

**COMMITTEE ON THE RIGHTS OF THE CHILD**

**WRITTEN REPLIES OF THE GOVERNMENT OF BELGIUM  
CONCERNING THE LIST OF ISSUES (CRC/C/Q/BELG/2)  
TO BE TAKEN UP IN CONNECTION WITH THE CONSIDERATION  
OF THE INITIAL REPORT OF BELGIUM  
(CRC/C/83/Add.2)**

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## REPLIES TO QUESTIONNAIRE

### General remarks

The replies to this questionnaire have been drafted and should be considered in the light of Belgium's institutional structure. The federated entities hold exclusive powers in certain areas and therefore gather data according to independently determined criteria. The resulting statistics cannot therefore be said to be truly comparable.

### PART I

#### **A. Data and statistics, if available, for 1999, 2000 and 2001**

1. **Please provide demographic data of the under-18 population (disaggregated by sex, ethnic, and national background).**

Statistical data are given in Annex 1.

2. **Please provide specific disaggregated data on Federal, Regional and Community budgetary allocation and spending for social needs, as percentages of total Federal, Community, and Regional expenditures. In particular, how much was spent on:**

- a) education (pre-primary, primary and secondary education, teachers' salaries, preservation of school buildings, etc.);
- b) health (primary health care, vaccinations, adolescent health care and other health care services for children);
- c) day-care facilities;
- d) child protection (e.g. institutional or foster care);
- e) juvenile crime prevention and rehabilitation;
- f) children with disabilities; and
- g) other social services.

See Annex 2.

3. **For children deprived of a family environment and separated from parents, please provide information (disaggregated by sex and age) on the number of children that are:**

- a) separated from their parents; and
- b) placed in institutions.

See Annex 3.

4. **Please specify the net enrolment ratio and completion rates (disaggregated by sex, and according to the type of school, i.e. public, and private) in percentages in:**

- a) pre-primary;

- b) elementary;**
- c) intermediate;**
- d) secondary; and**
- e) vocational.**

See Annex 4.

- 5. Please specify the number of children with disabilities (disaggregated by sex and age) that are:**
- a) living with their families;**
  - b) in institutions;**
  - c) attending regular schools; and**
  - d) attending special schools.**

See Annex 5.

- 6. Please specify the number of unaccompanied children (disaggregated by sex, age) that:**
- a) have applied for asylum;**

Statistics for foreign unaccompanied minors who applied for asylum from 1999 to 13 March 2002 are given in Annex 6.

From June 2001, the statistics show data concerning the age and sex of these minors, most of whom are boys aged between 16 and 17.

From November 2001 onwards, the statistics also give data concerning unaccompanied minors who applied for asylum at the frontier (Zaventem), as well as the number of medical examinations undertaken whenever the age given was in doubt. It is worth noting that out of a total of 89 medical examinations requested from November 2001 to February 2002, the results show that 60 cases (i.e. 67.42%) of the persons concerned were adults under Belgian law.

From December 2001, mention is also made of the decisions taken with regard to unaccompanied minors in the course of asylum proceedings by the Aliens Office (Ministry of the Interior).

In order to obtain more accurate statistics, the Aliens Office asked the Office of the Commissioner-General for Refugees and Stateless Persons and the Standing Committee on Refugee Appeals to report the decisions taken regarding those minors, at the end of each month, in order to incorporate the data in tables (see Annex 6). The tables will then show the state of asylum proceedings and the decisions taken.

Unfortunately, the Aliens Office has had these data only since January 2002.

- b) have pending cases; and**
- c) were granted residency.**

The Aliens Office has no statistics regarding the number of pending cases of unaccompanied minors under the Act of 15 December 1980 on the admission, residence, establishment and expulsion of foreigners (e.g. the authorization procedure for residence based on family reunion, guardianship, adoption, etc.), nor the number of minors who obtained an open-dated residence permit.

The statistics for unaccompanied minors found to be residing illegally are as follows:

In 1999 (1 April-31 December) :	323
In 2000 :	852
In 2001 :	473

In order to obtain more precise statistics, indicating in particular the stage of procedures under the Act of 15 December 1980 initiated by unaccompanied minors and decisions taken regarding residence, the offices processing these statistics concerning minors are to be equipped with a new computing system.

7. **Please specify the number of children (disaggregated by sex, age, type of crime, type of sanction):**
- a) **who allegedly committed a crime which was reported to the police;**
  - b) **who were sentenced by courts to sanctions, and the nature of the sanctions imposed (e.g. fines, imprisonment, community service, other);**
  - c) **number of suspended sentences;**
  - d) **where the sanction is deprivation of liberty, please specify the period of imprisonment; and**
  - e) **the percentage of recidivism cases.**

Following the institutional reform of 1988, which devolved matters related to personal assistance (including assistance to young people) to the three communities, the decisions of the juvenile courts were no longer recorded at national level. It was not until 2000 that figures were again collected by the Statistical Office of the Ministry of Justice, and for that year, the Office's statistics are still mostly incomplete. Moreover, data are collected not on the basis of the minors themselves as units of account, but on the basis of the decisions taken. The same minor may of course give rise to several decisions in the same year.

At present, police reports do not indicate the age of offenders. We are therefore unable to give these figures where minors specifically are concerned.

It will be clear from the above that Belgium, at least at the federal level, has a problem with the collection of complete, reliable statistics concerning juvenile delinquency.

In order to improve matters, at the request of the Minister of Justice, the latter's Criminal Policy Department is currently setting up a national study forum on juvenile delinquency, which in turn will give rise to a working group on statistics. All the country's political authorities and their administrations (Justice and Interior at the federal level, the Communities and the Brussels-Capital Region), field personnel (including police officers, juvenile magistrates, lawyers and procurators-general), community authorities dealing with the rights of the child (delegates-general/commissioners for children's rights) as well as scientific experts working in the field will be invited to participate. The working group should start its activities in mid-May 2002.

## **B. General Measures of Implementation**

### **1. In respect of the declarations to:**

- a) **article 2, the Committee notes that the Convention provides that States parties shall respect and ensure the rights to "each child within their jurisdiction" without discrimination of any kind. It further notes that non-discrimination does not prohibit all differences in treatment, but only those which are based on grounds that are arbitrary and objectively unjustifiable, such as those enumerated**

**in article 2(1), including nationality. Therefore, please specify what this declaration means in practice with respect to non-national children in Belgium.**

The fact that Belgian law does not grant exactly the same rights to foreigners as to nationals or to different categories of foreigners does not constitute discrimination in the meaning of article 2 of the Convention on the Rights of the Child, whenever the differences in treatment are based on grounds that are objective and reasonable.

Within the limits allowed by international law, each State decides for itself whether and under what conditions a foreigner may enter its territory. This means that any foreigner must request permission to enter Belgium. Article 2(2) of the fourth Protocol to the European Convention on Human Rights - whereby everyone shall be free to leave any country, including his own - does not constitute an exception to this principle. This right does not imply that a person may enter the territory of another country and remain there without permission.

Nevertheless, the discretion allowed to States with regard to establishing rules governing admission and residence has for a long time been restricted by international conventions.

Admission, residence, establishment and expulsion, where foreigners are concerned, is governed by the Belgian Act of 15 December 1980 and its enforcement decree of 8 October 1981.

It may be pointed out that the so-called "normal" status, which is determined by the State itself, applies only to a small minority of foreigners and that the great majority come under the so-called "privileged" status rules.

Foreigners enjoying privileged status include:

- European Community and related nationals (harmonization of Belgian law with Community law);
- nationals covered by agreements concluded between the European Union and third countries;
- refugees;
- stateless persons;
- students;
- other privileged foreigners (such as Benelux nationals, nationals of a member State of the Council of Europe, Rhine boatmen, frontier workers, diplomats and related persons).

As signatory to the Convention on the Rights of the Child, Belgium endeavours to avoid any discrimination with regard to children.

When a "minor's" case involving admission and residence is dealt with, the Convention on the Rights of the Child is applied, especially articles 3 (best interests of the child), 8, 9 and 10 (preservation of the child's identity, including nationality and family unity). It may be pointed out that it was in order to protect foreign unaccompanied minors from human trafficking networks and to comply with the Convention and the European Union Council's resolution of 26 June 1997 (97/C221/03) concerning foreign unaccompanied minors who are nationals of third countries that the Aliens Office drafted its service memorandum of 1 April 1999, eventually replaced by the memorandum of 1 March 2002, with a view to granting them special treatment, namely a protected status not explicitly provided for under the terms of the Act of 15 December 1980.

During asylum proceedings, minors are heard in the presence of an interpreter, if necessary, so that they can express themselves in their mother tongue.

It should be remembered that the status of foreigners is partly governed by other laws than the Act of 15 December 1980 and by sundry decrees (on nationality, racism, private international law, social security, political rights, etc.).

**b) article 40 2(b)(v), concerning the right of children to appeal in criminal matters, and more particularly, that there is no right of appeal in serious criminal matters heard before the Court of Assize, please explain the rationale behind this.**

This reservation covers the cases of minors for which, under the terms of article 38 of the Act of 8 May 1965, the court has relinquished jurisdiction and which have, where necessary, been referred to a higher jurisdiction such as the Court of Assize.

Such referral may take place only under very strict conditions (if the deed has been recognized as an offence, if the minor is aged over 16 at the time of the deed and if the juvenile court considers custody, preservation or education measures to be inadequate). Only in very rare cases are minors referred to the Court of Assize. There were no such cases between 1994 and 2000.

It is likely that even if a minor were to be convicted by a Court of Assize, he would still have a right of final appeal before the Court of Cassation. However, such appeal would concern the form of the judgement and not the substance.

**2. i) With respect to the implementation of the Convention – in light of the different competencies of the different autonomous governments – please indicate how the following are achieved:**

**a) intersectoral coordination and cooperation on child rights at and between Federal, Community and Regional levels of government;**

Cooperation between federal, community and regional levels of government is achieved by several mechanisms. These are explained in section 2.ii).

Under these mechanisms agreements can be reached in various sectors:

- In the area of "criminal" acts which are harmful to children and "criminal" acts committed by children, it is worth mentioning the "Youth" Unit of the Criminal Policy Department (Ministry of Justice), which deals in general terms with the "criminal" policy which either is applied or should be applied in the country with regard to young people who are either the victims of or who commit offences. The Unit's objective is to achieve consistency in criminal policy in all its aspects, namely prevention, punishment and monitoring, subject to compliance with the provisions of the United Nations Convention on the Rights of the Child. In this respect, the Unit has instituted a National Forum for the Study of Juvenile Delinquency, which all the political actors concerned at the federal level (Ministries of the Interior and Justice) and at community and regional level (Brussels-Capital) (Ministry of Youth and Youth Assistance), the Delegate or Commissioner for Children's Rights, scientific experts as appropriate, juvenile court judges, the General Procurators' Office and the Bar Association will be invited to attend. The forum will discuss the consistency of action taken at all levels. It should also contribute to the discussion regarding reform of the Act of 8 April 1965 on youth protection.
- The care of unaccompanied minors also gives rise to exchanges of views at ministerial level between the federal authorities and the Communities.
- Coordination is being instituted between the federal, community and regional authorities to deal with ill-treated children. In addition, unofficial consultations will take place between the French and German-language communities, the Walloon Region and the COCOF.

- The question of adoption has also given rise to excellent cooperation between the Communities, supplemented by synergies with the Ministry of Foreign Affairs.
- Lastly, one should mention the draft Cooperation Agreement between the State, the Flemish Community, the French Community and the German-language Community, the Walloon Region and the Brussels-Capital Region establishing a National Commission on the Rights of the Child, which will not only coordinate the five-yearly reports to be submitted to the Committee on the Rights of the Child, but will also provide a discussion forum bringing together all those involved with children's rights.

**b) receiving and addressing complaints of violations of child rights at the following levels: Federal, the German-speaking Community, and the Walloon and Brussels-Capital Regions;**

**French Community**

By Government Decree of 10 July 1991, the French Community instituted a Delegate-General of the French Community for Children's Rights, who is responsible for safeguarding children's rights and interests. Among his duties, the Delegate-General may receive information, complaints and requests for mediation relating to violations of children's rights. The Delegate-General may in the course of his duties issue requests for examination or investigation to the authorities of the State, a Community, the Regions, provinces, communes or any attached institution.

The Delegate-General acts on behalf of all the children of the French Community, that is, all children located in the Walloon Region (French-language part) or the Brussels-Capital Region, for French-speaking inhabitants.

**Walloon Region**

If the Ombudsman of the Walloon Region receives a complaint of a violation of the Convention on the Rights of the Child which does not fall within the scope of his duties, he informs the plaintiff within a month and transfers the complaint to the Delegate-General for Children's Rights of the French Community or to the competent Minister.

**German-language Community**

The Government of the German-language Community is currently considering the possibility of setting up an "Ombudsman's Office" covering several areas (possibly all the areas concerned), including in particular children's rights.

**Flemish Community**

On 5 February 2002, the Flemish Commissioner for Children's Rights gave members of the Committee an overview of the duties of the Commission on the Rights of the Child. The scope of the Commission extends in particular to all private organizations approved by the Flemish Government or by Flemish public bodies, and to all administrative services working under the authority of the Flemish Community or the Flemish Region. From a territorial point of view, the authority of the Flemish Community also extends over the Brussels-Capital Region. The same goes for the Flemish Commissioner for Children's Rights. Whereas in Flanders the scope of the Commissioner for Children's Rights extends over regional as well as community matters, in Brussels it covers community matters only to the extent that they are related to the Flemish Community.

**c) the collection and analysis of disaggregated data, in order to design and evaluate policies and programmes affecting all persons under 18 years.**

### **French Community**

The Observatory on Children, Youth and Assistance to Young People was set up by Decree of the Government of the French Community dated 8 June 1998. The Observatory became operational in 2000 and is currently setting up a database.

According to article 2(5) of the Decree of 8 June 1998, "the Observatory is responsible for coordinating the results of studies and scientific investigations concerned with childhood, youth and assistance to youth and, where necessary, for itself undertaking such studies or investigations."

The General Department of Assistance to Youth uses information extracted from data of the SIGMAJED (Integrated System for the Management of Measures and Assistance for Young People at Risk, in difficulty and young offenders), a database where all data related to assistance and care for children are collected (see 1999 annual report and the current draft report for 2000 and 2001).

The maps drawn up by the Observatory on Children, Youth and Assistance to Young People provide a further source of data.

More information is taken from the reports of private services (of which the last publication dates back to 1997), which can also be taken into account. An analysis of the reports for the year 2000 is currently being completed.

### **Commission for the French Community of the Brussels-Capital Region**

The Observatory on Children of the French Community's Commission has drawn up socio-economic, health, reception and environment indicators specifically related to the population of children in Brussels.

### **German-language Community**

This question was put to the Government of the German-language Community, but in view of its multidisciplinary and complex character, some time will be necessary before an institutional reply can be given.

### **Flemish Community**

See below: the annual report of the Flemish Government concerning compliance with the Convention by the Flemish Parliament and the *Kinderrechtencommissariaat* (the Commissioner for the Rights of the Child, placed under the political responsibility of the Minister coordinating children's rights, prepared by the 24 child rights contact points designated among the various departments and organizations of the Flemish Authority).

**ii) If any overlap or duplication exists in the areas of competence, inconsistencies in policies, or differences in priorities among the different governments, what is done to remedy this?**

### **At federal level**

The Constitution has established the principle of federal loyalty, whereby neither the federation nor the federated entities, in the course of their duties, may take any action which is prejudicial to observance of the federative principle.

A very dense network of mechanisms and procedures has been instituted with a view to achieving this objective, on the satisfactory pursuit of which the good relations between the many institutional entities that Belgium has created depend.



These mechanisms in particular avoid the emergence of problems of legal security or inconsistent policies. Significant institutions in this respect are the Council of State, the Court of Arbitration and the Interministerial Conference on Childhood and Youth.

### **In legal matters**

For the prevention of conflicts of authority, arising from a violation of legal rules for the attribution of competence between entities, the solution in each case must be to apply a rule of law and to allow a right of appeal through the courts.

Before any rule is adopted, the legislative section of the Council of State, exercising its authority to give opinions on preliminary draft laws or proposed laws, decrees or ordinances, may conclude that the rules governing the distribution of powers between the State, the Regions and the Communities have been disregarded. If so, it refers the legal texts back to the Coordinating Committee, which must give its opinion on the matter (see the section below "In political matters").

It is also worth mentioning the so-called "alarm bell" procedure, referred to in article 54 of the Constitution. According to this procedure, any draft or proposed legislation may, under certain conditions, give rise to a motion with reasons, whenever the conditions "are such as to be prejudicial to relations between the Communities". In that case, the parliamentary procedure is suspended and the motion is referred to the Council of Ministers, which gives an opinion with reasons concerning the motion and invites the notified Chamber to issue a ruling either on this opinion, or on the draft or proposal, which may be amended.

*A posteriori*, the Court of Arbitration is authorized to settle conflicts of competence. The Court, which is made up of 12 members (divided equally between six French-speaking and six Flemish-speaking members), issues rulings in the form of orders whenever a legislative body has violated the rules governing the division of competence or certain specific articles of the Constitution, concerning in particular compliance with the principle of non-discrimination as it affects philosophical and ideological minorities.

The Court of Arbitration may have a case brought before it by the various governments or by the presidents of the assemblies at the request of two-thirds of their members. An appeal may also be lodged by any private person able to show personal interest, within six months following official publication of the opposed norm.

The Administrative Section of the Council of State also intervenes *a posteriori*, since it issues rulings in the form of orders on annulment appeals for violation of formally required procedures, or procedures giving rise to nullity if not complied with, or for abuse or misuse of authority, brought against the acts and regulations of administrative authorities.

### **In political matters**

Various mechanisms have been established in order to prevent and if necessary settle conflicts of interest between political bodies. These types of conflicts may arise from differences in political appreciation between authorities (based on the introduction of a component which is prejudicial to the interests of one or more authorities) and not from a violation of a rule of law.

The Coordinating Committee is made up of 12 members, six of whom represent the federal Government and six the community and regional governments. The Committee's powers are determined by law and it deliberates according to the consensus procedure.

The interministerial conferences (of which there are 15) are flexible consultation and coordination bodies, which provide convenient forums for the negotiation of cooperation agreements.

With regard to the rights of the child, the Coordinating Committee decided, at its meetings of 12 September 1995 and 18 December 1996, to establish an Interministerial Conference on Childhood and Youth.

This Conference includes members:

1. of the federal State Government (Ministry of Employment and Labour; Ministry of the Budget, Social Integration and Social Economy; Ministry of Justice; Ministry of Social Affairs and Pensions);
2. of the Government of the French Community (Minister for Culture, Budget, Civil Service, Youth and Sport; Minister for Children, in charge of basic education, care and ONE (Births and Children's Office) missions; Minister for Higher Education and Scientific Research; Minister for Assistance to Young People and Health);
3. of the Walloon Government (Minister for Internal Affairs and Civil Service; Minister for Social Affairs and Health);
4. of the Government of the German-language Community (Minister for Youth and Family, Monuments and Sites);
5. of the Government of the Flemish Community (Minister for Social Assistance, Health Policy and Equal Opportunities; Minister for Culture, Youth, Sport, Brussels Affairs and Development Cooperation).

The cooperation agreements which State bodies are permitted or in some cases obliged to conclude may concern the creation and joint management of common services and institutions, the joint exercise of powers or the development of joint initiatives. Thus, for example, in the area of international relations, agreements have been concluded between the bodies concerned with regard to the representation of Belgium in international organizations in respect of the conclusion of international treaties.

### **Commission of the French Community of the Brussels-Capital Region**

In its governmental declaration of 1999, the Commission of the French Community stated that due attention should be paid in the Children's Observatory to all existing assistance facilities, while coordination and transversality of policies relating to childhood should be encouraged.

Under the terms of the agreement signed between Ministers Nollet and Gosuin on 17 August 2001, the French Community and the Commission of the French Community through the Children's Observatory are to work together to implement a child-care policy.

**iii) Please provide details, if any, of a comprehensive national plan of action to implement the Convention.**

3. **Please provide information on the effectiveness of the State party's public awareness campaigns of the Convention, particularly for professionals working for and with children (e.g. of Government officials, community-based organizations, the mass media), and the public-at-large, including children themselves.**

### **Commission of the French Community of the Brussels-Capital Region**

The Children's Observatory has conducted two information campaigns concerning the mobility of children in the city.

The first, entitled "Preparation for travel", was intended for children and consisted in a practical guide to the use of public transport. It came in the form of a booklet of which over 100,000 copies were printed and which is still distributed by the STIB.

The second, entitled "Streets, roads, crossroads, corners ... children? Always upsetting", was intended for adults. It aimed to remind them of the specificities of children's development and to encourage them to be attentive and amiable towards children. The information was contained in a brochure, of which 75,000 copies were printed and which was backed up by TV and radio spots.

### **German-language Community**

The German-speaking section of the UNICEF Committee gave many presentations in schools on the Convention on the Rights of the Child.

With the support of the Government of the German-language Community, the Committee took part in the "What do you think?" and "Say yes" campaigns.

On the occasion of the International Children's Rights Day, the Ministry of the German-language Community organized a public debate in November 2000 on children's rights in separation and divorce procedures.

On the same occasion, in November 2001, the Ministry, with the assistance of the German-speaking section of the UNICEF Committee, organized an afternoon exchange of views between the three ministers and children regarding children's rights. The Youth Council also put forward a plan for a campaign to create awareness among children of the need for the children themselves to take part in political life, especially at the communal level.

In a ministry circular to all teachers, it was stated that material on children's rights was available in libraries for teaching purposes and in information centres for young people.

### **French Community**

As indicated in paragraphs 204-205 of the report, information on children's rights is one of the specific missions of the Delegate-General for Children's Rights. This mission is intended to benefit natural persons and private corporations, as well as public-law corporations. In the course of the mission, the Delegate-General and his team take part in many conferences, seminars and television and radio broadcasts that provide information on children's rights. He also runs information campaigns through other media, such as posters, brochures, books or compact discs. These campaigns are intended for the children themselves. The text of the Convention has in fact been redrafted in a language that is understandable to children.

A further promoting role is played by the Observatory on Children, Youth and Assistance to Young People. Article 2(3) describes its missions in this respects as follows:

"Art. 2(3): The Observatory's mission is to promote and publicize any initiative which is intended to improve the situation of children and young people (...) and to implement for the benefit of the French Community the provisions contained in articles 42 and 44 of the International Convention of 20 November 1989 on the Rights of the Child ..."

In addition, the Standing Group on Monitoring the International Convention on the Rights of the Child, set up by the Observatory on Children, Youth and Assistance to Young People, is responsible for creating awareness of the Convention's requirements among professionals who are not working directly with children.

### **Flemish Community**

In Flanders, the *Kinderrechtencommissariaat* (Office of the Commissioner for the Rights of the Child) was set up to strengthen awareness of children's rights among the public-at-large. It also monitors respect for children's rights.

The Flemish Government submits an annual report concerning its compliance with the Convention to the Flemish Parliament and the *Kinderrechtencommissariaat*. Under the political responsibility of

the Coordinating Minister for Children's Rights, the report is prepared by 24 child rights contact points, which are designated among the departments and organizations of the Flemish Authority involved in children's rights. Awareness of children's rights has been assisted by the development of networks. In 1997, a Minister, namely the Flemish Minister for Social Assistance, was made responsible for the first time for coordinating policy on children's rights. This commitment was then renewed by the incoming Flemish Government in 1999. The report gives rise to a discussion in the Flemish Parliament and consultation between the Administration and the *Kinderrechtencommissariaat*. The report is also distributed to civil society organizations and displayed on the Flemish Authority's "*Kinderrechten*" (Children's Rights) website. This website also gives information on the Convention, including its text and background, as well as on the human rights policy pursued by the Flemish Authority. More information concerning children's rights is available on other websites linked to various authorities, such as those of Community Education and "*Kind en Gezin*" (Child and Family), and distributed through special brochures and publications, such as "*Kinderrechten en onderwijs: een driedubbele opdracht*" (Children's Rights and Education: a triple mission), "*jij en het comité voor bijzondere jeugdzorg*" (The Committee for Special Assistance to Young People and you), and "*jij en de jeugdrechtbank*" (The Juvenile Court and you).

The "*Centrum voor de Rechten van het Kind*" (Centre for Children's Rights) in Ghent has played an important part in creating awareness among professionals. With subsidies from the Flemish Authority (see below), it publishes amongst others the "*Kinderrechtengids*" (Guide to Children's Rights) and the "*Tijdschrift voor Jeugdrecht en Kinderrechten*" (Review on the Rights of Young People and Children), and it organizes training days on youth protection, children's rights, etc.

Under the terms of the management contract subscribed by the Flemish Government and the VRT (*Vlaamse Radio- en Televisieomroep*), the Flemish Public Broadcasting Corporation provides a programme intended for children and young people. A thematic channel for young people has been launched, "*KETNET*", which allows young people to participate. Several of the channels' programmes have already won national and international prizes. *KETNET* has also launched several awareness campaigns, in conjunction with the *Kinderrechtencommissariaat*.

An important event, which has been organized each year in Flanders since 1999, aimed at creating awareness among a target group of children aged between 8 and 12, is the "*Kinderrechtenfestival*" (Children's Rights Festival). This brings together several organizations involved with children's rights, for which the *Kinderrechtencommissariaat* plays a central role in terms of quality control. The event has already been backed by several Flemish Government ministries dealing with children's rights, youth and education, as well as by the *Kinderrechtencommissariaat* itself and the Province of Antwerp.

When the new Flemish Government took office, age-based discrimination was added to the list of discriminations combated by Flemish policy on equal opportunities, thus allowing support, amongst others, for projects in favour of the participation and rights of immigrant children.

Since 1999, the new Flemish Ministry for Youth has given full support for children's rights as part of its youth (animation) policy. Apart from the attention given to the position and participation of children (see part III), it is worth mentioning the subsidies provided for the animation of experimental or innovative youth. Funds are allocated in priority to projects based on children's rights and participation.

The Social Assistance Sector is currently working on the implementation of the quality decree, the starting point of which is respect for the basic rights of the user. The Convention is also taken into account in development planning in the various sectors (general social assistance, special assistance for young people, children and the family, etc.).

It may also be noted that, whenever new regulations are introduced affecting children and young people, account is increasingly taken of the Convention's requirements e.g. in the areas of comprehensive assistance to young people, reception centres for students, etc. (see below).

## **PART II**

**Please provide the Committee with copies of the text of the Convention on the Rights of the Child in all official languages of the State party as well as in other languages or dialects spoken, when available. If possible, please submit these texts in electronic form.**

The text of the Convention has been transcribed in Braille for unsighted persons.

Electronic versions of the Convention may also be consulted on several websites, including that of the *Kinderrechtencommissariaat* ([www.kinderrechtencommissariaat.be](http://www.kinderrechtencommissariaat.be)) and the site of the Flemish Authority ([www.wvc.vlaanderen.be/kinderrechten](http://www.wvc.vlaanderen.be/kinderrechten)). The latter site of the Ministry of the Flemish Community provides information on the Convention itself and on policy related to children's rights.

## **PART III**

**Under this section, the State party is to briefly (three pages maximum) update the information provided in its report with regard to new Federal, Regional and Community level:**

- **bills or enacted legislation;**
- **institutions;**
- **implemented policies; and**
- **implemented programmes and projects, and their scope.**

### **At federal level**

A. Several items of legislation have been adopted since the issue of the second report in May 1999. They include the following:

- With regard to the **Constitution**:  
A new constitutional provision (article 22*bis*) concerning children's rights was adopted on 23 March 2000 by the Belgian Parliament, with a view to safeguarding the moral, physical and sexual integrity of children. This provision reflects the wish to see the child recognized as a subject of law in the Belgian Constitution.
- With regard to the **criminal protection of children**:  
A new law on the criminal protection of minors was adopted on 28 November 2000 to supplement the clauses concerning the ill treatment of children inserted in the Belgian Penal Code in 1995 and to legalize the use of audiovisual recordings of interviews with children and video-conferencing.  
The Act of 5 March 1998 on conditional release, amending the Act of 9 April 1930 on the social protection of abnormal persons and habitual offenders, replaced by the Act of 1 July 1964, reiterates and supplements the provisions of the Act of 13 April 1995 on sexual abuse against minors, ensuring the supervision of sexual offenders.  
Under the new legislation, if a proposal for conditional release concerns a person convicted for a sexual offence against a minor, the proposal must be accompanied by an opinion giving reasons issued by a service specializing in the guidance or treatment of sexual offenders.
- With regard to **child labour**:  
The Royal Decree on child labour of 11 March 1993 was amended by the Royal Decree of 31 May 1999, which instituted an advisory council dealing with child labour.

Under the Royal Decree on the protection of young people at work of 3 May 1999, an employer must inform youths about any risks they run and the measures taken to protect them. The Royal Decree also draws up a list of jobs which young workers must not perform.

- With regard to **civil law**:

The Act of 29 April 2001, which came into effect on 1 August 2001, reformed the **guardianship** rules, as set out in articles 389-475 of the Civil Code and 1232-1237 of the Judicial Code. The main points of the reform are as follows: maintenance of parental authority in the event of the decease of both parents; abolition of the family council (the close family being consulted whenever necessary); extension of the duties of district judges; appointment of guardians by district judges, taking account of the circumstances of the case and the interests of the child; the right to refuse guardianship; modernization of the administration; more emphasis on the duties of auxiliary guardian; increased attention to the minor as a person.

The Act of 19 February 2001 (which came into effect on 1 October 2001) introduced **mediation in family matters** as part of a judicial procedure (articles 734*bis* to 734(6) of the Judicial Code). This is a method for settling conflicts based on the cooperation of the parties, who agree to the appointment of a mediator. The judge can receive requests related to obligations arising from marriage or filiation, requests arising from the respective rights and duties of spouses, requests related to the effects of divorce, requests related to parental authority, requests related to legal cohabitation, and requests arising from de facto cohabitation. In the event of complete or partial agreement, and after hearing the opinion of the Crown Prosecutor as prescribed by law, the judge must ensure that the children's interests are safeguarded.

- B. Several draft or proposed laws may also be mentioned:

- A draft law reforming **adoption**. On 17 July 2001 the Government tabled a draft law reforming adoption in the Chamber. The objective of the reform is twofold: partly it is intended to introduce the necessary modifications in Belgian law to implement the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption of 29 May 1993 in Belgium. Its other aims are to remedy certain gaps in current legislation, to modernize the right of adoption and to introduce a number of new features.
- A draft law establishing a **guardianship service for unaccompanied foreign minors**. The aim of this legislation is to align Belgian law with the resolution of the Council of the European Union of 26 June 1997 (O.J.E.C., 19 July 1997, C221/23-26). The draft law proposes to set up a "guardianship service" in the Ministry of Justice, which would be specifically intended for foreign unaccompanied minors.
- A proposed law amending several provisions relating to the **minors' right to be heard by a judge**. This proposal, which was introduced by several parliamentarians on 13 October 2000, aims to give minors an effective guarantee that they will be heard and to make the right subject to an obligation to summon linked to an obligation to appear.
- A draft law giving **minors access to justice**. The aim of the proposal is to allow minors an independent right to take part in court proceedings and access to justice.
- The proposed law instituting a **minors' counsel** is aimed at instituting the principle of legal representation for minors. Minors would be assisted by counsel in any matter in which they are directly or indirectly involved.

Lastly, it is worth mentioning that the draft law agreeing to the Optional Protocol to the Convention on the Rights of the Child, concerning the involvement of children in armed conflicts, adopted in

New York on 25 May 2000, was adopted by the Federal Parliament on 28 March 2002 and is currently awaiting Royal approval.

## **French Community**

### **Part I: General measures of implementation**

Creation of a Coordination Unit on ill treatment under the decree of 16.03.1998 on assistance to ill-treated children. Prevention and training programmes have been set up for the benefit of professionals and parents.

### **Part III: General principles**

#### Section II

A reform of the ONE (Births and Children's Office) Decree was adopted by the Parliament of the French Community in February 1999. The scope of the ONE has been extended to all children between the ages of 0 and 12. The decree also institutes a Quality Code for reception facilities.

### **Part IV: Civil rights and freedoms**

#### Section IV

In the audiovisual area, measures have been taken to regulate the use of advertising, particularly when targeted at children, to protect children against the surge of violent images on television and to offer information suited to young persons. An identification code has been introduced for television programmes.

### **Part V: Family environment and alternative care**

#### Section I

In March 1999, the Government of the French Community adopted 14 decrees defining conditions of approval for private services providing care for young people at risk and/or young offenders, giving practical shape to discussions that took place over several years in the spirit of the Decree of 4 March 1991.

The objectives of the new policy regarding private services are as follows:

- to extend the possibilities of providing care for young people and their families in difficulty within their living environment;
- to diversify services in order to deal more specifically with special problems (such as ill-treated children or disturbed adolescents);
- to bring institutions and services closer to the lives of young people and families.

#### Section VII

The Decree of 19 July 1991 of the Government of the French Community has been repealed and replaced by a new Decree of 11 June 1999 on the approval of adoption bodies. All adoption procedures must respect the fundamental rights guaranteed by the Convention on the Rights of the Child.

#### Section IX

The provision concerning preventive suspension in education organized and subsidized by the French Community, related to the Decree of 6 April 1998, has been annulled by the Court of Arbitration.

## **Part VI: Health and welfare**

### Section III

A decree has been issued to distribute financial resources equally among all childcare institutions (on the basis of a principle of equal allocation).

The French Community, and the ONE (Births and Children's Office) in particular, have intensified their efforts to combat childhood diseases (e.g. through vaccination campaigns against C meningitis), and to improve the condition of girls and women (in order to allow them full access to health, food, education, training, credit, family planning, prenatal care, medically supervised childbirth, and to direct them to appropriate hospital services and other basic services).

Medical inspection in schools has been organized with a view to implementing a broad, preventive approach to children's health. Screening for physical and mental deficiencies and transmissible diseases has been made compulsory for all schools.

With the introduction of the Decree of 20 December 2001 on the promotion of health at school, which will come into effect at the beginning of the 2002-2003 school year, children's health will take on a different dimension. In addition to compulsory health reports, health personnel in schools will focus on development in the broadest sense on the basis of health plans that take into account all the components of children's health, through the development of health promotion programmes and programmes promoting an environment favourable to children's health.

The Walloon and Brussels Community and Regions have passed agreements on initiatives to provide out-of-school care to children between the ages of 3 and 12, on a communal basis.

## **Part VII: Education, leisure and cultural activities**

The Parliament of the French Community passed a Decree dated 17 July 2001 for the admission of first-time pupils in the educational system organized or funded by the French Community. The objective in this case is to provide every individual with as equal opportunities as possible to achieve emancipation through education (bridging classes).

The Decree of 20 July 2000 on the recognition and funding of Youth Centres contains a special provision, under the heading of equal opportunities, for providing assistance to associations working with highly disadvantaged young people.

The Minister for Sports of the French Community and the Minister for Social Affairs of the Walloon Region have decided to support initiatives related to neighbourhood sport in favour of social integration within neighbourhoods.

The Community and the Regions also provide support for voluntary initiatives to combat illiteracy.

## **Part VIII: Special protection measures**

Two care centres are being opened for foreign unaccompanied minors, of which one will specialize in assisting victims of human trafficking (40 places).

In the Regions and in the Walloon Region in particular, several services contribute directly (measures targeting children) or indirectly (measures directed at the children's family, economic or social environment) to the promotion of children's rights. Examples include participation in the work of the Council of Europe's Committee on social cohesion (2000), and participation in areas such as social welfare, social integration and immigrants, assistance to families, etc.

## **Flemish Community**

As requested, this update is brief and takes account of the other administrations.



## **PART I**

The impact report on the child (KER) was established under the Decree of 15 July 1997. The KER was introduced in stages in 1998 and 1999 and, since 13 July 2001, applies to all procedures in the Flemish Community in which the competent minister submits a preliminary draft decree to the Flemish Government for approval in principle. Thus the Flemish Government introduced the KER prior to 17 October 2002, the deadline laid down in the Decree. In April 2001, the Coordinating Minister for Children's Rights submitted a methodical KER to the other ministers. Subsequently, in 2001, no less than five impact reports were produced.

Since December 2000, the Flemish Community has been providing substantial financial support for the work of the Child Rights Coalition in Flanders. A preliminary subsidy of 29,747 euros was followed by a further allocation of 61,973 euros for the second year.

For the first time, a basic "Children's Rights" allocation of 210,709.50 euros was included in the 2001 Budget. For 2002, this amount was increased to 706,496.50 euros. Apart from the Child Rights Coalition, this funding is intended for the Ghent Children's Rights Centre, run by Professor Verhellen. In 2001 and 2002, the funding amounted respectively to 99,157 and 104,995 euros. Further children's rights projects will receive subsidies.

Since 1999, government policy regarding children's rights has been monitored each year in two annual reports: the first, which is transmitted to the Flemish Parliament and to the Commissioner for the Rights of the Child, deals with Flemish policy as a whole and is prepared by 24 contact points on children's rights in the Flemish Community, under the responsibility of the Flemish Coordinating Minister for Children's Rights. The second report concerns the enforcement of children's rights in countries and regions with which Flanders cooperates.

A point of contact/specialist official in charge of Child Rights is employed full time in the Family and Social Welfare Department and in the *Kind en Gezin* (Child and Family).

## **PARTS III AND IV**

Under the Decree of 1 December 1998, the psychological/medical/social centres and the school medical inspectorate were merged into student supervision centres, with explicit reference to the Treaty. The budgets have been merged since 2001 (see above).

The Decrees of 30 March 1999 gave a more formal status to student participation in Flemish secondary education. A student council must now be established in secondary schools at the request of one-third of the pupils. Under the terms of these decrees, the *Vlaamse Scholierenkoepel* (VSK) (Flemish School Organization) has been subsidized since 1 January 2000. Since that date, the VSK has been representing Flemish school children on the Flemish Education Council (VLOR), the supervisory body for the education sector.

Regarding the Flemish policy on youth organizations, the participation of children and young people in the implementation of the rights of the child has been strongly encouraged. A draft Flemish youth policy has been prepared, emphasizing the participation of children and youth organizations. The new decree of 2001 on local youth organizations, modifying the previous 1993 decree, again emphasizes the need for the commune to involve children in the formulation of policy plans for youth organizations. Furthermore, the supervision of respect for children's rights is now required by decree. A Flemish youth policy plan has also been developed on the basis of children's rights. Within the Flemish Community, the need to take account of the interests of children and young people has been highlighted for all areas under Flemish control. A Flemish Decree has also been passed on youth policy, while participation has been maximized in Flemish policy thanks to the independence of the Flemish Youth Council and the establishment of a youth support point.

Finally, since 2000, as part of the youth organizations' policy, subsidies have been allocated to strengthen participation and awareness-creation with regard to children's rights among both children and persons working in the youth sector.

#### **PART IV**

In accordance with a motion for a recommendation and a social policy memorandum of the Flemish Parliament, the Flemish Government has been supporting comprehensive assistance to young people, in conjunction with the sectors of special assistance to youth, mental health care, general social assistance, pupil counselling centres (education), *Kind en Gezin* and care for the disabled. In order to coordinate these sectors according to requirements, the rights of the child are used as a reference framework. Activities are implemented according to the following key concepts: directly accessible aid, modulation, access doorway, distinction between directly accessible and indirectly accessible assistance, supervision during travel and constraint modality. The process is organized by a central commission and working groups. A particularly important role is played by the working groups "User's Position" and "Participation". The first of these groups is responsible for drafting a status for minors as part of youth assistance.

A few pilot regions (Antwerp, Ghent and Hasselt-Tongres) have already started to implement integration at district level.

Educational support activities have been initiated under a Decree of 19 January 2001.

#### **PART VIII**

The situation of foreign unaccompanied minors is being carefully monitored by the Flemish Community. In a circular of 24 June 1999, schools were informed of the right to education and therefore also the right to a diploma for illegally-resident children. Equivalent studies in the countries of origin may be accepted on the basis of a statement in good faith. In the matter of reception, it is worth mentioning the recognition and funding of the Belgian Association "*t Huis*" since 1999. In December 2000, disabled children's facilities were opened up for foreign unaccompanied minors, who had previously enjoyed access to the facilities of special assistance to youth and *Kind en Gezin*.

#### **German-language community**

##### Placement of children (art. 5, art. 9)

In order to avoid the placement of children, the Ministry of the German-language Community signed a contract with the "*Zentrum Mosaik*" care centre to introduce a system of home assistance for families from 1 January 1998.

As a result, two more instructors were added to the centre.

##### Assistance to youth (art. 5, art. 9)

In order to improve efficiency, one more social worker was added to the staff of the Youth Assistance Service on 1 September 1998 and one to the staff of the Judicial Protection Service on 1 October 2001.

The first report on assistance to youth was published in June 2001 at the end of the mandate of the Youth Assistance Council, as stipulated in the Decree on Youth Assistance.

On 27 April 2001, the German-language Community and the French Community arrived at a cooperation agreement in the area of youth assistance.