delivery of arms to Government armies confronted by rebels who use child soldiers.

937. Although general programmes for social reintegration already exist, the competent authorities will actively undertake a specific programme for the social reintegration of minors who arrive in Belgium and are victims of armed conflicts. This will respond to the recommendation of the Committee on the Rights of the Child contained in paragraph 19 of its concluding observations on OPAC.

## List of annexes

### A. Record of the report's approval by the National Commission for the Rights of the Child

### B. Annexes providing further information

1. Cooperation agreement of 19 September 2005, between the State, the Flemish Community, the Flemish Region, the French Community, the German-language Community, the Walloon Region, the Brussels-Capital Region, the Joint Community Commission and the French Community Commission, establishing a National Commission on the Rights of the Child (*M.B.* 10/11/2006).
2. National Action Plan (July 2005).
3. *Instituut voor de gelijkheid van vrouwen en mannen.*
4. Document setting out the complaints received by the Federal Ombudsman.
5. *Decreet op het Vlaamse jeugdbeleid* of 29 March 2002 (*M.B.* 14/06/2002).
6. *Bijkomende informatie Vlaanderen.*
7. Decree of the French Community of 28 January 2004 requiring the preparation of a report on the application of the principles of the Convention on the Rights of the Child (*M.B.* 17/02/2004).
8. Decree of the French Community of 12 May 2004 establishing the Observatory on Children, Youth and Assistance to Young People (*M.B.* 18/06/2004).
9. Decree of the French Community of 20 June 2002 establishing a Delegate-General for Children's Rights for the French Community (*M.B.* 19/07/2002);
10. Order of the French Community of 19 December 2002 concerning the Delegate-General for the Rights of the Child.
11. Explanatory annexes provided by the French Community.
12. Act of 19 July 2005 amending article 8 of the Act of 25 May 1999 on Belgian international cooperation in relation to the rights of the child (*M.B.* 07/09/2005).
13. *Eindtermen en ontwikkelingsdoelen in het Vlaamse onderwijs.*
14. *Decreet van 2 april 2004 inzake ontwikkelingseducatie* (*M.B.* 14/06/2004).
15. Statistical data:
  - A. Explanatory note and statistical data relating to article 34 of the Convention.
  - B. Statistical data concerning the system of family allowances for employees and the system of guaranteed family benefits.
  - C. Statistical data concerning international adoption (covering the period 01/09/05 to 01/12/06).
  - D. Statistical data collected in relation to the prevention of smoking.

- E. Statistical data concerning schooling and removal from the family environment for the German-language Community.
  - F. *Statistieken inzake doodsoorzaken bij minderjarigen.*
  - G. *Statistieken inzake niet-begeleide minderjarige vreemdelingen.*
  - H. *Statistieken inzake de opvang van minderjarige vreemdelingen.*
  - I. *Een algemene stand van zaken op 31 december 2006 van de opvang van niet-begeleide minderjarigen.*
  - J. Reception of unaccompanied minors: capacity.
16. *Decreet van 28 februari 2003 betreffende het Vlaamse inburgeringsbeleid (M.B. 08/05/2003).*
  17. *Decreet van 14 juli 2006 tot wijziging van het decreet van 28 februari 2003 betreffende het Vlaamse inburgeringsbeleid (M.B. 09/11/2006).*
  18. *Decreet van 28 juni 2002 betreffende gelijke onderwijskansen-I (M.B. 14/09/2002).*
  19. Ministerial circular No. 1461 of the French Community of 10 May 2006 on free compulsory education and equality of opportunity: costs of schooling chargeable to families.
  20. Decree of the French Community of 14 June 2001 on the integration of pupils on first arrival into education organized or subsidized by the French Community (M.B. 17/07/2001).
  21. *Decreet van 2 april 2004 betreffende participatie op school en de Vlaamse Onderwijsraad (M.B. 06/08/2004).*
  22. *Decreet van 7 mei 2004 betreffende de rechtspositie van de minderjarige in de integrale jeugdhulp (M.B. 04/10/2004). En het Decreet van 30 maart 2007 tot wijziging van het decreet van 7 mei 2004 betreffende de integrale jeugdhulp en van het decreet van 7 mei 2004 betreffende de rechtspositie van de minderjarige in de integrale jeugdhulp, wat het bestuurlijk beleid betreft, en tot bekrachtiging van sommige bepalingen van het besluit van de Vlaamse Regering van 31 maart 2006 betreffende het Departement Welzijn, Volksgezondheid en Gezin, betreffende de inwerkingtreding van regelgeving tot oprichting van agentschappen in het beleidsdomein Welzijn, Volksgezondheid en Gezin en betreffende de wijziging van regelgeving met betrekking tot dat beleidsdomein (M.B. 23/04/2007).*
  23. Decree of the French Community of 4 March 1991 on youth welfare (M.B. 12/06/1991).
  24. *Decreet van 13 juli 2007 houdende de organisatie van opvoedingsondersteuning (M.B. 14/08/2007).*
  25. Decree of the French Community of 17 July 2002 reforming the Birth and Childhood Office (ONE) (M.B. 02/08/2002).
  26. Belgium's contribution to following up the United Nations Study on violence against children.
  27. Decree of the French Community of 12 May 2004 on assistance to children who have been the victims of abuse (M.B. 14/06/2004).
  28. Explanatory annexes provided by the Walloon Region.

29. Protocol of 11 October 2006 between the federal State, the Flemish Community, the Flemish Region, the French Community, the German-language Community, the Walloon Region, the Brussels-Capital Region, the Joint Community Commission and the French Community Commission for the benefit of persons with a disability.
30. *Artikel 27 van het Decreet Basisonderwijs van 25 februari 1997, gewijzigd bij decreet van 7 juli 2006.*
31. Act of 28 November 2000 on the protection of minors under the criminal law (*M.B.* 17/03/2001).
32. Order of the Government of the French Community of 17 December 2003 establishing the code of quality and care (*M.B.* 19/04/2004).
33. Documentation concerning the *Cigogne* I and II Plans.
34. Decree of the French Community of 12 May 2004 concerning various measures to prevent students dropping out of school, exclusion and violence in school and the creation of the French Community's Centre for reintegration into school and society (*M.B.* 21/06/2004).
35. Decree of the German-language Community of 17 December 2001 on the education of newly-arrived pupils (*M.B.* 04/04/2002).
36. Decree of the French Community of 30 June 2006 on the social integration of young people through sport, establishing a "sports voucher" (*M.B.* 28/08/2006).
37. Relevant provisions concerning guardianship for unaccompanied foreign minors in the programme-law of 27 December 2004 (*M.B.* 31/12/2004).
38. Act of 15 September 2006 amending the Act of 15 December 1980 on access to the territory, residence, establishment and the removal of foreigners (*M.B.* 06/10/2006).
39. Act of 12 January 2007 on the reception of asylum-seekers and certain other categories of foreigner (*M.B.* 07/05/2007).
40. Consolidated version of the Acts of 15 May 2006 amending the Act of 8 April 1965 on the protection of young people, the Code of Criminal Procedure, the Criminal Code, the Civil Code, the new Municipal Act and the Act of 24 April 2003 reforming the adoption process (*M.B.* 02/06/2006), of 13 June 2006 amending the legislation on the protection of young people and care of minors who have committed an act categorized as an offence (*M.B.* 19/07/2006) and of 27 December 2006 concerning various provisions (II) (*M.B.* 28/12/2006), (*M.B.* 02/03/2007).
41. Decree of the French Community of 19 May 2004 amending the Decree of 4 March 1991 on youth welfare provision (*M.B.* 23/06/2004).
42. Order of the Joint Community Commission of 29 April 2004 on youth welfare provision (*M.B.* 01/06/2004).
43. Act of 10 August 2005 supplementing the protection of minors under the criminal law (*M.B.* 02/09/2005).
44. Act of 10 August 2005 amending various provisions to reinforce the prevention of the trade and trafficking in human beings and the practices of slum landlords (*M.B.* 02/09/2005).



45. *Decreet van 14 februari 2003 houdende de ondersteuning en de stimulering van het gemeentelijk, het intergemeentelijk en het provinciaal jeugd- en jeugdwerkbeleid (M.B. 24/03/2003).*
  46. *Decreet van 15 december 2006 tot wijziging van het Decreet van 14 februari 2003 houdende de ondersteuning en de stimulering van het gemeentelijk, het intergemeentelijk en het provinciaal jeugd- en jeugdwerkbeleid (M.B. 19/01/2007).*
  47. Contribution from the State Secretariat for Families and Persons with a disability.
-