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COMMITTEE ON ECONOMIC, SOCIAL  
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**IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON  
ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
IN ACCORDANCE WITH ARTICLE 16 OF THE INTERNATIONAL  
COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**REPLIES BY THE GOVERNMENT OF BELGIUM TO THE LIST OF  
ISSUES (E/C.12/BEL/Q/3) TO BE TAKEN UP IN CONNECTION  
WITH THE CONSIDERATION OF THE THIRD PERIODIC REPORT  
OF BELGIUM CONCERNING THE RIGHTS REFERRED TO IN  
ARTICLES 1-15 OF THE INTERNATIONAL COVENANT ON  
ECONOMIC, SOCIAL AND CULTURAL RIGHTS (E/C.12/BEL/3)\***

[25 October 2007]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

## I. GENERAL INFORMATION

***Q.1. Please provide additional and updated information on measures - legislative or otherwise - that the State party has undertaken to implement the suggestions and recommendations contained in the Committee's concluding observations on Belgium's previous periodic report, in particular with regard to those included in paragraphs 17, 18, and 19 (E/C.12/1/Add.54).***

### **Paragraph 17**

1. Belgium is a federal State consisting of three communities (the Flemish Community, the French-speaking Community and the German-speaking Community) and three regions (the Flemish Region, the Walloon Region and the Brussels-Capital Region).<sup>1</sup> The many provisions of the International Covenant on Economic, Social and Cultural Rights therefore apply to the functions of the federal, community and regional authorities.
2. To ensure effective coordination between the various levels of government, in October 2003 a multilateral coordination unit (COORMULTI) was set up within the Federal Public Service for Foreign Affairs, Foreign Trade and Development Cooperation. The unit's specific task is to hold coordination meetings, on a systematic and methodical basis, with a view to ensuring the coherence of Belgian policy.
3. Between the date of its creation and July 2007, the unit held 338 coordination meetings. The partners are consulted on a very regular basis, as the total number of meetings held clearly shows. The main participants in the coordination meetings are the various federal public services concerned (including the Services for Foreign Affairs, Foreign Trade and Development Cooperation; Justice; and Employment, Labour and Social Dialogue) and the federate entities.
4. In order to promote effective interaction with civil society, representatives of non-governmental organizations (NGOs) are also invited to attend certain coordination meetings. An NGO forum, led by the relevant ministers, to enhance relations with NGOs has also been held each December since 2004.
5. Various coordination meetings were held during the preparation of the third periodic report of Belgium on the implementation of the International Covenant on Economic, Social and Cultural Rights and the replies by Belgium to the list of issues of the Committee on Economic, Social and Cultural Rights (E/C.12/BEL/Q/3). The same consultation procedure is followed with regard to other reporting obligations.
6. It is important to stress that this relatively new mechanism is used both in the preparatory phase and during follow-up. All recommendations are carefully examined, and the presence of the relevant stakeholders assures an effective division of labour.

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<sup>1</sup> Articles 1, 2 and 3 of the Belgian Constitution.

7. The coordination meetings offer an opportunity to clarify the position of Belgium on various international negotiation processes, including, for example, the negotiations on the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

8. In conclusion, the various stakeholders are brought together at the regular coordination meetings held by COORMULTI and the participants greatly appreciate this mechanism because of the value that it adds in terms of transparency, consistency and efficiency.

#### **Paragraph 18**

9. Belgium supported the holding of the most recent World Conference on Human Rights (Vienna, 1993), which offered the international community an opportunity to assess the progress made on human rights since the establishment of the United Nations and to identify gaps and provide policy guidance for the end of the twentieth century.

10. Belgium reaffirms the principles of the inherent universality, indivisibility and interdependence of human rights. The enjoyment of civil and political rights and economic, social and cultural rights, free from any discrimination, not only is an expression of social solidarity but is also one of the determining factors in the preservation of human dignity.

11. The safeguarding of human rights is a continuous process, and many related standards have been developed at various international gatherings. The credibility of efforts towards that end relies on the closure of the gap between the proclamation of such standards and their practical application.

12. By signing the International Covenant on Economic, Social and Cultural Rights and other international human rights conventions, Belgium has made a commitment to implementing the standards embodied therein at the national level.

13. While Belgium has yet to devise a general plan of action on human rights, it carries out several other activities to serve the same purpose, i.e., enhancing the protection and promotion of human rights.

14. Belgium has also developed various plans of action with more specific focuses. A good example is the plan of action for children, which was drawn up in the light of recommendations made by the United Nations General Assembly at the outcome of its 2002 special session entitled "A World Fit for Children".

#### **Paragraph 19**

15. Activities involving the creation of a national human rights commission are overseen by an ad hoc working group attached to the Prime Minister's strategy group, with the active participation of other relevant departments (including the Department of Foreign Affairs and the Department of Justice). This is a complex issue, both because of the subject matter and institutional factors.

16. In 2006, the Office of the United Nations High Commissioner for Human Rights was asked to provide a detailed opinion on the issue. The opinion was given and is being examined closely. Various NGOs compiled a document setting out their views together with practical proposals for the creation of a national human rights commission.

17. In-depth discussions were held following the preparatory phase, and the various options are now being examined closely, in the light of the opinions garnered, the Paris Principles and the domestic institutional climate. Given the prevailing political situation in Belgium, it would be premature to give a starting date for this institution.

18. It should be stressed that, while a national commission for human rights is not yet in place, other specialized organizations do exist already.

19. The National Commission for the Rights of the Child<sup>2</sup> was established in 2007. The Commission is a permanent legal body and a platform for dialogue, which is characterized by wide representation of all levels of authority (federal, regional, local, executive and judicial) and civil society. Members include representatives of the federal State, the Communities, the Regions, public prosecutors, juvenile court magistrates, various bar associations, the Union of Cities and Communes, NGOs, universities and UNICEF Belgium.

20. Belgium has its own Inter-ministerial Commission for Humanitarian Law operating at the national level. Attached to the Ministry of Foreign Affairs, the Commission coordinates national implementation of the Geneva Conventions and protocols and considers issues of international humanitarian law; the two Belgian branches of the International Committee of the Red Cross are closely involved in this work.

21. The Equal Opportunities and Anti-Racist Centre was set up in 1993 to promote equal opportunities and combat all forms of distinction, exclusion, restriction or preference on the grounds of a putative race, or of colour, descent, national or ethnic origin, sexual orientation, marital status, birth, wealth, age, religious or philosophical beliefs, current or future state of health, disability or physical characteristics.

22. The Centre is also responsible for ensuring that the fundamental rights of foreign nationals are upheld, providing information to the public authorities on the nature and the extent of migration flows and fostering dialogue with all public and private stakeholders involved in immigrant-reception and integration policies. In addition, the Centre is required to boost efforts to combat human trafficking. The Centre's work evolves in response to social realities and

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<sup>2</sup> Its main task is to draft the five-yearly periodic report on the implementation of the Convention on the Rights of the Child. The Commission will also participate in the implementation of the recommendations of the Committee on the Rights of the Child. As a platform for dialogue, the new National Commission for the Rights of the Child is a forum for meetings, coordination and exchanges of ideas with people in the field, and a fertile ground for ideas to boost children's rights policy in Belgium. It meets the need for a mechanism to liaise between the various stakeholders and thus guarantee the consistency of general policy on children's rights.

trends. The Centre therefore uses different modes of intervention and operation to carry out its functions. A new unit dedicated to the eradication of poverty, instability and social exclusion has just been set up at the Centre.

23. Pursuant to the Act of 16 December 2002 by which it was created, the Institute for the Equality of Men and Women is tasked with ensuring respect for gender equality and, in that connection, with taking action against all forms of discrimination and inequality on the grounds of gender.

***Q.2. Please provide information on the measures the State party intends to undertake in order to achieve, by 2010, its objective of 0.7 per cent of the GDP to be devoted to international cooperation for development. Further, in relation to paragraph 31 of the Committee's previous concluding observations, please report on the ways the development cooperation policies of the State party contribute to the realization of economic, social and cultural rights in developing countries (E/C.12/BEL/3, p. 21, para. 50).***

#### **A. Target of 0.7 per cent of GDP**

24. In terms of expenditure (EUR), Belgian development cooperation has grown by around 50 per cent since 2000, amounting to €1,576 million in 2006 as compared with €865 million in 2000 (see Table 1). The ratio to gross national income (GNI) has fluctuated to a certain extent. As Table 1 shows, debt-cancelling operations by the National Dueroire Office (the Export Credit Agency) are a variable which accounts for a substantial proportion of the increase in Belgian official development assistance (ODA). There has also been a structural increase in Belgian ODA, which tapered off in 2006 after substantial rises between 2003 and 2005 (see Table 1).

**Table 1**

**Changes in Belgian official development assistance (ODA), including and excluding debt-cancelling operations by the Dueroire Office (in millions EUR)**

	2000	2001	2002	2003	2004	2005	2006
Excluding Dueroire	831	895	919	931	1 029	1 221	1 291
Net Dueroire	34	41	171	665	149	359	285
Total	865	936	1 090	1 596	1 178	1 580	1 576

25. Belgium follows the rules on the compilation of ODA statistics drawn up by the Development Assistance Committee of the Organisation for Economic Co-operation and Development (OECD). The rules allow for account to be taken of certain expenditures which in themselves have little or no impact on financial aid for the relevant developing countries. Such expenditure includes the costs, over the first year, of hosting a refugee or an asylum-seeker and the nominal value of cancelling commercial debts. Strict compliance with the Committee's Rules is important, as most other donor countries adhere to them. In 2006, the proportion of spending on asylum-seekers was higher, amounting to €58 million or 3.7 per cent of total aid - still a relatively modest figure.

26. The same cannot be said of commercial debts cancelled by the Ducroire Office, estimated at around €285 million in 2006 or 18 per cent of total Belgian aid. Fluctuations in this category of expenditure make for a very irregular progression towards the 0.7 per cent target. It is therefore necessary to replace this category of expenditure, which is difficult to plan for and, in any case, has only a modest impact on development, with real development resources for the budget of the Department for Development Cooperation.

27. The Government of Belgium has undertaken to devote 0.7 per cent of gross national income (GNI) to ODA by 2010. Table 2 shows the changes over recent years in the percentage of GNI spent on ODA. As it shows, the percentage rose steadily until 2003, when it reached a peak, before falling in 2004, rising again in 2005 and falling slightly in 2006. It should be emphasized that the 2006 result is consistent with the predictions that the target of 0.7 per cent will be reached by 2010.

**Table 2**  
**Changes in the percentage of GNI spent on ODA**

	Total ODA (EUR)	Percentage of GNI
2000	865 372 178	0.36
2001	935 918 230	0.37
2002	1 066 846 803	0.43
2003	1 591 269 546	0.60
2004	1 176 011 895	0.41
2005	1 573 972 971	0.53
2006	1 575 720 347	0.50

### **B. Enjoyment of rights in developing countries**

28. Belgium supports sustainable development and helps to improve the living conditions of millions of families. The particular efforts that it has made in this regard in Central Africa and, more specifically Rwanda, Burundi and the Democratic Republic of the Congo, are worth highlighting. For those three countries, the Belgian Development Cooperation Agency has spared no effort, in the context of the international community, to promote the consolidation of peace, security, democracy, the rule of law, good governance and development in the region.

29. The outlines of the development policy of the Government of Belgium are becoming more clearly defined in the light of European and international agreements. Slowly but surely, the “Europeanization” of development cooperation among the European Union member States is becoming a reality, which is also having a noticeable effect on Belgian development policy.<sup>3</sup>

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<sup>3</sup> The European Development Days held in Brussels in 2006 may be mentioned in this context. The Days offered the European Commission a chance to bring together development professionals from the 27 member States, in the presence of 17 African Heads of State. Based on the input that was provided, the Days were an unrivalled opportunity for in-depth discussion of the subject of good governance.

30. Belgium continues to work tirelessly to achieve the Millennium Development Goals. The authorities are also taking steps to implement the new international agreements between developing countries and donor countries on effective aid (the OECD Paris Declaration). The Paris Declaration is being put into effect in the form of State development cooperation involving the Belgian authorities and 18 partner countries.<sup>4</sup>

31. The international context in which the Public Service for Development Cooperation formulates and manages Belgian development policy is one that is geared towards multilateral cooperation. Financial contributions to the United Nations, international financial institutions and the European Union have constituted the largest cost component of the general budget in recent years.

32. Humanitarian needs during natural disasters, armed conflicts and wars were again a significant issue in 2006, with 160 million persons requiring humanitarian assistance. In that connection, the Belgian budget for humanitarian assistance has risen sharply since 2001.

33. In 2006, reform of the joint funding of NGOs was continued in the context of non-governmental cooperation efforts. The reform encourages a programme-based approach, offering financial security to NGOs and making administrative procedures more flexible.

### **C. Efforts by Belgium to realize the Millennium Development Goals (MDGs)**

34. The Government of Belgium focuses its development-cooperation activities on the Millennium Development Goals (MDGs). These activities show that Belgium is doing everything in its power to ensure that its policy and decisions are consistent with States parties' obligations under the Covenant, in particular those set out in article 2, paragraph 1.

35. Belgium has supported the Millennium Goals from the very outset. It has always fully recognized their importance as benchmarks for combating poverty, and it has undertaken to do its part, in close cooperation with all European countries, other donors and development partner countries.

36. The Belgian International Cooperation Act of 25 May 1999 identifies the areas of particular relevance for the realization of the MDGs as priority areas and cross-cutting themes.<sup>5</sup>

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<sup>4</sup> The 18 partner or dialogue countries are as follows: Algeria, Benin, Bolivia, Burundi, Democratic Republic of the Congo, Ecuador, Mali, Morocco, Mozambique, Niger, Palestinian Territories, Peru, Rwanda, Senegal, South Africa, Tanzania, Uganda and Viet Nam.

<sup>5</sup> The cross-cutting themes are as follows: the environment (MDG 7), gender (MDG 3), social economy and respect for the rights of the child (MDG 4). Priority sectors are basic health, including reproductive health (MDGs 4, 5 and 6), education (MDG 2), basic infrastructures (MDG 7), agriculture and food security (MDG 1), and conflict prevention and society consolidation.

37. With a view to more effective monitoring of progress towards the Millennium Goals, on 14 June 2005 Belgium adopted an Act on monitoring governmental action on the Goals. The Act requires the Government to submit to Parliament an annual report on the action it has taken to help realize the Goals.

38. It should be noted that the Goals, established by global consensus, have managed to bring the Bretton Woods institutions and the United Nations closer together. As a result, the Poverty Reduction Strategy Papers, an instrument developed by the International Monetary Fund (IMF) and the World Bank to deal with poverty, have been incorporated into the much broader context of the Millennium Development Goals. As an active member of multilateral organizations such as the United Nations Development Programme, the World Bank or the IMF, Belgium accords particular importance to improved collaboration between the World Bank and the United Nations system.

39. Over the past five years, the World Bank Group has gradually incorporated the Millennium Goals into its deliberations and operations, the Bank being actively involved in the areas targeted by the eight Goals. In addition to its regular contributions to the various organs of the World Bank Group, Belgium contributes to certain programmes funded by the Development Cooperation Agency and administered by the Bank. Several of the contributions are directly linked to the realization of the Millennium Goals. The representative of Belgium to the Bank supports that institution's various activities in connection with the Goals and the inclusion of the Goals in the Group's other activities and in the drafting and implementation of the Poverty Reduction Strategy Papers.

40. The main contribution of the IMF to the attainment of the Goals is its promotion and protection of macroeconomic and financial stability - a prerequisite for growth and poverty reduction. The IMF also seeks to ensure that countries put in place an effective budgetary framework. The Fund targets low-income countries through several initiatives, including the Poverty Reduction and Growth Facility, the Heavily Indebted Poor Countries Debt Initiative and the Multilateral Debt Relief Initiative. All these initiatives are supported by the representative of Belgium to the Fund, who acts, in this forum and elsewhere, as an advocate of globalization which benefits the poorest populations.

41. **Goal 1 on poverty and hunger:** the eradication of poverty has a central place in Belgium's cooperation activities. One of the ways in which Belgium is working to eradicate poverty is by supporting the drafting and implementation of Poverty Reduction Strategy Papers (in particular, through the Belgian Poverty Reduction Partnership, a multilateral World Bank programme). The eradication of poverty is also the main objective of governmental cooperation. Belgium places particular importance on reducing hunger, including through the Belgian Survival Fund (FBS).

42. **Goal 2 on education:** education is a cornerstone of development and a basic social service. It is therefore one of the priorities of the Belgian Development Cooperation Agency, which it accords a crucial place in both its bilateral work (for example, through direct support for national plans to develop education and train teachers and trainers) and its multilateral work. In the context of the latter, the Agency supports the Education for All - Fast Track Initiative, created in



an attempt to implement the Monterrey Consensus on the realization of the Millennium Goals. Belgium has also provided financial support for reform of the education sector of the United Nations Educational, Scientific and Cultural Organization (UNESCO).

43. **Goal 3 on gender equality:** despite various commitments undertaken in recent years, gender inequalities are still very much present in all regions of the world. Accordingly, the Belgian Development Cooperation Agency attributes as much importance to addressing gender inequalities in regard to rights and opportunities as it does to cross-cutting themes. It encourages equal opportunities for men and women based on a strategy which aims to support efforts made by partner countries. Concerns about gender-related issues are addressed on two levels: through the incorporation of gender concerns into different policies and activities and through implementation of, or support for, affirmative action in favour of women.

44. **Goal 4 on infant mortality and Goal 5 on maternal health:** health needs are fundamental needs, but are often difficult to meet. The activities of the Belgian Development Cooperation Agency in regard to infant mortality and poor maternal health focus on the strengthening of health systems in general and improved access to care. Indeed, every health-service development project has a direct impact on infant mortality, while the main cause of maternal mortality remains the lack of geographical and financial accessibility of care.

45. **Goal 6 on HIV and other diseases:** in all countries with a high or low prevalence of HIV and other communicable diseases such as tuberculosis and malaria, these diseases put a check on development and take a heavy toll on individuals, families and Governments. Belgium supports several national programmes set up by partner countries to deal with these diseases (in the Democratic Republic of the Congo and Mali, for example). Such programmes are important, primarily because they aim to provide full coverage, including access to care - an inalienable human right - and because of the impact that the diseases have on the economic development of affected countries and the quality of life of much of the population. At the multilateral level, Belgium played an important role in the establishment of the Global Fund to Fight AIDS, Tuberculosis and Malaria, which was set up in 2002 to mobilize additional funding to stem the proliferation of these diseases. Belgium also participates actively in debates on issues of trade, public health and access to medicines.

46. **Goal 7 on the environment, access to water and sanitation:** the Belgian International Cooperation Act makes the environment one of the four cross-cutting priorities of Belgian cooperation. At the multilateral level, the Belgian Development Cooperation Agency contributes to the Global Environmental Facility and the Multilateral Fund for the Implementation of the Montreal Protocol on Substances that Deplete the Ozone Layer. It also supports the United Nations Environment Programme and a World Bank programme designed to provide access to water and sanitation for the poorest peri-urban populations in the Democratic Republic of the Congo and Rwanda. In the portfolio of governmental cooperation projects, the environment is both a specific sector and a cross-cutting theme which must be reflected in each project.

47. **Goal 8 on the global partnership:** countries such as Belgium are expected to contribute to achieving Goal 8 by increasing the amount and the effectiveness of aid and adjusting domestic policies in areas relevant to global development, such as debt management and regulation of trade and investment. In terms of expenditure (EUR), Belgian development cooperation has grown substantially since 2000 (see above).

48. The attainment of development goals depends not only on aid, but also on the decisions taken on many sectoral or macroeconomic policies (foreign trade, foreign affairs, agriculture, etc.). Belgium is taking active steps to ensure that its policies are coherent, by, for example, creating coordination mechanisms.

49. Belgium also helps partner countries to create conditions favourable to their development by taking action on governance, a theme to which it accords increasing importance (development of guidelines on governance, organization of an international conference, initiatives at the European and international level, etc.).

***Q.3. Please provide information on whether Covenant provisions have been invoked before, or directly enforced by, the courts, other tribunals or administrative authorities.***

50. The Constitution and the European Convention for the Protection of Human Rights and Fundamental Freedoms are regularly enforced by the Belgian courts in cases involving economic, social and cultural rights.<sup>6</sup> In specific cases, the social law of the European Union may also be enforced.<sup>7</sup>

51. With regard to international instruments, the Convention on the Rights of the Child (which has several components on social issues) has been invoked in very specific cases.<sup>8</sup> The International Covenant on Economic, Social and Cultural Rights is rarely invoked on its own and, consequently, just like the European Social Charter, it is seldom enforced by the Belgian courts. This state of affairs may be explained by the fact that a significant majority of the

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<sup>6</sup> The case law of the European Court of Human Rights indirectly protects numerous social rights, essentially by means of the principle of non-discrimination, the right to privacy and family life, the right to own property ("broadly" applied to social security) and freedom of association.

<sup>7</sup> In particular, the regulations on freedom of movement for workers (regulations Nos. 1612/68, 1408/71 and 883/2004 - all with direct effect), together with the numerous directives on gender equality (directives Nos. 75/117, 76/207, 79/7, 86/213, 86/378, 92/85, 97/90, 2000/78 and 2004/113).

<sup>8</sup> See the well-known decision issued by the Court of Arbitration of 22 July 2003 (Decision No. 106/2003) which affirms the right of under-age irregular migrants to receive social assistance, provided that the authorities have ascertained that the parents do not or cannot discharge their duty to support them, that the claim manifestly concerns expenses necessary for the minor's development and, lastly, that the assistance is used solely to cover those expenses.

provisions of these texts have no direct effect in domestic law. The non-exhaustive list of examples given below shows that the Covenant is never considered on its own but rather always in conjunction with other instruments.

Some examples:

#### Court of Arbitration

(a) Decisions Nos. 17/2001 and 89/2002: There is no discrimination between foreigners who have filed for recognition of refugee status (who are entitled to social assistance) and those who have filed for recognition of stateless person status (who are not entitled to social assistance). The provisions on the right to equality were read in conjunction with the Covenant;

(b) Decision No. 49/2001: Rescission of a decree by the French Community establishing “platforms of skills” in French as a basis for granting subsidies. Since the arrangement made no provision for exceptions, it violated the right to freedom of education guaranteed by the Constitution, the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Covenant;

(c) Decisions Nos. 131/2001, 14/2002, 16/2002, 17/2002 and 205/2004: The lack of a specific status for irregular migrants who have applied for regularization is not discriminatory. The provisions on the right to equality were read in conjunction with the Covenant;

(d) Decision No. 50/2002: A foreigner is entitled to social assistance during the processing of his or her application for refugee status. It is not discriminatory to deny this right to foreigners who are applying for refugee status for the second or third time. The provisions on the right to equality were read in conjunction with the Covenant;

(e) Decision No. 89/2002: It is not discriminatory to accord foreigners who have submitted an application for regularization on grounds of exceptional circumstances the right to emergency medical treatment only. The provisions on the right to equality were read in conjunction with the Covenant;

(f) Decision No. 106/2003: Violation of the Convention on the Rights of the Child. It was unnecessary to consider a violation of the Covenant;

(g) Decision No. 5/2004: Rescission of specific provisions of the Act of 26 May 2002 on the right to social integration. The Covenant was not violated by the Act, however;

(h) Decision No. 107/2004: Rescission of a decree by the French Community restricting access to postgraduate studies in health sciences. This was a violation of the right to freedom of education enshrined in the Covenant and other instruments; and

(i) Decision No. 131/2005: The holding of an underage irregular migrant in a reception centre violates the right to privacy and to family life, if the presence of the parents in the same centre is not guaranteed. The minor’s social rights under the Covenant and other instruments were not violated, however.

### **Other Belgian tribunals**

(a) Council of State: Decision of 6 September 1989 - Acknowledgement of a “standstill” effect in article 13, paragraph 2a, of the Covenant, from the date of signature (allegation of discrimination - primary education - free of charge);

(b) Court of Cassation: Decision of 20 December 1990 - Lack of direct effect but acknowledgement of a “standstill” effect in article 13, paragraph 2b, of the Covenant from the date of entry into force (allegation of discrimination - secondary education - free of charge);

(c) Council of State: Decision of 3 December 2002 - Acknowledgement of the direct effect of the European Social Charter and the Covenant (public officials’ right to strike, see the decision by the Council of State of 22 March 1995 and the decision by the Court of Arbitration of 15 July 1993); and

(d) Court of Cassation: Decision of 25 September 2003 - Refusal to acknowledge the direct effect of a provision of the Covenant (the right of an individual to benefit from the protection of his scientific, literary or artistic production).

#### ***Q.4. Please outline in more details how civil society organizations have been involved in the process of preparing the State party’s periodic report (E/C.12/BEL/3, para. 5).***

52. In order to take account of the Committee’s suggestions and recommendations as set out in its concluding observations on the previous report (December 2000) and to better prepare the third periodic report, a seminar entitled “The Belgian executive authorities and the observations of the Committee on Economic, Social and Cultural Rights” was held in November 2003 by the Federal Public Service for Employment, in conjunction with the Federal Public Service for Foreign Affairs.

53. This one-day seminar brought together a specific target audience that included public officials, academics and members of NGOs. The seminar had multiple goals: to improve coordination between the various departments and institutions involved in drafting, submitting and following up on the report; to adopt a uniform approach to submitting reports; and, lastly, to encourage better dissemination. While the proceedings were confined to economic, social and cultural rights, by mutual agreement between the participants the outcome of the discussions will also be used for other human rights reports to be submitted to the United Nations. The event was the prelude to mobilization of all stakeholders, including members of civil society.

54. In October 2004, the Federal Public Service for Foreign Affairs and the Federal Public Service for Employment, Labour and Social Dialogue, which were tasked with drafting the report, were invited to a meeting arranged by the NGO coalition. This was the opportunity for stakeholders to present their timetables and concerns.

55. It may be recalled that COORMULTI, a unit of the Federal Public Service for Foreign Affairs, raises awareness among, and mobilizes the institutional actors by holding coordination meetings that bring together the entire range of governmental actors.

56. As part of this process, contact was made with the NGO Coalition. An information day on the national and international obligations of Belgium under the Covenant took place in May 2005 at the Federal Parliament, on the Coalition's initiative. The event brought together representatives from the political world, associations and various federal administrations. The most recent multilateral coordination meeting held in March 2006 was an opportunity to invite members of the NGO platform so that their comments on the Belgian draft report could be taken into account.

57. The report was submitted in May 2006, and the Committee issued its observations in December 2006. Fresh discussions with NGOs will be organized through COORMULTI before the report is presented at Geneva.

***Q.5. Please provide information on whether the State party's bilateral and multilateral trade policies take into account the obligations under the Covenant.***

58. Since multilateral trade policies are subject to a series of European rules, Belgium's room for manoeuvre here is ultimately rather limited.

59. Belgium, as a member State of the European Union, fully subscribes to the EU common trade policy. Member States are bound by the Community's rules of trade as set forth in the Treaty establishing the European Community (Title IX, articles 131-134). The common trade policy is, in turn, situated within the broader framework of Community policies. The Council of the European Union and the European Commission must ensure that any negotiated trade agreement is compatible with the European Community's policies and law. It is against this backdrop that the multilateral trade policies of Belgium and the other member States of the European Union take into account the obligations under the Covenant.

60. In practice, advance consultations between member States and the European Commission are held to establish common positions and to give the European Commission a mandate to negotiate on behalf of the European Community, and, as appropriate, its member States, whether at the World Trade Organization or with third countries.

61. With regard to the importance accorded to respect for economic, social and cultural rights in the formulation and implementation of Community trade policies, particularly the establishment of strong links between trade, development and the right to employment, various strategy reports have been adopted by the Council of the European Union. The main thrust of these reports is reproduced on the website of the European Commission:

“The EU is committed to promote the international dialogue on the interaction between trade and social issues. While at the international level there is no consensus for a discussion on these matters in the WTO, nor in the ILO, the EU continues to pursue its strategy of promoting the respect of social rights via the dialogue and an incentive-based approach.

“The complex interface between trade, economic growth and social development has received increasing attention over the past decade ... The focus has in particular been on core labour standards (CLS) and how to ensure their application, including by trade measures, and the EU is committed to promote the international dialogue on the interaction

between trade and social issues, even if there is no consensus for a discussion on these matters in, for example, the WTO. In its trade policy, and as part of the strategy to harness globalization in support of sustainable development, the EU promotes the effective application of core labour standards through positive instruments and an incentive-based approach. The EU is firmly opposed to any sanctions-based approaches and initiatives to use labour rights for protectionist purposes.

“... [T]he link between the promotion of labour standards, development and trade was already clearly addressed in the policy papers on the promotion of labour rights, on trade and development and on Corporate Social Responsibility, that the Commission adopted in 2001 and 2002 and that were then endorsed by the Council. The approach taken combines the promotion of international, collective action with immediate, autonomous actions where Europe can usefully act alone. More broadly core labour standards have to be part of development policy - and therefore of development assistance - if we want them to improve the productivity and hence the competitiveness of developing countries, and therefore their ability to foster economic growth.”

62. Belgium fully endorses the above-mentioned principles and supports the endeavours of the European Commission to accord sustainable development pride of place in the formulation of a common trade policy based on compliance with the main international conventions, particularly the conventions of the International Labour Organization and those relating to the environment, whether during of negotiations of free trade agreements or in the framework of the multilateral trade system.

## II. ISSUES RELATING TO THE GENERAL PROVISIONS OF THE COVENANT (arts. 1-5)

### Article 2 (2): Non-discrimination

***Q.6. According to the 2005 report of the Centre for Equal Opportunities and the Fight against Racism, racial discrimination as well as discrimination based on - inter alia - sexual orientation, disability, or health conditions are on the rise in the country. Please provide updated information on the implementation of the Anti-Discrimination Act adopted in February 2003, including information on cases of discrimination for which civil and criminal proceedings were instituted (E/C.12/BEL/3, paras. 21 ff.).***

63. First, it is necessary to mention the main thrust of three new anti-discrimination laws recently passed by Belgium in order to better transpose European directives.

64. The “Anti-Discrimination” Act of 10 May 2007 (*Moniteur Belge* of 30 May 2007), concerning certain forms of discrimination, supersedes the Act of 25 February 2003, while the Act of 10 May 2007 amending the Act of 30 July 1981, concerning the suppression of certain acts motivated by racism or xenophobia, (*Moniteur Belge* of 30 May 2007) supersedes the Act of 30 July 1981. Lastly, the “Gender” Act (discrimination between men and women), also of 10 May 2007, supersedes the Act of 7 May 1999. In all, 18 grounds for discrimination are prohibited. The Anti-Discrimination Act prohibits discrimination on 12 grounds: age, sexual orientation, marital status, birth, wealth, religion or philosophy, political beliefs, language, present or future state of health, disability, physical or genetic characteristics and social origin.

The “Anti-Racism” Act prohibits discrimination based on five grounds: nationality, a putative race, colour, descent and national or ethnic origin. Lastly, the “Gender” Act prohibits discrimination on one ground: sex.

65. This legislation applies to the following five areas:

- (a) Access to, and delivery of, public goods and services;
- (b) The world of work;
- (c) Social security and social protection;
- (d) The contents of an official document or record; and
- (e) Access to, and participation in, any economic, social, cultural or political activity open to the public.

In addition, four forms of discrimination are prohibited:

- (a) Direct discrimination;
- (b) Indirect discrimination;
- (c) Instruction to discriminate; and
- (d) Harassment.

Sexual (gender) harassment and failure to provide reasonable facilities for persons with disabilities should also be mentioned.

66. The principle of non-discrimination is attenuated by the following:

- (a) Affirmative action;
- (b) Cases allowed for by or according to the law;
- (c) Objective and reasonable grounds relating to employment and the essential requirements of a job;
- (d) Objective and reasonable grounds not relating to employment, excluding direct discrimination on grounds of gender, a putative race or colour, descent and national or ethnic origin; and
- (e) Specific cases where particular grounds exist for discrimination based on age, gender (protection of pregnancy and maternity) and religious and philosophical beliefs (faith-based enterprises).

67. The new legislation establishes the following four protection mechanisms:

- (a) Clauses at variance with the law and waiver clauses become null and void;
- (b) Protection for victims or witnesses against retaliation;
- (c) In civil proceedings, measures such as actions for injunction, penalties, statutory or actual damages and publication of the decision; and
- (d) In criminal proceedings, a more restrictive definition of “intentional” discrimination applies. Offences include: incitement; acts of discrimination committed by a public official; failure to comply with a civil injunction, offences committed with base motives and attended by aggravating circumstances; and specific racist offences.

68. With regard to evidence (in civil cases), the following new elements were introduced: a mechanism for sharing the burden of proof that allows the submission of evidence pointing to the existence of discrimination; consideration given to cases of recidivism; use of comparisons (direct discrimination); general statistics; and use of a criterion of intrinsically suspect behaviour (indirect discrimination).

69. The following three collective actors are involved in implementing this anti-discrimination legislation:

- (a) Associations;
- (b) Organizations representing workers, employers and the self-employed; and
- (c) The public authorities: the Institute for the Equality of Men and Women (gender-based discrimination); an authority has yet to be designated to deal with discrimination on account of language; the Equal Opportunities and Anti-Racist Centre (the 16 other prohibited grounds for discrimination).

70. The following are examples of significant recent case law involving the application of the Anti-Discrimination Act of 25 February 2003:

#### **A. Non-racial discrimination**

##### **(1) Disability**

71. On 1 May 2005, a young woman in a wheelchair, and aided by a guide dog, went to a restaurant with some family members. Her guide dog was refused entry, however. The young woman sought injunctive relief against the owner and the operator of the restaurant under the Act of 25 February 2003. On 8 March 2006, the President of the Termonde Court of First Instance ruled that a violation of article 2 (2) of the Act had occurred, since the operator of the restaurant was not entitled to conclude that his decision could not be prejudicial to a person with disabilities, and since he had failed to justify his decision on objective and reasonable grounds. Consequently, the court granted the injunction as provided for under article 19 (1), of the said Act. The owner and the operator of the restaurant were ordered to pay €250 for each and any subsequent offence, up to a maximum of €25,000.



72. Another decision in a very similar case took a diametrically opposite tack, however. An action for injunction was filed for denying access to a restaurant to a person with a visual impairment who was accompanied by a guide dog. Witness statements by friends who had accompanied the person to the restaurant were presented as evidence. The court found, however, that discrimination had not been proven due to a lack of direct evidence and the fact that, in its view, the principle of reversal of the burden of proof did not apply (article 19: presumption of discrimination based on evidence supporting such a presumption). The court ruled that statements could not be accepted as evidence.

## **(2) State of health**

73. A woman had worked for a municipal authority for two years on a replacement contract. Her employer was satisfied with her work. Although she suffered from epilepsy, the occupational health physician considered her to be fit for the work involved. Over the course of the two years, she had some minor episodes at work, but these were not serious. When her contract came to an end and her employer advertised the post, her application was not considered. When challenged by the Equal Opportunities and Anti-Racist Centre, the employer cited as justification a lack of confidence in the woman, who had not mentioned her state of health. On 1 December 2006, the Brussels Labour Court ruled in favour of the Centre and the complainant, finding that the woman had suffered discrimination on the grounds of her state of health, which is prohibited under the Act of 25 February 2003.

## **(3) Sexual orientation**

74. A landlord refused to rent his villa to a homosexual couple. The Nivelles Court of First Instance ruled in April 2005 that discrimination was proven. An employee of the real estate agency had left a message on the couple's answering machine, saying that the owner "preferred to rent to a traditional couple". This was certified by a bailiff. Since the defendants could not prove that they had not made such a statement, the court found that the grounds for refusing to rent had proven to be discriminatory.

75. In another case, a homosexual couple were physically assaulted by three minors. The couple had left a homosexual party and were kissing in the street. The Louvain Juvenile Court fined the minors, ruling that their behaviour and the words that they had used had been motivated by hate, contempt and hostility towards the couple on the grounds of their sexual orientation.

# **B. Racial discrimination**

## **(1) Housing**

76. On 3 June 2005, in a case involving a couple of foreign origin whose rental application was denied, a court applied the principle of reversal of the burden of proof. A friend of the couple had telephoned the owner, who had given her to understand that she would rent only to Belgians. The owner could not prove that the refusal to rent was not based on the origin of the applicants. Consequently, the court found that discrimination had been proven.

## **(2) Employment**

77. On 26 March 2007, the President of the Gand Labour Court found a security firm guilty of discriminating against a person of Turkish origin who was seeking employment. The judgement stipulated that the firm must not discriminate in the future and that it must publish the court's opinion and a section of the judgement in seven newspapers, at its own expense. The parties agreed by mutual consent to forego publication, since the security firm gave an undertaking to deal with discrimination in the management of its staff and also undertook to increase diversity in the firm.

78. In its decision of 25 April 2007, in a case of dismissal for gross misconduct, the Brussels Labour Court found that: the evidence provided by the employee cast doubt on the real reasons for dismissal; the employer had failed to provide any evidence from a witness to the scene to refute the claim; and the act of physical violence had been proven and was compounded by racist slurs, which had not been contested. Consequently, since the employer had failed to prove that the grounds for dismissal were unconnected to the employee's complaint, the court allowed the claim for compensation.

79. With regard to statistics on the number of complaints submitted concerning acts of discrimination, the available figures are for 27 prosecutor's offices at courts of first instance (i.e., all prosecutor's offices, except the office at Eupen, and the federal prosecutor's office) and refer only to offences committed by adults. The database allows for registration of offences according to the main and the secondary charge, using the following codes:

56: Racism and xenophobia (generic code used by prosecutors when they cannot identify the main charge based on the information available in the preliminary report);

56A: Racism

56B: Xenophobia and

56C: Discrimination, excluding racial discrimination and xenophobia.

80. It has been possible, since 2006, to indicate the presence of a context of "racism and xenophobia" in a criminal case. In 2006, a total of 41 cases with such a context were registered, including 14 cases of malicious wounding, 7 cases of threatening behaviour and 7 cases of insults and abuse.

Number of cases listed under code 56:

2003: 67

2004: 83

2005: 111

2006: 70

Number of cases listed under code 56A:

2003: 688  
2004: 722  
2005: 825  
2006: 965

Number of cases listed under code 56B:

2003: 17  
2004: 20  
2005: 18  
2006: 16

Number of cases listed under code 56C (created in the computer system in 2006):<sup>9</sup>

2006: 8.

81. Figures are also available on the status, as at 10 July 2007, of cases of discrimination referred to prosecutor's offices during the same period.

82. In regard to complaints of discrimination submitted in 2003, out of 772 complaints, a summons was issued and further action taken in 39 cases (including appearances before the criminal courts, judgements, applications to set aside decisions and appeals),<sup>10</sup> whereas 581 were discontinued (interim decision - until the prosecution is statute-barred, the case may be reopened), 70 were incorporated into other complaints and 51 were referred to another prosecutor's office for action. In 2004, out of 826 complaints, a summons was issued and further action taken in 26 cases,<sup>11</sup> 632 cases were discontinued, 78 were incorporated into other complaints and 50 were referred to another prosecutor's office. In 2005, out of 954 complaints, a summons was issued and further action taken in 18 cases,<sup>12</sup> 710 cases were discontinued, 77 were incorporated into other complaints and 72 were referred to another prosecutor's office. In 2006, out of 1,100 complaints (including 8 under code 56C), a summons was issued and

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<sup>9</sup> Offences now classified under code 56C were probably classified in previous years under codes 56, 56A or 56B.

<sup>10</sup> As of 10 July 2007, 4 cases were pending before the Criminal Court, while 26 had been tried, 5 were awaiting appeal and 2 were awaiting a decision by the Court of Appeal.

<sup>11</sup> As of 10 July 2007, 15 cases had been tried, 1 had been tried following an application to set aside a decision, 7 were awaiting appeal and 2 were awaiting a decision by the Court of Appeal.

<sup>12</sup> As of 10 July 2007, 4 cases were pending before the Criminal Court, 11 had been tried, 2 were awaiting appeal and 1 was awaiting a decision by the Court of Appeal.

further action taken in 34 cases,<sup>13</sup> 779 were discontinued, 110 were under investigation as at 10 July 2007, 97 were incorporated into other complaints and 48 were referred to another prosecutor's office. During this period, several cases were resolved by means of a settlement and criminal mediation (14 cases in 2006, 25 in 2005, 14 in 2004 and 14 in 2003).

***Q.7. Please indicate whether the State party intends to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Please also provide detailed information - including statistical data disaggregated by sex, age and country of origin - on migrant workers presently in the territory of the State party.***

83. In the light of the current status of the legislation governing the employment of foreign workers, Belgium is unable to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

84. Belgium is nevertheless aware of the purposes of the Convention and continues to work together with its European partners to provide legal protection to migrant workers in the framework of general European policy on migration.

#### **Migrant workers in Belgium**

85. The OECD Continuous Reporting System on Migration publishes an annual report on international migration. Much of the report is based on information supplied by some 30 national correspondents, including Belgium. The contribution of Belgium to the 2007 report reflects recent trends in migration and the developments that took place in immigration and integration policies in Belgium in 2005.

86. The text of the Belgian contribution, together with tables of statistics, may be consulted at the following website: <http://www.emploi.belgique.be/WorkArea/showcontent.aspx?id=4318>.

#### **Article 3: Equal rights of men and women**

***Q.8. Please provide further information on the role and functions of the Institute for the Equality of Men and Women, in particular with regard to its mandate to initiate lawsuits when a violation of the equality legislation in the field of economic, social and cultural rights occurs (E/C.12/BEL/3, paras. 57-58).***

87. Established in late 2002, but only operational since its management team arrived in February 2004, the Institute for the Equality of Men and Women (hereinafter "the Institute") is competent to bring legal proceedings pursuant to its founding Act of 16 December 2002. The Institute's mission is to serve as a watchdog for gender equality and to counter any form of

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<sup>13</sup> As of 10 July 2007, 8 cases were pending before the Criminal Court, 12 had been tried, 1 was pending an application to set aside a decision, 6 were awaiting appeal and 3 had been tried following an application to set aside.

gender-based discrimination. It is empowered to assist victims of gender-based discrimination, including discrimination on grounds of pregnancy and maternity, gender reassignment (transsexuality), sexual harassment and gender-based harassment. Its scope is, however, restricted to the federal level, thus excluding areas under the jurisdiction of the Communities (e.g. education and culture) or the Regions (e.g. vocational guidance and public transport). Consequently, the Institute's remit is to redress violations of criminal law and other federal legislation with the specific purpose of guaranteeing gender equality.

88. The Institute's right to bring legal proceedings is spelled out in the Anti-Discrimination Act of 25 February 2003, amending the Act of 15 February 1993 establishing the Equal Opportunities and Anti-Racist Centre (*Moniteur Belge*, 17 March 2003, Err. *Moniteur Belge*, 13 May 2003). The Centre is furthermore empowered to bring an action for discrimination on grounds of sex under the Act of 7 May 1999 on equal treatment of men and women with regard to working conditions, access to employment and promotion opportunities, access to self-employment and supplementary social security schemes (*Moniteur Belge* of 19 June 1999).

89. The Institute may now participate in court proceedings that could give rise to the enforcement of the new Act of 10 May 2007 on gender discrimination (*Moniteur Belge* of 30 May 2007), which replaces the Acts of 7 May 1999 and 25 February 2003 mentioned in the preceding paragraph. The same applies to proceedings involving harassment on grounds of sex and sexual harassment in the workplace, against which protection is provided under the Act of 10 January 2007 on welfare in the workplace (*Moniteur Belge* of 6 June 2007).

90. Specifically, the Institute can deploy a range of measures to provide full assistance to victims alleging discrimination based on sex. This assistance ranges from information on rights and duties (including, if necessary, identification of the appropriate authority) to legal actions, the issuance of verbal or written warnings (possibly in an interview conducted at the Institute), mediation, serving notice to comply on the opposing party and requests for a second opinion from legal experts or lawyers.

91. Attention should be drawn to the fact that, under the new Act of 10 May 2007 on gender inequality, when legal proceedings are brought on behalf of a victim (although not solely in this case), the victim enjoys protection against any and all harmful measures for a 12-month period. In the cases of labour complaints, this means that protection is provided against dismissal or unilateral modifications of employment contracts.

92. Witnesses who make a statement against an alleged perpetrator, whether in written form or before the court, enjoy the same protection. The same holds true when the Institute, acting for the victim, serves a notice to comply on the alleged perpetrator.

93. The Institute may initiate proceedings in conjunction with victims and in their name (in this case with their permission) but, since it has legal competence for combating gender-based discrimination, it may initiate proceedings even if there is no specific victim, in order to ensure equality. It may also act on behalf of a group of victims.

94. When the Institute brings proceedings, it will engage a lawyer to defend the interests of both the victim and the Institute. The law allows for legal proceedings to be brought before the interim relief judge in connection with actions for injunction or before the trial judge. Under the

Act of 10 May 2007 on gender discrimination, it is possible to ask the court to put a stop to the discrimination (action for injunction) and to award minimum damages in the form of a lump-sum payment, which will vary from case to case. Victims generally have a choice between damages equivalent to six months' pay and substantial damages. The Institute may be awarded symbolic damages for moral damage. It is interesting to note that the court may be requested to order publication of the decision in various newspapers and magazines.

#### **Number of files processed**

2004	2004	2005	2006	2007 (15/9)
21	34	98	131	178

95. Of the 178 files processed in 2007, 112 were requests for information and 66 were complaints of legal violations. Most files were closed after a verbal or written warning was issued.

96. For technical and practical reasons, the Institute only participated in proceedings before the courts for the first time in 2007, and then only in two cases. The first concerned a sexist website. The case was set before the interim relief judge. Arguments were presented and the case was adjourned pending deliberation. A decision is expected in the near future. The second case, concerning the discriminatory dismissal of a woman because she fell pregnant, was lodged with the competent labour court in September 2007.

***Q.9. Please provide updated information on the measures taken to reduce the persistent gap between the employment rate of men and women and the discrepancy between them with regard to wages (E/C.12/BEL/3, paras. 113, 117 ff.).***

#### **The first annual report on the wage gap (2006)**

97. At the request of the Federal Government of Belgium, the Federal Public Service for Employment and Social Affairs and the Institute for the Equality of Men and Women worked together in 2006 on the preparation of the first annual report on the wage gap in Belgium. The report was published on 26 March 2007. With this tool, Belgium now has a reliable means of analysing the wage gap in the industry and services sectors. The report is the prelude to and the frame of reference for the identification of specific goals, the taking of effective measures and the evaluation of the impact of decisions on the persistence or reduction of such inequalities.

98. The wage gap has multiple causes, ranging from stereotypes in the choices of study to obstacles to career development and on unequal division of labour, which also impedes the achievement of a genuine work/life balance. As a result, the average wage differential between women and men is 15 per cent.

99. The report, which is annexed hereto, contains the official figures on the gender wage gap in Belgium. It was prepared on the basis of European indicators and a survey of the structure and distribution of pay. Experts from the Institute for the Equality of Men and Women and the Federal Public Service for Employment, Labour and Social Dialogue shed light on much of the data on the wage gap and explained the sometimes significant variations in the data analysis. The report will be updated annually so that comparisons may be drawn with other European States.

100. The report is available on the Institute's website (www.iefh.fgov.be) or via the website www.emploi.belgique.be. On the initiative of the Federal Public Service for Employment, Labour and Social Dialogue, the Institute also publishes a checklist of non-sexist criteria for evaluating and classifying posts (the result of the Analytic Evaluation Project).

#### **IV. ISSUES RELATING TO THE SPECIFIC PROVISIONS OF THE COVENANT (arts. 6-15)**

##### **Article 6: The right to work**

***Q.10. In 2003, the employment rate of young persons, i.e. persons between 15 and 24 years of age, and of persons over 55 years of age, was still very low as compared to the general employment rate. Please indicate the measures, legislative or otherwise, that the State party has since taken or intends to take to increase employment opportunities for persons belonging to these age groups (E/C.12/BEL/3, paras. 118 and 157 ff.).***

##### **(a) Federal State**

##### **Employment policy for young persons and older workers**

101. The Act of 23 December 2005 (published in *Moniteur Belge* on 30 December 2005) established the "Pact of solidarity between generations". The Pact has two objectives.

102. The first is to stimulate economic activity, since only a strong economy can create jobs and, by extension, prosperity. A growing economy needs more workers, who must be properly trained and have experience.

103. Secondly, the Pact is intended to guarantee the future of the Belgian social security system, with particular emphasis on pensions and the lowest benefits.

104. The Pact therefore contains a raft of measures to meet these challenges. Some measures are general (the structural reduction of social security contributions, and time credits, etc.) while others are targeted at groups such as younger and older workers.

105. Some examples:

##### *For young persons*

Start-up bonuses

First job agreements

Training or internship allowances

Aid for young people establishing themselves as self-employed persons

Obligation for the federal public services to meet a 3 per cent quota for employment of young persons

Reduction of employee contributions

*For older workers*

Time credits for persons working four-fifths of the time

Increased training opportunities

Active management of restructuring

Supplement for resumption of work

Gradual change in age and seniority conditions for early retirement

Reduction of employer contributions

106. More examples and details may be found at the following link:

<http://www.emploi.Belgium.be/defaultTab.aspx?id=648#AutoAncher2>

**(b) Brussels-Capital Region****Employment policy for young persons**

107. The Government of the Brussels-Capital Region decided to make employment policy, in particular for young persons, one of the main priorities of the 2004-2009 legislature.

108. A number of assistance measures for the unemployed are not specifically targeted at young job seekers, however, but at all unemployed persons, including the young.

109. Under the agreement on assistance and services for the unemployed, ACTIRIS (the Brussels placement and unemployment office) has created an assistance tool known as the Contrat de projet professionnel (CPP), or workplan contract.

**Table 1**

**CPP (July 2004-December 2006) and (2006) share of young persons**

**(Source: ACTIRIS, calculations Observatoire bruxellois du  
Marché du Travail et des Qualifications)**

CPP - July 2004 to December 2006			
Job seekers	Invited to the presentation of CPP	Attended a presentation of CPP	Signed a CPP with ACTIRIS
Total	111 057	86 053	30 976
< 25 years	34 327	23 178	9 445
% young persons	30.9	26.9	30.5
CPP - 2006			
Job seekers	Invited to the presentation of CPP	Attended a presentation of CPP	Signed a CPP with ACTIRIS
Total	50 583	36 790	12 307
< 25 years	13 459	8 804	3 307
% young persons	26.6	23.9	26.9



110. Young job seekers may benefit from assistance measures other than the CPP. Since the CPP was introduced, some 9,500 young job seekers have benefited from personal assistance under this arrangement.

111. In addition to assistance for unemployed young persons under the CPP arrangement, the Brussels Region has developed other measures specifically for young persons that are intended to give them access to their first work experience, training or assistance in learning about the world of work.

112. The Brussels Region and the Communities regularly take part in or organize activities designed to help young people to make their choices and take the necessary steps to enter the job market: the (Young Person's School Employment project, awareness campaigns, information fairs, job days, etc.).

113. These measures are designed to prepare young persons who are completing or have completed their school education to enter the job market, by helping them to learn about the world of work.

114. The Brussels Region also contributes to the development of occupational reference centres (CDRs). The Centres are particularly useful tools for resolving the problem of the gap between job supply and demand and that of persistent unemployment among young persons in Brussels. The goal is to offer the people of Brussels employment by means of further training or a chance to improve their qualifications through the acquisition of new technical skills, with the cooperation of the sector concerned.

115. The Centres will also play a leading role in improving the skills of young job seekers. In connection with the CPP, the use of this tool will be promoted heavily among the young. Specific screenings will be provided for persons below 30 years of age.

### **Employment policy for older persons**

116. While the overall employment rate is lower in Brussels than in the other two Regions, the rate among persons over 55 years of age (35.9 per cent) is higher than in either Flanders (29.5 per cent) or Wallonia (29.4 per cent). The greater importance of the tertiary sector in the economy, the higher level of skills among the population, the fact that fewer persons opt for early retirement and the cost of living in Brussels are some factors that explain this phenomenon. The fact that more women in these age segments are in employment may also be due to social and family factors, such as the higher number of single women with children to look after. Nevertheless, the employment rate among experienced workers remains below the European average of 42.5 per cent (EU-15) and the European objective (50 per cent) for 2010.

**Table 2**

**Employment rate among persons of 55-64 years of age, by region - 2004**

	Men	Women	Total
Brussels-Capital Region	44.5	28.0	35.9
Flemish Region	39.3	19.6	29.5
Walloon Region	37.3	21.9	29.4
Belgium	39.1	21.1	30.0

*Source:* Department of Employment - workforce survey, figures Brussels Labour Market and Skills Observatory, Department of Statistics and Economic Information)

117. Furthermore, compared with Wallonia and Flanders, the population of the Brussels Region tends to be younger. The demographic trend there is far less worrying than in the other two Regions. The coefficient of dependent older persons is expected to rise between 2000 and 2020, from 37.7 per cent to 39.4 per cent in the Brussels Region, from 40.5 per cent to 56.3 per cent in Flanders, and from 39.9 per cent to 51.7 per cent in Wallonia.

118. Essentially, the policy of the Brussels-Capital Region with regard to employment of persons over 55 years of age meets the requirements of the Solidarity Pact between Generations of 23 December 2005. The latter includes the following measures for experienced workers:

- The establishment of reconversion teams in the event of restructuring;
- Career planning;<sup>14</sup>
- Assistance with return to work for unemployed persons with work experience;<sup>15</sup>
- Certification of skills acquired.<sup>16</sup>

119. Several measures have been developed in the Brussels-Capital Region which target experienced workers in particular or which, with a broader range of job seekers in mind, make it far easier for this category of persons to enter the job market:

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<sup>14</sup> This is in keeping with the right of the worker to career counselling. All workers over 40 years of age are entitled to have a biannual interview about their future job prospects with an officer of the enterprise that employs them or with a consultancy company or another external body. This career service should normally be approved and paid for by the regions.

<sup>15</sup> Outplacement for workers over 45 years of age who have been dismissed is compulsory. A worker may not refuse the offer of outplacement (the penalty is the same as that for refusing a job).

<sup>16</sup> There is a proposal on speeding up the process for recognizing skills acquired in the widest possible range of occupational categories.

- Training vouchers

These vouchers are designed to improve the prospects of newly-employed persons in Brussels, during the first six months of working life, by offering them an opportunity to receive further training tailored to the requirements of their new job;

- Job transition premiums

This measure is aimed at small and medium-sized enterprises and non-profit-making associations headquartered in Brussels which employ certain categories of job seekers, including persons over 45 years of age with no more than a higher secondary education diploma, and persons over 55 years of age. Recipients are able to pursue a vocational training course in the enterprise, which is recognized by the relevant body;

- Brussels Outplacement

The outplacement bureau helps workers who have been dismissed or threatened with dismissal to find another job by themselves as quickly as possible or to set up their own business on a self-employed basis.

**(c) Flemish Region**

120. Measures to deal with unemployment among young persons and persons over 55 years of age can be divided into those taken as part of regular employment policy and those forming part of the policy on proportional participation in work and diversity.

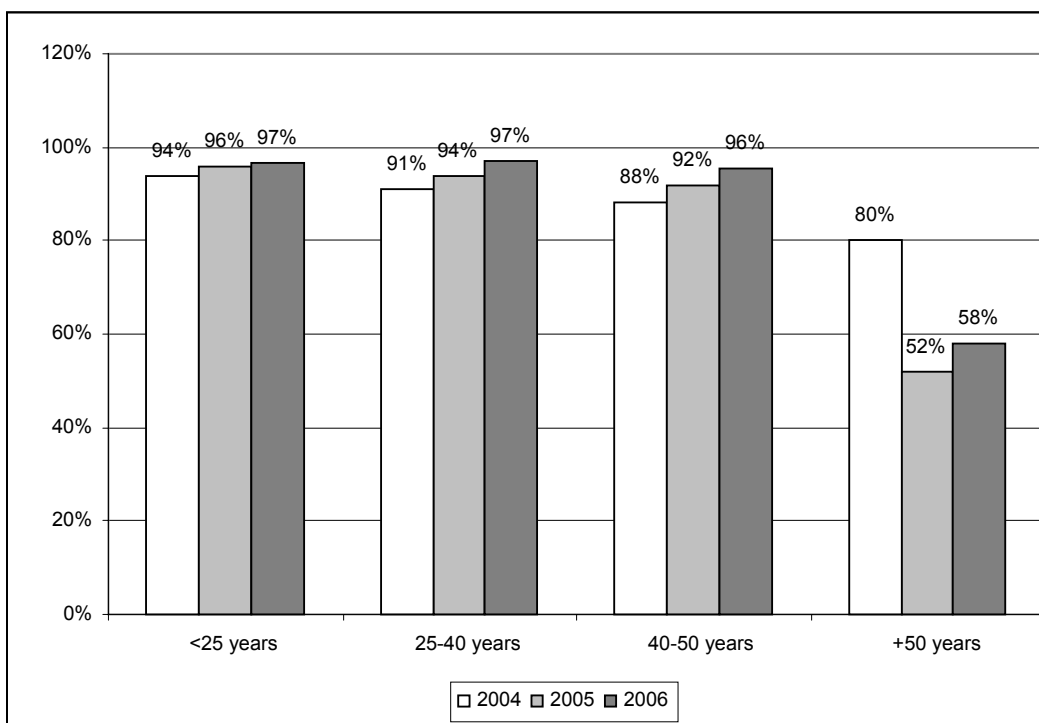
**1.1 Measures under regular employment policy**

**1.1.1 The comprehensive approach to unemployment**

121. Taking its lead, inter alia, from the European Employment Strategy (since 1998) and the National Conference for Employment (2003), in recent years Flanders has been developing an increasingly active policy on job seekers. Under the comprehensive approach to unemployment, no job seekers can become long-term unemployed persons without the Flemish Employment and Vocational Training Service (VDAB) offering them a new job opportunity, following the provision of intensive assistance, vocational training or work experience. The agreement signed by the Flemish Government for 2004-2009 includes ambitious plans aimed at setting all job seekers, before they reach their sixth month of unemployment, on a compulsory employment path tailored to their situation. Job seekers who fail to follow the training course/path properly or refuse a decent job may be sanctioned. This comprehensive approach does not target only newly-registered job seekers (prevention); since mid-2004, the VDAB has reached out to the long-term unemployed (cure), on a systematic basis following an age chart that was drawn up on 30 June 2004 in a cooperation agreement with the federal authority.

122. In implementation of agreements signed in this connection in Flanders, in 2006 the VDAB applied this comprehensive approach to no less than 99 per cent of newly-registered job seekers. Measured against European agreements, the approach has become more comprehensive over the years.

**Diagram 1: Comprehensive approach to job seekers in Flanders  
by age (European definition, 2004-2006)**



*Source:* Vlaamse Dienst voor Arbeidsbemiddeling en Beroepsopleiding (VDAB).

### 1.1.2 Measures aimed at young persons (15-24 years)

123. The comprehensive approach has been strengthened by means of various measures that have a variable influence on youth unemployment:

- **A comprehensive approach to internships;**
- The **towns and communes plan on youth unemployment**: on 1 January 2006, 13 towns and communes with a high rate of youth unemployment launched the “youth unemployment” plan of action, which targets under-qualified young job seekers. These initiatives include a training-and-assistance component (an extension of the comprehensive approach) and a social economy component. The initial results are encouraging. A large-scale evaluation with the social partners should lead to a decision to extend the project to the whole of Flanders;
- **“Induction training”**: targeting young graduates or job seekers who have completed at least 400 hours of training, “induction training” was introduced under the Agreement for Employment;

- **Individual vocational training in enterprises (IBO):** the “Meerbanenplan” freed up additional resources to guarantee the continued success of the IBO scheme. The scheme combines in-house training with the guarantee of an open-ended contract. The scope of this measure has been broadened significantly in recent years.

### 1.1.3 Measures aimed at persons over 55 years of age

124. As part of an “active ageing” strategy, the Flemish authority has also taken measures to offer older workers work or keep them in employment.

- A **pro-active restructuring policy:** enterprises undergoing restructuring that wish to secure acceptance of a lower early retirement age for their employees must now submit a social assistance plan to the regional employment minister, who will assess the conditions for activation of the plan. In Flanders, an assessment framework comprising nine criteria has been devised for regional assessments. Moreover, in restructuring operations where a lower early retirement age is approved, the employer must set up an employment team to provide the maximum assistance in finding a new job to employees who lose their jobs. Where the scale of the restructuring is relatively small, instead of setting up its own employment team, an enterprise may take part in an existing employment team.
- An **employment premium for the over 50s:** employers that offer an open-ended employment contract to an unemployed job seeker over 50 years of age who is registered with the VDAB will receive a financial contribution to their wage costs for a period of 12 months. The amount of the premium varies according to three different income levels. The premium has resulted in a sharp rise in the number of older job seekers finding work in various sectors.

## 1.2 Measures taken under the policy on proportional participation in work and diversity (*Evenredige Arbeidsdeelname en Diversiteit* or EAD)

125. An overview of EAD policy in Flanders begins with a general description of the policy, as already given in the report of May 2006 (E/C.12/BEL/Q/3, paras. 42-46):

The objective of EAD policy is to ensure, by around 2010, proportional participation of all underrepresented risk groups. According to a specific growth scenario, drawn up towards that objective with regard to foreign workers and monitored on an annual basis, at least 2,000 - ideally 5,000 - additional jobs must be assigned every year to persons who are not nationals of the European Union. This growth scenario is monitored every year.

### Diversity plan targets for foreign workers, 2002-2004

	Recruitment	Promotion	Training
2002 (240 action plans)	860	47	1 373
2003 (308 action plans)	1 109	624	2 092
2004 <sup>17</sup> (244 action plans)	741	275	1 295
Total	2 710	964	4 760

Most diversity plans are still under way. All the plans implemented in 2002 have been completed, apparently exceeding the quantitative targets by 15 to 20 per cent.

The EAD policy relies heavily on support from enterprises, institutions and local authorities. By also striving for greater openness with regard to jobs (recruitment and promotion targets), perceptions (progress perceived by all categories of personnel in an organization) and practices (results-based management of human resources), the policy is designed to effect change.

126. To complete this picture, mention should be made of some new elements of the policy on proportional participation in work and diversity, as formulated in the EAD decree issued by the Flemish Government in 2006 and in the memorandum “Thrust of VESOC in 2007”.

- The number of **diversity plans** has been increased (there are now more than 2,000);
- An **age and work expertise centre** will make it possible to concentrate even more on the issue of age diversity;
- **Brokerage** and cooperation among diversity consultants and partners who are active in the (regional) labour market continue to be encouraged;
- Considerable effort is also being spent to improve dissemination of the practice of **diversity assessment** in regular policy components. Such assessments examine qualitative and quantitative goals and the quantitative targets of measures aimed at groups at risk.

#### (d) Walloon Region

127. With regard to the measures taken by the Walloon Region to help persons under 25 years of age to find their first job, as part of the Priority Actions for the Future of Wallonia, the authorities, in conjunction with the Federal Government, have endeavoured to find new ways of cutting labour costs and/or using unemployment benefits.

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<sup>17</sup> In 2004, the diversity plans were focused more on the following risk groups: persons with occupational disabilities, older workers and job seekers. For that reason, there was a relative reduction in the quantitative targets for the non-local risk group.

- Mention should also be made of the recent measure known as the “Job Tonic”, which changes the process by which the employment and vocational training agency (FOREM) delivers services to young persons.

128. The new approach entails proper coaching for young persons, based on a relationship of trust and designed to provide young persons with a boost.

129. The thinking behind the approach is that young persons should receive more assistance and should be placed on the labour market as soon as they leave school.

130. The practice of providing “pathways to integration” has been turned on its head, as employment opportunities are being presented to young persons directly. This is a matter of expediency, since jobs are available in the Walloon Region, and some sectors are short of labour.

131. The key changes are:

- Young job seekers are given assistance as soon as they register with FOREM;
- They are presented with job offers (if, after this stage, the young persons are still unemployed, they must be offered training);
- A single reference person at FOREM to whom the young person must report once a month (every fortnight for the first three months) is designated.

132. Young persons are informed from the outset of their obligations under the unemployment regulations.

133. Young persons with few qualifications (no certificate of higher secondary education (CESS)) are targeted by this new process; the others are seen for the first time when they register. They are then guided towards independent job search tools and are seen again as from the fourth month (remedial action may be suggested in some cases).

***Q.11. The Committee would like to receive information, including statistical data on a disaggregated and annual basis, concerning the results of recent national, regional and communal efforts aimed at combating discrimination at work and supporting the employment and professional training of members of ethnic minorities (E/C.12/BEL/3, paras. 119, 164 ff. and 171 ff.).***

**(a) Federal State**

**1. Implementation of cultural-diversity monitoring in employment**

134. Statistics are becoming a vital tool in determining the levels of ethnic discrimination and assessing diversity policies in employment.

135. In July 2005, the interministerial conference on employment called on the Equal Opportunities and Anti-Racist Centre to consult associations and representatives of the

immigration sector with a view to issuing an opinion on the principle of, and, if appropriate, the criteria for, preparing statistics on ethnicity. The Centre gathered a wide range of opinions from those directly involved in the subject.

136. Following a meeting called by the Centre and attended by the Federal Ministers for Employment and Equal Opportunities, the Regional Ministers for Employment and regional employment organizations, together with experts, it was agreed that a working group should be set up.

137. The working group's first report was delivered at an interministerial conference on social integration held 25 October 2007. The report proposes a system that uses socio-economic criteria to monitor efforts to deal with discrimination on grounds of origin in the employment market. The system is constructed on the basis of neutral, anonymous and verified data from one or more existing administrative databanks.

138. The working group is continuing its work at regular intervals and is expected to come up with a specific proposal on a measuring and data collection tool.

## **2. Equality Diversity Label**

139. At the interministerial conference held on 11 May 2005 a decision was taken to adopt the Equality Diversity Label project. Designed to promote and implement an active diversity policy, the project is a tool for managing diversity in enterprises. Organizations undertake to analyse their diversity policy and to devise and map out a three-year plan of action. They commit themselves to carrying out whatever specific activities they decide on, based on their specific characteristics and using internal indicators and monitoring tools. They are given support by diversity consultants, who are paid by the authorities.

140. The distinctive feature of the Label, which is designed to change mindsets and enterprise culture and bring about sustainable development, is that it embodies a combination of a policy on human resource management and diversity management with a system of continuous improvement.

141. Enterprises with the Label also benefit from communication campaigns, which are also paid for by the authorities. The aim is to ensure that these enterprises gain visibility and to raise awareness of diversity among all enterprises and the general public.

142. The project targets large and small enterprises alike, in all sectors.

143. To obtain and retain the Equality Diversity Label, four conditions must be met:

- (a) Compliance with the legislation on equal opportunities and non-discrimination;
- (b) Elaboration and implementation of an enterprise-culture and staff-management policy that favours diversity;
- (c) Active involvement of workers in the preparation of the action plan;



(d) Continual improvement of the diversity policy by means of analysis, planning and yearly audits.

144. Organizations receive the Label for a maximum of three years, subject to annual interim evaluations.

**(b) Brussels-Capital Region**

145. The action taken between January 2005 and December 2006 against discrimination is described hereunder.

*Year 2005*

- Awareness-raising campaign;
- Training for trade union officials;
- Affirmative action for certain new foreign communities;
- An anti-discrimination help desk at ACTIRIS (Brussels placement and unemployment office).

146. In 2003, in cooperation with the Equal Opportunities and Anti-Racist Centre, ACTIRIS launched a unit specializing in receiving, assisting and supporting victims of discrimination. The unit was still operational in 2005.

*Year 2006*

- **“Diversity management” seminars:**

Five seminars on diversity management were jointly organized with sectoral federations, with a view to building on the outcome of the initial seminars held in previous years. They included a presentation of diversity policy instruments in the Brussels-Capital Region, witness accounts by employers from relevant sectors and discussions leading to conclusions.

The seminars, entitled “Diversity management: a challenge for enterprises!” were designed to raise awareness among all stakeholders in the job market of the issue of discrimination with regard to personnel, both in recruitment and in enterprises.

- **Recruitment of three diversity consultants:**

Three diversity consultants were recruited by ACTIRIS specifically for the purpose of canvassing and assisting employers in Brussels with a view to promoting diversity in enterprises.

Moreover, a training programme for diversity consultants was devised.

- **Brochure for employers**

- **Promotion of the Diversity Charter**

In December 2005, 50 Brussels employers and the Minister for Employment took the initiative of promoting diversity by signing the Diversity Charter. Accordingly the signatory employers are committed to working out a diversity plan.

- **Diversity plan**

On 12 December, the ACTIRIS Management Board approved the framework text for diversity plans in the Brussels-Capital Region, which includes elements such as basic analysis of four areas of discrimination (origin, age, gender and disability), four areas of intervention (positioning, recruitment, personnel management and communication) and two priorities (actions for persons of foreign origin and employment of young persons).

- **Diversity managers**

At the initiative of the relevant minister, diversity resource persons are appointed in public-service organizations, and the crosscutting group works out a training programme for diversity managers.

- **Study of new arrivals**

A study of the policy on welcoming new arrivals in the 19 communes of the Brussels-Capital Region has been commissioned. The aim is to identify the different practices followed in welcoming new arrivals in the 19 communes.

- **Awareness-raising campaigns among trade unions**

- **The ACTIRIS anti-discrimination help desk**

(c) **Flemish Region**

**Statistics on employment rates**

**Table 1**

**Employment rates (15-64 years) by nationality, Flemish Region**

	2004	2005	2006
EU-15 citizens (1)	62.7	64.0	62.3
Non-EU-15 citizens (2)	38.5	40.6	40.6
Nationality gap (1) - (2)	24.2	23.4	21.7

*Source:* EFT, Labour Force Survey.

## Statistics on combating discrimination in the workplace

147. In the efforts made by the Flemish authority to deal with discrimination in the workplace (or to promote diversity and proportional participation at work) considerable emphasis is laid on the “diversity plans”. Enterprises use the plans to set targets for recruitment, assistance, promotion and training. The tables below give an idea of the extent to which enterprises achieve those targets.

**Table 2**  
**Development of quantitative targets for diversity plans, 1999-2006**

Year	Target	Result
1999	75 diversity plans	60 plans
2000	75 diversity plans and 20 good practices	100 plans
2001	150 diversity plans and 25 good practices	174 plans
2002	225 diversity plans and 25 good practices	240 plans
2003	275 diversity plans and 25 good practices	310 plans
2004	225 diversity plans and 25 good practices	240 plans
2005	408 plans	445 plans
2006	532 plans	503 plans <sup>18</sup>

*Source:* Department of Work and Social Economy, Flemish Government.

**Table 3**  
**Inclusion in diversity plans**

Risk groups	2002		2003		2004		2005
	T	R	T	R	T	R	T
Foreign workers	588	838	711	1 158	611	436	1 105
Older/experienced workers	140	365	241	578	334	341	1 362
Occupationally disabled	99	141	159	272	260	218	465
Under-qualified (young persons)	93	252	133	489	28	261	328
Women	360	820	627	1 932	718	702	1 465

*Source:* Department of Work and Social Economy, Flemish Government.

*T = target, R = result. Figures processed up to and including October 2006.*

<sup>18</sup> In 2006, 441 plans were introduced concerning 503 organizations.

**Table 4**  
**Promotion in diversity plans**

Risk groups	2002		2003		2004		2005
	T	R	T	R	T	R	T
Foreign workers	230	237	149	222	564	140	520
Older/experienced workers	124	135	226	153	411	275	997
Occupationally disabled	32	37	60	81	161	58	72
Under-qualified (young persons)	74	143	149	454	214	174	71
Women	110	189	283	531	456	217	749

*Source:* Department of Work and Social Economy, Flemish Government.

*T = target, R = result. Figures processed up to and including October 2006.*

**Table 5**  
**Training in diversity plans**

Risk groups	2002		2003		2004		2005
	T	R	T	R	T	R	T
Foreign workers	634	734	525	804	950	536	1 463
Older/experienced workers	658	900	1 332	1 748	2 826	1 653	4 722
Occupationally disabled	397	636	525	654	1 593	537	514
Under-qualified (young persons)	1 265	1 456	724	1 287	482	584	1 304
Women	956	1 594	1 957	2 633	2 631	1 902	3 228

*Source:* Department of Work and Social Economy, Flemish Government.

*T = target, R = result. Figures processed up to and including October 2006.*

## Statistics on participation in the training

### Participation by risk groups in training for job seekers

**Table 6**  
**Proportional representation of risk groups in training modules, 2002-2005**

		Job seekers (cumulative) (%)	Module 3-6 (%)	Module 3 (%)	Module 4 (%)	Module 5 (%)	Module 6 (%)
+ 50 years	2002	7	3	3	3	4	2
	2003	7	4	2	3	6	3
	2004	9	4	3	4	7	3
	2005*	11	3	3	3	5	2
Foreign workers	2002	12	19	15	14	47	14
	2003	14	18	14	13	45	13
	2004	14	18	16	13	46	13
	2005*	15	19	18	15	45	15
Occupationally disabled	2002	7	5	6	4	4	6
	2003	7	7	6	6	7	7
	2004	7	5	5	4	5	6
	2005*	9	9	8	8	9	11

*Source:* VDAB.

\* Including tertiary-sector skills training.

*Key:*

Module 3: training and assistance with job interviews/Module 4: specific vocational training;

Module 5: personalized training (in particular apprentice training - NT2)/Module 6: training and assistance at the workplace (including IBO).

**Table 7**  
**Proportional representation of the four priority risk groups**  
**in integration pathways for job seekers, 2004-2006**

Risk groups		Total number of job seekers	Job seekers involved in integration pathways	% of over-representation
Under-qualified	2004	45.1%	47.8%	6.0
	2005	44.7%	49.0%	9.8
	2006	44.6%	48.8%	9.4
+50 years	2004	9.3%	4.5%	-51.6
	2005	11.0%	3.1%	-71.5
	2006	13.0%	3.3%	-74.7
Occupationally disabled	2004	7.5%	10.3%	37.3
	2005	8.8%	11.7%	33.1
	2006	9.8%	14.0%	42.3
Foreign Workers	2004	14.1%	18.1%	28.4
	2005	14.6%	18.6%	27.0
	2006	15.6%	19.6%	25.5
Job seekers - actual numbers	2004	474 231	181 687	
	2005	473 069	199 633	
	2006	454 656	199 579	

*Source:* VDAB.

**(d) Walloon Region**

148. On discrimination in general, the basic legal text is the Walloon Decree of 27 May 2004 concerning equality of treatment in employment and vocational training. Supplementary and enforcement measures are now under discussion.

149. With regard to the promotion of equal opportunities, some specific examples are given below:

- Participation by FOREM in the payment of crèche and nursery fees for children of persons undergoing training;
- An “equal opportunities” section in sectoral agreements concluded between the Walloon Region, FOREM, IFAPME<sup>19</sup> and occupational sectors where women are priority target groups for training and integration activities;
- Deployment of the Employment Houses and Employment-Training Crossroads, which as providers of community services, include the equal-opportunities dimension in their approach, thus removing obstacles to training and to the search for employment;
- Development of service vouchers.

<sup>19</sup> Institut wallon de formation en alternance et des indépendants et petites et moyennes entreprises (Walloon institute of internships, the self-employed and small- and medium-sized enterprises).

150. Despite all the cross-cutting or specific measures taken to increase gender equality, the target set at the Lisbon Summit - namely an employment rate of 70 per cent in each member State, and a minimum female employment rate of 60 per cent - has not been reached. Nevertheless, the employment rate for women has risen faster than for men, which has helped to correct the gender imbalance in employment.

- Mention should also be made of a series of incentives devised to encourage and develop initiatives by enterprises and organizations to manage diversity in their human resources.

151. The incentives proposed are as follows:

1. Part 1: Signature of a “Charter of diversity for equal rights and equal treatment of workers with and without employment” by the Walloon Government, and both sides of industry in the Economic and Social Council of the Walloon Region (CESRW).
2. Part 2: Signature of a “Diversity Charter” by enterprises and organizations which decide to commit themselves to a diversity management approach.
3. Part 3: Annual Walloon prize for the most significant initiatives in diversity management.
4. Part 4: Aid for diversity in human resource management in Wallonia (bonuses for “Diversity Management” consultancy and its implementation in enterprises and organizations).
5. Part 5: Launch, in partnership with the federal authority, of the Equality and Diversity Label.

#### **Article 7: The right to just and favourable conditions of work**

***Q.12. According to the State party report, a woman unlawfully dismissed for reasons connected with pregnancy or maternity is not entitled to reinstatement, and compensation payable in these cases is subject to a ceiling. Please indicate whether the State party intends to modify its legislation on unlawful dismissal in order to bring it in line with the provisions of articles 3, 7 and 10 of the Covenant (E/C.12/BEL/3, para. 380).***

#### **A. Protection from dismissal**

152. Under the Belgian legislative system, a combination of three laws may be used to offer pregnant women adequate protection from dismissal.

153. These are the Act of 16 March 1971 on work (*Moniteur Belge*, 30 March 1971), that of 3 July 1978 on work contracts (*Moniteur Belge*, 22 August 1978) and that of 7 May 1999 on equality of treatment between men and women with regard to work conditions, access to employment and promotion opportunities, access to self-employment and supplementary social security schemes (*Moniteur Belge*, 19 June 1999).

154. It should be noted that the third of these Acts has just been replaced by the Act of 10 May 2007 on combating discrimination between women and men (*Moniteur Belge*, 30 May 2007).

155. These Acts provide the following mechanisms for protection from dismissal and/or discrimination on grounds of sex.

#### **B. Compensation in the event of unfair dismissal of a pregnant woman**

156. Any pregnant woman who is illegally dismissed by her employer is entitled to lump-sum compensation equivalent to six months' gross pay, without prejudice to any compensation due to the worker for interruption of her employment contract (Act of 16 March 1971 on work, article 40).

157. Women who consider that the damage done has not been compensated in full may, however, take proceedings against their employers for wrongful dismissal. They may thus seek compensation for actual damages.

158. Moreover, employers who illegally dismiss a pregnant woman are liable to criminal sanctions, in the form of imprisonment and/or fines (see below).

#### **C. Courts' powers of injunction to put an end to situations of discrimination**

159. The Act of 7 May 1999 on equality of treatment between men and women with regard to working conditions, access to employment and promotion opportunities, access to self-employment and supplementary social security schemes (*Moniteur Belge*, 19 June 1999) stipulates, in article 21, that:

160. "The court to which a case concerning the application of the present Act is referred may, on its own motion, order the persons responsible and employers concerned by article 11, as well as anyone who fails to comply with article 17, to put an end, within the time limit set by the court, to the situation of discrimination relating to working conditions, dismissal and supplementary social security schemes, which has been recognized as discriminatory on the basis of the present Act."

161. This clause is reproduced in slightly different terms in the Act of 10 May 2007, where it offers the victims of discrimination based on sex the possibility of taking legal action before a labour tribunal (Act of 10 May 2007, art. 25).

162. The Belgian legislative system does therefore offer pregnant women who have been illegally dismissed the opportunity to ask the courts to put an end to the situation of discrimination by overturning the dismissal decision.

#### **D. Possibility of reinstatement**

163. Moreover, the former article 23 of the Act of 7 May 1999 and the current article 22 of the Act of 10 May 2007 offer further protection to victims of discrimination who have complained of their situation. They allow victims who have made an official complaint to request reinstatement in the enterprise from which they were dismissed.



164. If the employer persists in refusing to reinstate the victim, the latter may ask either for lump-sum compensation equivalent to six months' pay, or compensation commensurate with the damage actually suffered (which may be worth more than six months' pay).

165. This compensation may be combined with the lump-sum compensation referred to earlier (point 2).

166. Workers do not always need to ask for their job back in order to be eligible for this compensation (Act of 10 May 2007, article 22 (7)).

#### **E. Other kinds of sanction imposed on employers guilty of discrimination**

167. The Act of 10 May 2007 on gender-based discrimination includes other kinds of sanctions against employers who illegally dismiss pregnant workers.

168. An employer may be liable to criminal proceedings (with criminal penalties such as imprisonment and/or fines).

169. The court which hears the case may also order that its decision be displayed in public and/or published and disseminated in the written press or elsewhere. These publicity measures should help to put an end to the unlawful act and its effects (Act of 10 May 2007, article 25 (3)).

#### **F. Activities of the Institute for Equality of Women and Men in regard to the protection of motherhood**

170. A working group was set up at the Institute to launch a research project in 2007 and, in 2008, to develop the necessary tools to sensitize workers and employers to the issue of protecting pregnancy and motherhood.

### **Article 8: Trade union rights**

***Q.13. According to information received, the State party has not amended its legislation that reportedly undermines the legitimate use of the right to strike. Please indicate whether the Government intends to eliminate restrictions on the right to strike arising from judicial decisions and ensure the protection of workers against dismissal as a consequence of their participation in a strike.***

171. The Committee on Economic, Social and Cultural Rights of the United Nations has commented on the possible restriction of the right to strike in Belgium.

172. The first criticism concerns court decisions on industrial conflicts.

173. In the light of several court decisions issued on strikes, in 2002, both sides of industry concluded a protocol agreement under which employers' organizations undertook to recommend to their members that they refrain from instigating legal proceedings and the trade unions undertook to recommend to their members that they avoid using physical or material violence during industrial conflicts.

174. The agreement was concluded to pre-empt a legislative bill aimed at controlling and limiting the role of the courts in industrial conflicts, which neither employers nor trade unions wanted.

175. In recent years actions have nevertheless been brought before the courts.

176. The 2002 Protocol offered no guarantee against future legal action.

177. Virtually none of the decisions handed down by the courts has been appealed.

178. The repeated industrial conflicts prompted some parliamentarians to table bills aimed at making strikes subject to a ballot of workers at the enterprise concerned or prohibiting all obstacles to work or picketing of access routes to the workplace.

179. The Government did not support the bills and it continues to respect the social partners' wish to avoid passing strike legislation. The rejection of such legislation still holds.

180. In the absence of legislation, the courts may well be called upon once more to render decisions on the consequences of strike action.

181. The constitutional principle of the separation of powers means that the Government cannot interfere with court decisions in such cases.

182. The second criticism concerns the protection of strikers from dismissal.

183. In Belgium, participation in strikes is not an unlawful act that warrants dismissal. The Court of Cassation has long recognized the right to strike.

184. Nevertheless, the exercise of the right to strike does not mean that workers may commit any reprehensible act while striking and thus abuse that right.

185. In the view of the Court of Cassation, the exercise of the right to strike should not lead to dismissal unless, in exercising that right, a worker commits a serious offence within the meaning of article 35 of the Act of 3 July 1978 on employment contracts.

186. It is for the courts to decide whether a serious offence has been committed.

187. Employers may therefore dismiss a worker for committing a serious offence during a strike.

188. If the courts decide that a serious offence has not been committed, a worker may claim compensation from his or her employer for wrongful dismissal, as provided for by the Act on employment contracts, together, where applicable, with damages, in accordance with the ordinary law on civil liability.

189. Employers are very wary when they cite a serious ground for dismissal during a strike, and the courts carefully examine all the facts of the case before handing down a decision.

190. If employers were to be prevented as a matter of principle from dismissing workers during strikes, irrespective of the acts that the workers committed, striking workers would be afforded greater protection than other workers, which could not be justified.

#### **Article 9: The right to social security**

***Q.14. Please provide detailed statistical information on an annual basis on the financing of the Ageing Fund established in 2001, as well as on other measures the State party intends to take to cover the higher pensions and health costs arising from the ageing Belgian population (E/C.12/BEL/3, para. 305).***

191. In order to meet the higher costs of pensions and health care arising from the ageing of the population, various measures have been taken.

192. In regard to pensions, measures have been taken to encourage workers to work longer and to reintegrate older workers into the world of work.

193. A royal decree of 1 February 2007 provides for a pension bonus of €2 a day for persons who continue working after 62 years of age or 44 years of work.

194. The rules on working while receiving a pension have been eased for persons who have reached retirement age (these pensioners continue to pay pension contributions) but have been tightened up before that age (to dissuade people from drawing their pension while continuing to work on a flexible basis).

195. A one-off reduction in social security contributions has been granted to workers of at least 57 years of age.

196. Employers that recruit workers aged over 45 years will benefit from a specific reduction in their social security contributions and a work allowance. The worker must be a job seeker who is fully unemployed and has been receiving benefits for six months, or is a recipient of social assistance.

197. In regard to health care, the Finance Act of 27 December 2006 provided for the creation, at the National Institute of Sickness and Invalidity Insurance (I.N.A.M.I.), of a fund for the future of health care.

198. The Fund, with initial capital of €309 million in 2007, is sustained by any annual health-care premiums provided by the National Social Security Office and the Financial Stability Fund for the Social Status of the Self-employed.

199. The Fund should help to offset the future costs of health care that will be generated by the ageing of the population. It is a financial reserve designed to be used strictly for the investments needed to adapt the health-care system to the needs of the ageing population. The plan is that the Fund can only be used as of 2012.

**Overview of the amounts invested in the ageing fund at 31 December 2006**  
**(Figures in italics refer to the portfolio value at the end of the year) (in euros)**

Year of allocation	Year of investment in treasury bonds (1)	Origin	Amount (in Euros)	Total
2001 2001 2002	2002	UMTS Appreciation of gold Short-term interest BNP profit Short-term interest	437 805 323.8 177 114 565.6 9 156.14 624 076 032.3 429 000 000.0 2 740 237.5	624 076 032.3      <i>1 087 456 149.1</i>
		Total	431 740 237.5	1 055 816 269.8
2003	2003	Belgacom dividend 2002 Non-exchange of banknotes Short-term interest Credibe	237 252 326.5 213 965 560.0  293 449.7 2 645 687 591.8 3 096 905 478.3	      <i>4 266 416 806.0</i>
		Total		4 153 015 197.8
2003/2004	2004	Pension fund buy-back Belgacom (2) dividend Belgacom 2003 Short-term interest FADELS	5 000 000 000.0 290 000 021.3 6 159 344.1 2 500 000 000.0	     <i>12 491 915 116.1</i>
		Total	7 796 159 365.4	11 949 174 563.2
2005	2005	DLU Balance: Credibe Short-term interest	422 897 175.8 19 754 399.1 2 058.3 442 653 633.1	     <i>13 503 991 981.1</i>
		Total		12 391 828 196.2
2006	2006	BNB profit Share in DLU profits Balance: Credibe Short-term interest	211 934 919.8 317 056 955.2 150 737.0  26 477 330.6 8 259.5 555 628 202.1	       <i>14 661 225 148.3</i>
		Total		12 947 456 398.3

*Source:* Ageing Fund, Stability Programme of Belgium (2007-2010) - updated in 2006.

Treasury Bonds - Ageing Fund.

€3,600 million allocated in 2003, €1,400 million allocated in 2004 (Royal Decree of 22 December 2003).

(*Moniteur Belge*, 24 December 2003 - Issue No. 2). Under the European System of Accounts, (ESA 95), the total amount of €500 million is regarded as revenue for 2003.

***Q.15. Please provide information on measures undertaken by the federal and regional authorities to implement the right to social security, including social assistance, with regard to nationals of States which are not party to the European Union or the European Economic Area.***

200. As far as non-contributory schemes are concerned, it should be noted that:

(1) In order to benefit from guaranteed family benefits, two conditions are required of individuals who assume principal or exclusive responsibility for a child:

- They must have been actually resident in Belgium for an uninterrupted period of at least five years immediately before applying for guaranteed family benefits;
- If they are foreign nationals, they must have been given leave or authorized to stay or reside in Belgium in accordance with the Act of 15 December 1980 on access to the territory, stay, residence and deportation of foreigners.

201. The condition of effective residence in Belgium for an uninterrupted period of at least five years immediately prior to the filing of an application for guaranteed family benefits is waived for the following persons:

- Persons subject to Council Regulation (EC) No. 1408/71 of 14 June 1971, concerning the application of social security schemes to employed persons and their families moving within the Community; since the entry into force of Council Regulation (EC) No. 859/2003 of 1 June 2003, nationals of third States who reside legally in Belgium and are cross-border workers are also covered;
- Stateless persons;
- Refugees within the meaning of the Act of 15 December 1980 on access to the territory, stay, residence and deportation of foreigners;
- Nationals of a State that has ratified the European Social Charter or the European Social Charter (revised) (nationals of States that have ratified the European Social Charter (revised) were awarded dispensation under the Finance Act of 27 December 2004).

(2) Guaranteed Income for Older Persons (GRAPA) may be claimed by:

- Belgian nationals;
- Persons subject to Council Regulation (EC) No. 1408/71 of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community; since the entry into force of Council Regulation (EC) No. 859/2003 of 1 June 2003, nationals of third States who reside legally in Belgium and are cross-border workers are also covered;
- Stateless persons;

- Refugees within the meaning of the Act of 15 December 1980 on access to the territory, stay, residence and deportation of foreigners;
  - The nationals of any country with which Belgium has concluded a reciprocal agreement on the matter or has recognized the existence of de facto reciprocity;
  - Foreign nationals, provided that a right to a retirement or survivor pension is open to them under a Belgian scheme.
- (3) Disability allowances may be claimed by:
- Belgian nationals, nationals of a member State of the European Union, stateless persons or refugees within the meaning of the Act of 15 December 1980 on access to the territory, stay, residence and deportation of foreigners;
  - Nationals of Algeria, Iceland, Liechtenstein, Morocco, Norway, Tunisia or Switzerland who are subject to the social security scheme of a member State of the European Union (on an employed or self-employed basis) or their own State;
  - Anyone who has a nationality other than those mentioned above, provided that he or she is the spouse, legal partner or family member of a person in any one of the categories listed above; the term “family member” means minor and adult children and a dependant, father, mother, father-in-law or of any of the persons mentioned above. Dependants are persons living under the same roof and persons considered as dependants for the purposes of compulsory health-care insurance and benefits (extension derived from the Royal Decree of 17 July 2006 giving effect to article 4 (2) of the Act of 27 February 1987 on disability allowances);
  - Anyone who, up to the age of 21 years, received the supplementary family allowances for a disabled child under the legislation on family allowances for employed or self-employed persons;
  - Any beneficiary under the European Interim Agreement.
- (4) There remain two other non-contributory schemes:

Integration income

Conditions of access

In order to benefit from the right to social integration, claimants must:

- Actually reside in Belgium and
- Have a specific status

In other words, they must

Have Belgian nationality, or

As a citizen of a European Union member State or a family member accompanying or joining such a citizen, have the right to stay for more than three months, in accordance with the Act of 15 December 1980 on access to the territory, stay, residence and deportation of foreigners, or

Be a registered foreigner, or

Be a stateless person subject to the Convention relating to the Status of Stateless Persons, signed in New York on 28 September 1954 and approved by the Act of 12 May 1960, or

Be a refugee within the meaning of article 49 of the Act of 15 December 1980 on access to the territory, stay, residence and deportation of foreigners,

- Be 18 years of age (civil majority), with three exceptions: a minor emancipated by marriage, a single person with one or more dependant children or a pregnant minor
- Be willing to work, unless health or equity considerations preclude it
- Have insufficient resources and be unable or unlikely to acquire them through personal effort or other means. Using a means test, the Public Social Aid Centre (CPAS) verifies what resources the claimant can draw on. The CPAS takes account of the resources of the spouse and the means of the person with whom the claimant has established a de facto union. The CPAS may also take account of the income of parents and adult children with whom the claimant lives. In principle, account is taken of all resources, whatever their nature or origin, such as wages, social benefits, income from moveable and immoveable assets, and in kind perquisites. Certain types of income listed in the regulation do not count, such as family allowances which claimants receive as long as they are raising their children and have full or partial responsibility for them; donations; aid offered by the CPAS; maintenance for unmarried children dependant on the claimant, for as long as the claimant raises them, and so forth
- Have exercised their rights to allowances under Belgian or foreign social legislation

Duration: *unlimited (for as long as the conditions are met)*

### **Guaranteed minimum**

202. The claimant's right to social integration is exercised either through the allocation of an integration income or the offer of a job through the CPAS. The CPAS may also place the beneficiaries of the right to social integration in employment by acting as an employer itself or, in certain types of recruitment, by making a financial contribution to reduce the employer's wage costs.

203. The allocation and maintenance of social integration income may be coupled with a personalized social-integration project, at the request of the recipient or the CPAS. Depending on the recipient's needs, the project may involve vocational or social integration.

204. Beneficiaries who are at least 25 years old are entitled as a matter of priority to social integration by means of a job within three months of applying. Employment consists either of a work contract or a personalized social integration project leading, within a specific period, to a work contract.

205. Three categories of person are concerned by the allocation of a social integration allowance:

- (a) The co-habitee;
- (b) Persons living on their own;
- (c) Persons with dependants.

Categories	Annual amount (1 April 2007)	Monthly amount (1 April 2007)
1	5 258.99 euros	438.25 euros
2	7 888.48 euros	657.37 euros
3	10 517.98 euros	876.50 euros

206. If a person already has some income, however, and if the income is less than the social integration allowance, the CPAS will pay the difference so as to bring the person's income up to the level of the social integration allowance.

## **The right to social welfare**

### **A. The notion of social welfare**

207. The notion of social welfare is derived from article 1 of the Organic Act of 8 July 1976 on Public Social Aid Centres, which provides: "*All persons have a right to social welfare. The purpose of social welfare is to enable everyone to lead a life consistent with human dignity. Subject to the conditions specified in the present Act, Public Social Aid Centres shall provide such welfare. The task of Public Social Aid Centres is to provide individuals and families with the welfare that is due from the community*".<sup>20</sup>

208. The purpose of welfare assistance is to enable everyone to lead a life in human dignity, which is a real subjective right entailing a wide range of services.

209. The means for ensuring the enjoyment of the right of everyone to social welfare, as defined in the general functions of the CPAS, and the manner in which the CPAS must exercise its functions, are set out in articles 57 et seq. of the above-mentioned 1976 Organic Act.

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<sup>20</sup> Article 57 of the Act of 8 July 1976.



210. The purpose of social welfare is not only to address certain shortcomings associated with life in society (palliative or curative assistance), but also to provide welfare as a preventive measure. Social welfare comprises different types of services, ranging from material assistance (financial aid, aid in-kind) to non-material assistance (e.g. legal counselling or financial advice, procedural assistance, assistance with employment in accordance with article 60, paragraph 7, of the above-mentioned Act, etc.).

211. In practice, the Centre, after conducting a social background check, must make an accurate diagnosis of the assistance required and propose the most appropriate means for providing it.

### **B. Requirements**

212. The right to social welfare obtains irrespective of age or nationality.

213. Social welfare is provided in the most appropriate form: applicants must provide evidence of need. They may also be required to prove their willingness to work.

214. The willingness-to-work requirement does not apply to asylum-seekers whose application is being processed.

215. The report on the social background check generally provides sufficient information to determine the extent of the need for assistance and the most appropriate means for meeting that need (article 60, paragraph 1, of the above-mentioned Organic Act).

### **C. Duration**

216. Persons residing in Belgium illegally have access to emergency medical care only.

217. Material assistance is offered, however, to minors residing in Belgium illegally with their parents, when, according to the CPAS, the parents do not or are not able to perform their duty of care. This material assistance is offered exclusively by the federal reception centres for asylum-seekers (article 57, paragraphs 2 (1), 2° and (ii), of the Organic Act of 8 July 1976 on Public Social Aid Centres).

218. For additional information, please visit our website: [www.mi-is.be](http://www.mi-is.be).

### **Article 10: Protection of the family, mothers and children**

***Q.16. Please provide updated information on measures, legislative or otherwise, undertaken by the State party to render domestic violence a criminal offence. In this regard, please provide detailed information on the implementation of the Plan of Action to combat domestic violence for the years 2004-2007, including information on cases of domestic violence for which criminal proceedings were instituted and disaggregated data on an annual basis on the number of persons who have been victims of gender-based violence (E/C.12/BEL/3, para. 377).***

219. The Act of 24 November 1997 on violence within couples introduces into the Criminal Code the concept that a crime or offence against a spouse is an aggravating circumstance with respect to the offences enumerated in articles 398 to 405, concerning intentional homicide

that is not classified as manslaughter and intentional bodily injury. In addition, the Act of 28 January 2003, supplementing article 410 of the Criminal Code, provides for the assignment of the family home to the victim of acts of physical violence committed by the partner (spouse or legal co-habitee). The Act also increases the penalties for acts of physical violence within the couple and provides a legal basis for the temporary removal of the perpetrator of such violence. The national action plan against violence within couples, 2006-2007, seeks, inter alia, to raise public awareness and disseminate the provisions of the Act of 28 January 2003.

220. The inter-ministerial conference of 8 February 2006 not only approved a common definition of violence within couples, but also the participation of the federate entities (Regions and Communities) in the plan of action against violence within couples for 2004-2007, which comprises as many as 89 measures.

221. The plan is currently being assessed by an inter-departmental group and a group of experts. The assessment will be used to devise a subsequent plan for 2008-2010.

222. A joint circular on criminal policy on violence within couples issued by the Minister of Justice and the Public Prosecutors' Association (COL 4/2006), was adopted on 1 March 2006 and entered into force on 1 April 2006. It focuses on the role of the police and prosecutors, which cannot be confined to solely punishment. Instead, their intervention must be part of a multidisciplinary approach based on pooling the skills and experience of all stakeholders in the legal, medical, psychological and social sectors. The circular was drawn up based on discussions held by a working group comprising judges and representatives of the police and of the Criminal Policy Unit, and following consultations with persons actively involved in providing assistance to victims of violence within couples and taking action regarding the perpetrators. It was also based on specific measures taken recently in several Belgian judicial districts to improve the legal response to situations of intolerable spousal abuse. The watchwords of the circular are: prevention, mediation, punishment and zero tolerance. From now on, a report must be produced on each complaint of violence in an effort to get perpetrators to acknowledge the seriousness of their actions. The circular also allows for victims of an intentional act of spousal abuse to benefit from financial assistance from the State under specific conditions.

223. The Criminal Policy Unit of the Federal Public Service for Justice is tasked with assessing the 27 district plans and with producing statistics by the end of 2007. In cooperation with the Unit, the Institute for the Equality of Men and Women has secured funding to create an assessment tool by early 2008.

224. With regard to statistics on convictions for spousal abuse, data are only available up to 2004 and remain provisional for that year (figures supplied by the Criminal Policy Unit). No specific classification exists for this type of offence. Consequently, the figures refer to traditional offences attended by the aggravating circumstance of having been committed against a spouse or co-habitee.

225. For the entire category of offences classified as “malicious wounding” attended by the aggravating circumstance of having been committed against a spouse or co-habitee, the figures available are as follows:

2000: 213 convictions;

2001: 322 convictions (including 2 for manslaughter);

2002: 462 convictions (including 3 for manslaughter);

2003: 662 convictions (including 3 for manslaughter); and

2004: 826 convictions (including 2 for manslaughter).

226. With regard to statistics on the number of complaints submitted concerning violence within couples (figures supplied by the Public Prosecutors’ Association), it must be stressed that, prior to April 2006, complaints could be registered under the code “violence within the family”, although this was not compulsory. Consequently, such cases may have been subsumed under general cases involving malicious wounding or even rape. It has been obligatory to record acts of violence within the family since April 2006, in keeping with circular COL 3/2006 issued by the Public Prosecutors’ Association. The generic term “violence within the family” has been replaced by the more specific terms of “violence within couples”, “violence against descendants” and “violence against other family members”.

227. The figures for 2003 list 5,406 cases filed under the generic classification of violence within the family, 11 cases of violence within the couple, 2 cases of violence against descendants and 1 case of violence against other family members. The figures for 2004 show that there were 8,059 cases under the generic classification, 24 cases of violence within the couple, 3 cases of violence against descendants and 3 cases of violence against other family members. In 2005, there were 11,250 cases filed under the generic classification, 302 cases of violence within the couple, 28 cases of violence against descendants and 48 cases of violence against other family members. Lastly, in 2006, when the coding requirements were changed, there were 181 cases filed under the former generic classification of violence within the family, 35,388 cases of violence within the couple, 2,877 cases of violence against descendants and 4,826 cases of violence against other family members.

228. As of 10 July 2007, out of 35,388 complaints of spousal abuse lodged in 2006, a summons was issued and further action taken in 1,521 cases; 20,973 cases were discontinued; 6,506 were incorporated into other complaints; 3,727 were under investigation; and 1,472 had been referred to another prosecutor’s office for action. In 661 cases, criminal mediation was used or a settlement was reached, while 282 cases were being reviewed by an investigating judge. Lastly, 246 were cases pending before the Council Chamber (stages ranging from the closure of the investigation to the possible setting of a date for trial before the Criminal Court).

***Q.17. Please provide specific information - as requested by the Committee in paragraph 25 of its previous concluding observations - on the measures taken by the State party to combat paedophilia, child prostitution, child pornography and violence against children. In this regard, please also report on the State party's efforts to seek bilateral and transnational cooperation to address these issues.***

**At the international level**

229. As it has done in the past, Belgium supports national and international initiatives focused on the rights of the child. More specifically, its foreign policy on human rights gives priority to action against the sexual abuse of children and violence against children.<sup>21</sup>

230. At the sixty-first session of the General Assembly of the United Nations, Belgium, together with its partners in the European Union and the members of the Group of Latin American and Caribbean States, formally endorsed a resolution on the rights of the child that also focuses in detail on the issues of paedophilia, child prostitution, child pornography and violence against children (A/C.3/61/L.16/Rev.1).

231. Belgium worked closely with the independent expert, Professor Pinheiro, on the preparation of the United Nations study on violence against children. As part of that cooperation, financial assistance was provided for preparation of the study (€100,000) and a conference was held in conjunction with UNICEF, in Brussels on 6 December 2006.

232. The conference provided a forum to discuss the study, in the presence of Professor Pinheiro. Belgium analysed the recommendations of the study in detail and contributed to the follow-up in 2007, in cooperation with the relevant stakeholders, such as the National Commission for the Rights of the Child.<sup>22</sup>

233. During its presidency of the Organization for Security and Co-operation in Europe (OSCE) in 2006, Belgium, along with France and the United States of America, launched an initiative on child sexual abuse. The OSCE Ministerial Council, in a decision adopted during a meeting held in Brussels in December 2006, urged all its member States and their institutions to take measures to eradicate all forms of child sexual abuse.

234. More recently, Belgium worked closely with the United States of America to table a resolution proposing effective measures against the sexual exploitation of children (Effective crime prevention and criminal justice responses to combat sexual exploitation of children) for adoption by the United Nations Commission on Crime Prevention and Criminal Justice. The

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<sup>21</sup> These issues also occupy a significant place in the annual federal report on the implementation of the Convention on the Rights of the Child. The issuance of an annual report is required under the Act of 4 September 2002. The initial report was presented in 2004.

<sup>22</sup> See below for the structure of the National Commission for the Rights of the Child.

resolution was adopted at the most recent session of the Commission in April 2007 (E/CN.15/2007/L.7/Rev.2). Its aim is to promote training, awareness-raising campaigns and closer cooperation with civil society.

235. A recent report submitted to the Human Rights Council (A/HRC/4/31) by the Special Rapporteur on the sale of children, child prostitution and child pornography, Juan Miguel Petit, drew attention to the successful work of Child Focus, a Belgian organization. Child Focus does its utmost to find missing children and to combat their sexual exploitation, both nationally and internationally.

236. Belgium furthermore participated in the negotiations on the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. The Convention was adopted by the Council of Ministers and will be open for signature at the twenty-eighth Conference of European Ministers of Justice to be held in Lanzarote on 25 and 26 October 2007.

237. The Convention has the advantage of taking a comprehensive approach to the problem, dealing with issues of criminalization, criminal proceedings, prevention and protection of victims. It makes a number of significant advances by including provisions on criminal proceedings, an area where States are often rather reticent. Another major breakthrough is the fact that the Convention is one of the few international instruments to allow for a compulsory extension of legal jurisdiction to include offences committed abroad.

238. The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, adopted in New York on 25 May 2000, was ratified by Belgium on 17 March 2006.

239. It is also important to mention the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197), adopted on 16 May 2005, following negotiations under the Belgian presidency. Belgium signed the Convention on 17 November 2005, and the ratification procedure is currently being finalized. This treaty refers to the same offences as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. The new Convention deals more fully with the provision of assistance to victims, however.

#### **At the national level**

240. The second World Congress against Commercial Sexual Exploitation of Children, held in Yokohama in 2001, urged States to undertake public awareness campaigns. Success in dealing with this phenomenon requires new forms of cooperation, particularly with the private sector. In this context, and at the urging of the federal police and the ECPAT organization (End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes), a working group was set up to bring together public and private entities, such as the Federal Public Service for Defence, the Federal Public Service for Foreign Affairs, the Belgian National Railway Company, the Royal Federation of Belgian Transport Operators, the Belgian Federation of the Tourism Industry, Child Focus and Plan Belgium.

241. The working group launched its first awareness-raising campaign in 2004-2005, followed by a second in the spring of 2007.

242. The campaigns took the form of posters and leaflets to inform the public that sexual exploitation of children exists, that it is illegal, both in Belgium and abroad, and that the perpetrators of such acts, even if they are abroad, can be prosecuted by the Belgian courts. The campaigns also encouraged reporting of all incidents of child prostitution witnessed abroad. Reports may be lodged with tourist guides, travel agents, employers, Belgian embassies or the Belgian police. Two promotional slogans were used: "It's so easy to ignore child prostitution abroad, but reporting it could save a child" (2004-2005) and "When you're abroad, don't be one of those people who'd rather turn a blind eye" (2007). At the same time, each partner pursued activities in their respective areas of concern.

243. It is important to remember that effect is given to these two international instruments in the Belgian Act of 10 August 2005, amending various provisions with a view to strengthening efforts to combat the sale and trafficking of human beings and slumlord practices. The Act concerns the recruitment, transport, transfer, lodging and receiving of human beings for the purposes of sexual, economic or criminal exploitation. In particular, circumstances where the victim is a minor or the perpetrator has authority over the victim are classed as aggravating circumstances. In addition, the Act of 10 August 2005, supplementing the Act of 28 November 2000 on the protection of minors under the criminal law, constitutes one component of the reform of the Protection of Young Persons Act of 8 April 1965. The Act prescribes stricter penalties for persons who use minors to commit offences. By taking advantage of the specific status accorded to minors under the Protection of Young Persons Act, these adults hope to be able to escape prosecution while continuing to profit from the offences that minors commit.

244. Lastly, the working group mentioned in our previous contribution, whose principal aim was to make an assessment of the three Acts of 1995 and the Act of 28 November 2000 on the protection of minors under the criminal law, concluded its work in May 2007. The assessment report contains a number of recommendations on improving the existing legal instruments and remedying the shortcomings of the current system. The recommendations relate in particular to treatment and monitoring of adults and minors who commit sexual offences, the issues of repeat offending, professional secrecy and procedural regulations concerning the protection of minors under criminal law, and in addition audio-visual registration of testimony by minor victims or witnesses to offences. The recommendations are being translated and will then be submitted to the next Minister of Justice.

#### **Article 11: The right to an adequate standard of living**

***Q.18. Please provide more detailed and specific information on the situation of social housing as urgently requested by the Committee in paragraph 26 of its previous concluding observations, and the extent to which the State party has implemented the Committee's specific recommendations on this issue.***

##### **(a) At the federal level**

245. Leases come under the purview of the Federal Public Service for Justice. Contracts between social housing providers and their tenants are therefore subject, in principle, to this legislation. With regard to article 11 of the Covenant, which provides for the right to an

“adequate standard” of living, attention is drawn to the Royal Decree of 8 July 1997, which sets forth the minimum conditions that a property leased as a primary residence must meet in order to satisfy basic safety, health and habitability requirements.

**(b) Brussels-Capital Region**

246. The regional policy declaration for the 2004-2009 legislature makes employment, economic and housing policies the Region’s priorities for 2004-2009.

247. The four operating principles behind the Government’s declaration on housing policy are summarized hereunder.<sup>23</sup>

248. Only the first principle will be covered at length, because it responds primarily to the need to increase the supply of public housing for sectors of the population particularly hard hit by the housing crisis in the Brussels-Capital Region.

*Increasing the public housing stock*

249. The guiding principle behind the current Government’s policy is to encourage all initiatives that will increase the public housing stock, including at the local level.

250. This increase relies primarily on the plan for the future of housing, which provides, in the short term, for the creation of 5,000 public housing units, of which 70 per cent should be social housing and 30 per cent housing for middle-income families. The first projects were launched in the latter half of 2005 and the others are proceeding as planned.

251. Increasing the housing supply, however, also entails the deployment of various public action strategies.

252. The strategies or incentives that can be used include:

(a) Acquisition of derelict buildings and open plots of land for communes with a view to their appropriation for housing;

(b) Establishment of a regional property management agency and of local property management agencies where they do not already exist;

(c) Gradual implementation of the Housing Code and its provisions (health and hygiene standards, public management regulations, etc.);

(d) Placing developed property under stricter local authority control and expanding the quantity of housing managed by social housing agencies, which should double from 1,000 to 2,000 units by 2009;

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<sup>23</sup> *Brussels 2004-2009: A future and an ambition for Brussels*, pp. 27-32.

(e) The forced sale of derelict buildings, and possible requisitions (pursuant to the Royal Decree of 6 December 1993) will be negotiated with the federal Government for communes with unoccupied land and buildings;

(f) Conversion of derelict offices into housing units and occupation of empty dwellings above shops; and

(g) Introduction of a regional tax on abandoned residential buildings, in accordance with the principle of subsidiarity.

253. Efforts to deal with slumlords and the creation of rent tables and of cost-effective energy performance criteria for all public or subsidized investments are further measures that have been announced in support of the Region's housing supply policy.

254. The other guiding principles of housing policy for this legislature entail:

(a) Revitalization of the social housing sector in several ways, particularly:

- Financially, by implementing the budget commitments made under previous investment plans; and
- Socially, by developing professional social services and preserving the financial resources of tenants' committees;

(b) The need to devise rental assistance schemes on the basis of pilot tests.

255. The Region intends to pilot a rental assistance scheme (rent allowance), on a limited sample of its housing stock, for persons eligible for social housing who already receive an allowance from a public welfare centre. The circumstances in which the scheme could be extended will also be considered.

#### *Access to homeownership*

256. The Region also encourages access to homeownership for vulnerable households through the activities of the Walloon Housing Fund for Large Families. It plans to increase the number of loans issued annually by the Fund and has broadened the eligibility criteria.

#### **(c) The Flemish Region**

257. In Flanders the number of social dwellings for rent amounts to 137,596 at the end of 2005, managed by local social housing companies. Of these 132,294 were actually rented. The number of applicant tenants for a social dwelling at the end of 2005 amounts to 58,215. This figure is an indication of the demand for social housing that cannot be fulfilled at the moment. Also recent research shows that, taking into account the current application and admission conditions, the potential demand for social housing in Flanders is high. The Flemish Government is aware of this shortage of social dwellings in Flanders and has, over the past years, increased the budgetary means for the construction of social houses considerably (from an amount of investment of €121,153,002 in 2000 to €234,059,815 in 2006). It will nevertheless take many years to reach a



better balance between the demand and the availability of social dwellings in Flanders. This also emphasizes the need for sufficient measures directed towards the improvement of affordability and quality in the private rental market.

258. Recent research (2005) shows that in social housing the average rent is €258 a month. This rent compares favourably with the rent on the private rental market (on average €431 a month in 2002). In general, the social housing sector brings about a considerable rise in welfare level for low-income households. Compared with the private sector it supplies more housing security and better housing quality at a lower, and affordable, cost. Social tenants seem to be rather satisfied with their housing situation. However, the sector is too small to meet the actual housing needs.

259. It is not clear which data or information forms the basis for the above observation and recommendation by the Committee. To state that large households, single-parent households and households with a low income are put at a disadvantage concerning the admission to a social dwelling is incorrect. The application and admission conditions for a social dwelling (see third report) are stipulated in the Flemish Government Resolution, and in general aimed at lower income households and especially households who have difficulties in finding a decent and affordable dwelling on the regular market. Households with a low income are by definition the target group of social housing, which is guaranteed by the stipulated income conditions.

260. Recent research shows that especially large households, single-parent households and low-income families are strongly represented within the social housing sector (see table 1).

**Table 1**

**Socio-economic characteristics of social tenants in 1999 and of social tenants, private tenants, and owner occupiers in 2005, column %, Flanders**

	1999	2005			
	Social tenants	Social tenants	Private tenants	Owner occupiers	All households
<b>Equivalent income quintile</b>					
1st	42.2	49.9	21.7	17.2	20
2nd	34.8	27.6	23.7	19.7	20
3rd	14.0	16.1	22.4	18.4	20
4th	7.6	5.1	18.0	21.8	20
5th	1.4	1.3	14.3	23.0	20
		$\chi^2$ test: ***			
<b>Age</b>					
17-34	14.9	10.2	32.2	9.8	14.2
35-44	21.9	14.1	18.5	20.5	19.5
45-64	35.5	40.1	26.9	41.4	38.5
65+	27.7	35.7	22.4	28.4	27.8
		$\chi^2$ test: ***			
<b>Labour market status head of household</b>					
Employed	34.4	29.3	56.8	56.8	55.1
Retired	36.4	42.7	26.3	35.9	34.6
Unemployed	16.3	14.6	9.4	2.9	4.8
Disabled	11.0	8.8	4.5	2.5	3.2
Other	1.9	4.6	3.0	1.8	2.3
		$\chi^2$ test: ***			

	1999	2005			
	Social tenants	Social tenants	Private tenants	Owner occupiers	All households
<b>Household type</b>					
Single	-	38.6	42.7	20.0	25.8
Single-parent	-	16.5	11.2	5.5	7.2
Couple no children	-	23.3	25.8	34.2	31.8
Couple with child(ren)	-	19.0	18.2	39.1	33.9
Other	-	2.6	2.1	1.1	1.4
		$\chi^2$ test: ***			

Source: Pannecoucke et al. (2001); Winters et al. (2007),  $\chi^2$  test: \*\*\* $p < 0.01$ .

#### (d) The Walloon Region

261. There were 103,107 social and ordinary housing units as at 1 January 2005, accounting for some 8 per cent of the total housing stock and one quarter of the rental stock in Wallonia. Around 300,000 people live in social housing.

262. Houses (56 per cent) and apartments (44 per cent) make up these some 100,000 social housing units and homes for middle-income families. Clearly, the poorest citizens meet the eligibility criteria for public housing, which are based on the income and social circumstances of the household. A survey conducted on the initiative of the Walloon Region found, for example, that the average monthly rent for a public housing unit in 2006 amounted to just €193, half the equivalent on the private rental market.

263. The Walloon Housing Association is the key player in social housing in this Region. Its objectives are set by the Walloon Government in a management contract which defines its priorities for a period of five years and regulates its relationship with the Region. The contract also defines the operational mechanisms and, in particular, the funding available to the Association to attain its objectives, together with deadlines for their achievement. The functions of the Association are presented below:

- (a) Acting on behalf of the Walloon Government, it provides financial, technical and administrative advice, assistance and oversight services to public housing associations;
- (b) It assists local government in implementing housing projects;
- (c) It coordinates the development and management of public housing offered for rent (both social and middle-income family housing), together with the creation of social housing that may be purchased subject to specific conditions that allow households to acquire their own homes;
- (d) It provides the necessary investment financing and strategy and property management support for activities in this sector;
- (e) It operates as a real estate agent.

264. In Wallonia, 70 public housing associations have primary responsibility for management and rental of: social housing; housing for middle-income families; housing purchased for the provision of social housing; modified, reintegration and transitional housing; and for the creation of new homes. Nearly four out of five heads of household who live in social housing are not in gainful employment.

265. To have access to social housing or to remain therein, prospective tenants or tenants, whether individuals or households, must satisfy a series of conditions and be regarded as a priority. These conditions pertain to the structure, income (e.g. low or unpredictable) and assets of the household.

266. In the assessment of eligibility for social housing, priority is given to factors such as the prospective tenants' status, any disability that he or she may have or any difficulty encountered in integrating into the community. Furthermore, public housing associations are required allocate at least two-thirds of homes to prospective tenants experiencing financial hardship (annual income of less than €13,650) and one third at the most to other low-income households (annual income of between €13,650 and €25,000).

267. In 2003, Wallonia launched a far-reaching programme to upgrade its social housing stock. The Exceptional Investment Programme involves one third of the housing stock (some 35,000 housing units) and draws on a budget of €1 billion. The programme has multiple goals, such as maintaining the existing social housing stock and ensuring a good-quality environment for the underprivileged with a view to strengthening social cohesion in the localities concerned. The programme must ensure that housing is:

- (a) Fit for occupation (e.g. electricity, gas and lifts);
- (b) Stable (e.g. foundations, masonry and floors);
- (c) Weatherproofed (e.g. facing, joinery, roofing); and
- (d) Equipped with sufficient basic facilities (e.g. basic sanitation with hot water).

268. Other measures taken during this legislative period to improve the quality of life in social housing include the following:

- (a) The Exceptional Investment Programme was extended to include several social housing complexes that were not selected in 2003, and additional funds were made available for work on the surrounding areas;
- (b) Subsidies were paid to operators to develop unoccupied public housing units;
- (c) Local housing policies were revitalized with the aim of creating 2,000 public housing units per year;
- (d) Standard specifications for durable housing were disseminated; and

(e) Rental procedures for social housing were overhauled with the introduction of a standard registration form and an appeals board for prospective tenants. A tenants' and owners' charter was drawn up.

***Q.19. Please provide information regarding the State party's policy in relation to property acquisition, and its impact on social housing.***

**(a) Brussels-Capital Region**

269. See above.

**(b) Flemish Region**

270. In Belgium, the focus of housing policy generally has always been on homeownership among private households. In the three regions of Belgium, there is a wide range of government support for homeownership: cheap loans, cheap land, and mortgage deductions among them. The federal Government supports homeownership indirectly, through subsidies to public housing associations for the construction of houses and through tax measures. The latter encompass reduced registration fees, income tax relief, and preferential value-added tax (VAT) rates. Most important, mortgage payments are deductible in part for all homeowners regardless of household income.

271. In Flanders, the most important instrument of direct government intervention is the cheap loan, a loan with a low interest rate. In principle, cheap loans are targeted at low-income households. The interest rates are means tested and correspond to the household's number of children, and the loans are restricted generally to families with a net taxable income of less than €29,100 (single) to €43,650 (couple) a year (with an increase for encumbrances).

272. Another important instrument in Flanders is a renovation grant (*renovatiepremie*). With this grant the Flemish Government wants to support homeowners who want to improve the quality of their home. The grant is restricted to families with a net taxable income of less than €35,000 (single) to €50,000 (couple) a year (with an increase for encumbrances). The total cost of the renovation should be at least €10,000 (excluding VAP). The grant amounts to 30 per cent of the total cost with a plafond of €10,000 and is allocated for structural renovation that improves the condition of the home considerably.

273. Another important instrument in Flanders consists of an insurance. In case someone loses his/her income by unemployment or disability, the Flemish Government pays a part of the monthly mortgage payments. The insurance is free and restricted to families with a net taxable income less than €35,260 (single) to €49,970 (couple) (with an increase for encumbrances). The payment by the Flemish Government is limited to 70 per cent of the monthly mortgage payment, with a maximum of €500.

274. Like homeownership rates in most Western European countries - for example Germany, Norway and Britain - rates in Belgium have increased steadily over the post-war decades, especially in Flanders. In fact, homeownership has always been more common in Flanders

than in the other regions of Belgium and other European countries. In 1947, more than 40 per cent of Flemish households owned their own home; almost 60 years later, the rate was nearly 75 per cent (2005).

275. It follows that the rental sector has always been relatively small in Flanders; and the sector has further decreased in size since World War II. But this trend has affected public rental stock more than private rental stock. The latter with 18 per cent nearly equals the EU average of 21 per cent. By comparison, public rental units account for less than 6 per cent of the region's total housing stock.

276. Some would argue that the high level of homeownership in Flanders results from a stable policy of supporting homeownership. But others would argue that households buy homes because there has never been a realistic alternative: there simply is not enough public rental stock, and the lack of regulation in the private rental sector means no security or rent controls for tenants.

277. Research findings indicate that subsidized homeownership is most common among middle-class households, which might be explained by the high financial burden of buying a house and the relatively low amount of subsidies. Furthermore, the income ceilings for government support are so high that theoretically three out of four non-owner households are eligible.

278. Albeit more by setting a norm than by financing housing, the Flemish Government's support of homeownership seems to have produced a high rate of homeownership and considerably better housing conditions for homeowners. Still, an important segment of the population remains excluded from homeownership and must contend with poor housing conditions and high housing costs in the private rental sector.

### **(c) Walloon Region**

279. As in the other two Regions, the Walloon Region pursues the homeownership policies forged when Belgium was a unitary State. At present, encouragement of homeownership remains a mainstay of housing policy.

280. Homeownership is encouraged at the regional level through two mechanisms: reduced-rate mortgages and housing subsidies. Social housing mortgages are issued by Social Credit Offices (formerly known as Social Credit Associations), under the authority of the Walloon Social Credit Association. The mortgages are intended to finance the purchase, construction or conversion of a first home valued at less than €167,000. The Walloon Housing Fund for Large Families also issues reduced-rate mortgages. To qualify, borrowers must have at least three dependent children and must meet specific income criteria.

281. Most housing grants managed by the Walloon Housing Administration are available to prospective owners or owners. Other initiatives intended to encourage households to purchase their first home include special loans for young persons (to assist young householders with mortgage payments), loss-of-income insurance for mortgage-holders and purchase or construction subsidies. The renovation subsidy - a great success with more than 15,000 applications approved each year - is a form of financial assistance available to

householders wishing to deal with health hazards in their home. The subsidy reflects a combination of two approaches to housing policy: the removal of health hazards - a subject that will be discussed in detail below - and encouragement of homeownership. Many buyers purchase housing in need of improvement in the knowledge that they will be able to receive substantial assistance from the Walloon Region to renovate their newly-acquired property. In the past 10 years, some 100,000 building projects have been subsidized through the renovation subsidy.

282. A recent survey on the quality of housing in Wallonia revealed that over 15 per cent of Walloon housing had been subsidized by the Region in the previous 10 years.

283. Most subsidies are higher for areas that are socially deprived or those where the pressure on property and land is particularly marked (priority initiative zones).

284. The federal State also encourages homeownership by allowing tax relief to be claimed on mortgage repayments and interest.

### **Article 12: The right to physical and mental health**

***Q.20. Please provide updated information on the amount of the health-care budget spent by the regions and communities on health education, the promotion of healthy dietary habits and prevention of diseases, including information on health insurance schemes provided by the Government.***

#### **(a) The federal State**

285. With regard to mental health, even if it was not specifically mentioned in the report, a sum of €1,509,055.75 was spent between 2002 and 2005 on campaigns encouraging the responsible use of sleeping pills and tranquilizers.

286. The objectives of the campaigns were to both reduce the use of benzodiazepines and encourage their responsible use. The campaigns focused in part on responsible prescribing by general practitioners. All general practitioners and pharmacists received a pack containing a poster and leaflets for display in surgeries and pharmacies. A report on sleeping pills and tranquilizers was published in a series of weekly newspapers. Two universities provided support for the campaigns with regard to their subject matter. More information can be found on the following link: <http://www.health.fgov.be/benzo>.

287. With regard to physical health, six campaigns to promote the responsible use of antibiotics were conducted between 2001 and 2005, at a cost of around €350,000. The driving force behind the campaigns was the Belgian Antibiotic Policy Coordination Committee.

288. More information is available on the following sites: <http://www.antibiotiques.org/> (2000-2003), <http://www.antibiotics-info.be/> (2004) and <http://www.health.fgov.be/antibiotics>.

289. Two national campaigns that promoted hand hygiene in order to prevent hospital infections were carried out at a cost of €100,000 and €125,000 respectively.

290. The Anti-Smoking Fund, established in 2004, has an annual budget of €2 million and finances anti-smoking schemes. To qualify for funding, schemes must have the following goals:

- (a) To provide information on the dangers of consumption of, and dependence on, products that may be habit-forming;
- (b) To reduce the consumption of such products, particularly among young persons;
- (c) To improve understanding and observance of the regulations on products that may be habit-forming; and
- (d) To encourage the provision of assistance and medical, psychological and social support for users.

291. Some of these schemes therefore satisfy the requirements of article 12 of the International Covenant on Economic, Social and Cultural Rights.

292. Since 2004, the Fund has financed schemes such as training for health professionals (nurses, pharmacists and physicians), smoking-cessation support (in the workplace or in a hospital setting, for pregnant women, or via a hotline for smokers who want to quit) and awareness campaigns that target the population at large and young persons.

293. Lastly, a national food and health plan was drawn up between 2003 and 2006, when a national survey on food consumption was conducted. The plan really only took off in 2006, when €1 million was allocated for implementation. The budget for 2007 was €800,000, while €750,000 has been earmarked for 2008.

#### **(b) Flemish Community**

294. Disease prevention and health promotion is a community competence. The Flemish Community is active in the field of health education, promotion of healthy dietary habits, promotion of mental health, prevention of non-communicable as well as infectious diseases, including vaccination, and health and environment. However, it is not possible to give separate budgets for all of these different aspects, as requested above, since we work in an integrated manner with several partners, as described in the report of 2005. Therefore, the numbers given below are only an estimate.

295. The first part of the table gives an overview of the part of the budget of the Flemish Agency for Care and Health, which is responsible for these aspects, used for preventive health care. The implementation of the policy set by the Flemish Agency for Care and Health is largely performed by other partners, such as the Agency "Child and Family" and the Ministry of Education, which have an important role in preventive health care towards - respectively preschool and school-aged children (cfr. Report), including vaccination. Taken together, the budget used for health promotion and prevention by the Flemish Ministries of Welfare, Public Health and Family, and that of Education, is estimated at about €114 million.

296. On top of the budget from the different Flemish Ministries involved, there is also an important budget from the federal health insurance (RIZIV) used for prevention in the regions. The RIZIV pays for a large part of the vaccines, mammography screenings, etc. This budget adds about €200 million to the preventive health-care budget, making a total of about €275 and €340 million for the Flemish Community respectively in 2006 and 2007.

Budget prevention	2006	2007
General expenses, networking and support	7 081 964	4 992 227
Health promotion: nutrition and physical activity, substance abuse, tobacco, sexual health, accidents and injuries...	5 617 424	9 235 738
Disease prevention:		
- Mental health	6 994 637	7 865 505
- Population screenings (cancer, metabolic diseases)	973 500	2 048 542
- Other projects	7 273 741	7 856 963
Prevention of infectious diseases (including vaccination)	814 486	803 967
Environment and health	5 414 000	8 353 000
	931 000	898 000
Subtotal for the Flemish Agency for Care and Health	27 173 590	32 927 500
Agency for Child and Family Care	41 800 977	39 424 213
Agency for Welfare	n/a	6 757 500
Subtotal for the Flemish Ministry of Welfare, Public Health and Family	>68 974 567	79 109 213
Ministry of Education	n/a	34 900 000
Total budget used for prevention by the Flemish Government	>68 974 567	114 009 212
Funding by RIZIV (federal health insurance)	206 025 072	225 800 883
Estimate of total budget used for prevention in Flanders	274 999 639	339 810 095

**(c) French Community**

**Reduction of the stillbirth-rate and of infant mortality,  
healthy development of the child**

Substantive Division (SD)/basic allowance	Total initial budget (in Euros)	Percentage earmarked	Initial budget earmarked
SD 19 Children*	176 832 000	100.00	176 832 000
SD 16-25.33.05	725 000	100.00	725 000
Screening for metabolic anomalies			
SD 16-25.33.06	185 000	100.00	185 000
Screening for neonatal deafness			
SD 16 Programme 3 - Health promotion in schools	17 540 000	100.00	17 540 000

\* With regard to SD 19, the Births and Childhood Office may be consulted for more details on this subject.



**Improvement of all aspects of environmental and industrial hygiene**

Substantive Division(SD)/basic allowance	Total initial budget (in Euros)	Percentage earmarked	Initial budget earmarked (in Euros)
SD 16-12.31.11 Relative expenditure on cooperation agreements	79 000	8.69	6 863
SD 16-33.07.24 Studies and research on the piloting of the community health promotion plan	480 000	13.87	66 560
SD 16-25.45.40 Scientific Institute of Public Health Louis Pasteur	834 000	% unquantifiable	/

**Prophylactics, treatment and prevention of epidemic, endemic, occupational and other disease**

Substantive Division (SD)/basic allowance	Total initial budget	Percentage earmarked	Initial budget earmarked
SD 16-24.33.02 AIDS prevention	1 872 000	100.00	1 872 000
SD 16-24.33.05 Tuberculosis prevention	1 367 000	100.00	1 367 000
SD 16-25.45.40 Scientific Institute of Public Health Louis Pasteur	834 000	% unquantifiable	/

**Articles 13 and 14: The right to education**

***Q.21. According to information received, the Belgian educational system is characterized by some divergences in terms of performance owing to the devolution of exclusive competences for the formulation of educational policies to the three linguistic communities. Please provide specific information - as requested by the Committee in paragraph 27 of its previous concluding observations - on the measures taken by the State party to ensure consistency in the quality of education throughout the State party (E/C.12/BEL/3, paras. 651 ff.).***

297. The Committee notes that the performance of Belgian pupils varies by Community and recommends that the State take measures to ensure uniformity. Given the structure of the Belgian State, no system exists that would enable this recommendation to be implemented, since the Communities have exclusive competence in this matter.

***Q.22. Please provide detailed information, including statistical data on a disaggregated and annual basis, on the enrolment and attendance in primary and secondary schools by Manush, Rom and Travellers in the State party. In addition, please provide information, including statistical data on a disaggregated and annual basis, on the literacy rates among adult Manush, Rom and Travellers in the State party.***

**(a) Flemish Community**

298. It is impossible to provide exact figures about the number of pupils within compulsory education, as these groups are not registered as such.

**Extrapolation**

299. Estimates within the diversity sector result in a number of 20,000 Roma in Flanders and Brussels. The group of Rom gypsies, Travellers and Manush is limited to some 4,000 people.

300. Field research in Belgium reveals that one out of three Roma and Rom gypsies is a minor. One out of four are children of compulsory school age (from 6 to 18 years).

301. This extrapolation only focuses on the children of compulsory school age. However, no figures are available on non-enrolled or truant pupils. The Flemish Government does not provide truancy action plans and legal proceedings for those who do not comply with compulsory education. In that respect, we can equate the pupils subject to compulsory education with the actually school-going pupils, taking into account a small margin of error. However, it must be taken into account that the education culture is no obviousness for the Roma, Rom gypsies and Manush. Travellers on the other hand seem to subscribe the same idea on education as the Flemish.

302. Upon linking the research information from the field to the total number of Roma, Rom gypsies, Travellers and Manush the field workers come to the following conclusion:

303. In Flanders and Brussels, approximately 6,000 Roma and Rom gypsies belong to the group of youngsters subject to compulsory education.

**Illiteracy**

304. No figures are currently available concerning the illiteracy of these groups. A survey of the University of Ghent from 1993 is the most recent source of information. In 1993, 90 per cent of the adult Travellers in Flanders had completed primary education. Among the Manush, this was 61.9 per cent, among the Rom only 4.2 per cent. It must be noted however that school participation of these groups has been increasing during the past few years.

305. No reliable figures about the Roma and illiteracy are available so far.

**(b) French Community**

306. The French Community's databases contain no information on the presence of Roma children.

## **Article 15: Cultural rights**

***Q.23. Please provide information on whether the linguistic groups existing in the State party have the right to use their language before the courts and other public authorities, in particular outside the region where their communes of residence are located.***

307. Use of languages for administrative purposes.

### **A. Principles**

308. Article 30 of the Constitution states that the use of the languages current in Belgium is a matter of choice and may only be regulated by law and with regard to official documents and legal issues.

309. On the basis of this article, the legislature passed the coordinated Acts on the use of languages for administrative purposes by the Royal Decree of 18 July 1966 (*Monitor Belge*, 2 August 1966).

### **The four language Regions**

310. Article 4 of the Constitution states that “Belgium has four language regions: the French-speaking Region, the Dutch-speaking Region, the bilingual Region of Brussels-Capital and the German-speaking Region.

311. Each commune of the Kingdom belongs to one of these language Regions.

312. The boundaries of the four language Regions can only be changed by a law adopted by a majority vote in each language group in each Chamber, provided that a majority of the members of each group are present and that the total number of “yes” votes cast by two language groups is equal to at least two-thirds of all the votes cast.

### **B. Public authorities**

313. The coordinated Acts on the use of languages for administrative purposes refer to the following authorities:

- (a) Local authorities: these are authorities operating in not more than one commune;<sup>24</sup>
- (b) Regional authorities: a regional authority is one that operates in more than one commune but does not pursue activities at the national level;<sup>25</sup> and
- (c) Central authorities: a central authority is one that operates at the national level.<sup>26</sup>

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<sup>24</sup> See article 9 of the coordinated Acts.

<sup>25</sup> See article 32 of the coordinated Acts.

<sup>26</sup> See chapter V of the coordinated Acts.

### **C. Application of language laws in the four language Regions**

314. In the four language Regions, the same principle applies to the central authorities. Citizens may communicate with the public authorities in the language of their choice, be it French, Dutch or German, and the public authorities must respond in the same language.

315. With regard to the regional authorities, generally speaking, citizens must communicate with the public authorities in the language(s) of the Region. There are, however, some communes in the Dutch-speaking, French-speaking and Brussels Regions where citizens may request the use of another language in their dealings with the public authorities. These communes are known as the language-border or outlying communes. This regulation stems from the fact that a sizeable linguistic minority lives in these communes.

#### *(i) Dutch-speaking language Region*

316. Regional authorities: citizens may, as a general principle, communicate with the public authorities in Dutch. There are, however, some exceptions:

(a) Language-border communes: Messines (Mesen), Espierres-Helchin (Spiere-Helkijn), Renaix (Ronse), Biévène (Bever), Herstappe and Les Fourons (Voeren);<sup>27</sup> and

(b) Outlying communes: Drogenbos, Kraainem, Linkebeek, Rhode-Saint-Genèse (Sint Genesius Rode), Wemmel and Wezembeek-Oppem.<sup>28</sup>

317. Local authorities: the rules are the same as for the regional authorities. Citizens living in a language-border commune or an outlying commune may use French in their dealings with the commune.

318. Choice of language: in the language-border communes and the outlying communes, citizens who have hitherto asked to use French in their dealings with the public authorities may change to Dutch and vice versa.

#### *(ii) French-speaking language Region*

319. Regional authorities: generally speaking, citizens may communicate with the public authorities in French. There are, however, some exceptions:

(a) Language-border communes: Mouscron (Moeskroen), Comines-Warneton (Komen-Waasten), Flobecq and Enghien.

320. In these communes with a sizeable Dutch-speaking population, citizens may ask for Dutch to be used in their dealings with the public authorities.

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<sup>27</sup> See article 8 of the coordinated Acts.

<sup>28</sup> See article 7 of the coordinated Acts.

321. Communes of Malmédy: in the communes of Malmédy and Waimes (Weimes) there is a sizeable German-speaking minority<sup>29</sup> Citizens may use German in their dealings with the public authorities.

322. The rules on the local authorities are the same as for the regional authorities. Citizens living in Malmédy and Waimes (Weimes) may also use German in their dealings with the local authority.

323. Choice of language: in the language-border communes and in the Malmédy and Waimes (Weimes) citizens may choose between the French and German languages.

*(iii) The bilingual territory of Brussels-Capital*

324. Regional authorities: citizens may choose to communicate with a regional authority in French or Dutch and must receive a response in the chosen language.

325. Local authorities: the rules are the same as for the regional authorities. The bilingual Region of Brussels-Capital consists of all the 19 communes which make up the Brussels-Capital Region.

326. The choice of language is never definitive. Citizens who have used French in the past in their dealings with the public authorities may change to Dutch and vice versa.

*(iv) The German-speaking language Region*

327. Regional authorities: citizens may choose to communicate with the regional authorities in French or German and must receive a response in the same language.

328. Local authorities: the rules are the same as for the regional authorities. The German-speaking Region comprises nine communes: Amblève (Amel), Bullange (Büllingen), Burg-Reuland, Bütgenbach, Eupen, La Calamine (Kelmis), Lontzen, Raeren and St Vith.<sup>30</sup>

329. Choice of language: here too, the choice is also not definitive. Citizens who have used French in the past in their dealings with the public authorities may change to German and vice versa. This rule stems from the fact that a sizeable French-speaking population lives in the German-language Region.

330. Rights of citizens who settle in another language region: citizens who settle in a given language region cannot claim their language rights vis-à-vis the public authorities of another language region. Attention is drawn to the general principle of law established in article 12 of the coordinated Acts on the use of languages for administrative purposes, whereby “all local authorities established in a French-speaking Region, the Dutch-speaking Region or the

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<sup>29</sup> See article 8 of the coordinated Acts.

<sup>30</sup> See the Act of 31 December 1983 on institutional reform for the German-speaking Community.

German-speaking Region shall exclusively use the language of the Region in their dealings with private citizens, without prejudice to their right to choose to respond to private citizens living in another language region in the language used by the citizens in question”.

331. This is only an option, however, offered to local authorities and is not an obligation towards citizens who live in another language region.

(v) *Languages used in court*

332. In Belgium, the question of language use has exceptional political significance in a multilingual context. The rules are based on article 30 of the Constitution, which establishes that the use of the languages current in Belgium is a matter of choice and may only be regulated by law in regard to official documents and legal matters. The rule is therefore that the language of use, i.e., the language that citizens choose to use, is optional, although the State can still establish specific rules. This right is laid down in the Act of 15 June 1935 on the use of languages in judicial proceedings.

333. In general terms, the system as it applies to civil and criminal proceedings can be summed up as follows:

(a) The basic principle is that of the use of a single language, referred to as the “language of the proceeding”, as determined in principle, by the territory in which the court hearing the case is located;<sup>31</sup>

(b) For oral statements and certain documents, parties at law also have the right to use the language of their choice, if it is a foreign language (not Dutch, German or French).<sup>32</sup> This linguistic freedom does not exempt them, however, from using the language of the proceeding for the procedural formalities prescribed by law. Defendants who do not understand the language of the proceeding may have the assistance of an interpreter; and

(c) Parties at law may apply to the court of first instance to change the language of the proceeding.<sup>33</sup>

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<sup>31</sup> See articles 1, 2 and 2 bis on civil matters and articles 12 and 13 (investigation) and 14 (criminal procedure/first instance). In monolingual Regions, the language of the case is that used by the court. Specific rules apply in the judicial district of Brussels-Hal-Vilvorde.

<sup>32</sup> See articles 30 and 31. Judges who do not understand the language of the party may seek the assistance of an interpreter; the State will bear the cost.

<sup>33</sup> See articles 7 (need for a joint application by the plaintiffs) and 23 (the court may reject a defendant’s request because of the circumstances of the case, except where the defendant speaks in French during a trial conducted in German, in which case the request must be granted). If the court grants the request, the case will be transferred to another court of the same standing which uses the requested language.