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Implementation of the International Covenant on Economic, Social and Cultural Rights

**Fourth periodic reports submitted by States parties under
articles 16 et 17 of the Covenant**

Belgium*

[9 July 2010]

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

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Introduction

1. Pursuant to article 16 of the International Covenant on Economic, Social and Cultural Rights, Belgium has drawn up this fourth report, covering the period since 2006, on the internal implementation of the country's international commitments under the Covenant.
2. This document also demonstrates Belgium's commitment to the promotion and protection of human rights at the international level and the importance that Belgium ascribes to the work of the various United Nations treaty bodies and mechanisms, which make a large contribution to the attainment of those objectives.
3. This latest report provides detailed information in response to the concluding observations made by the Committee on Economic, Social and Cultural Rights following its consideration of Belgium's third report.
4. The report follows the guidelines on treaty-specific documents to be submitted by States parties under the Covenant (E/C.12/2008/2) and takes into account the general comments formulated by the Committee on Economic, Social and Cultural Rights in respect of certain articles of the Covenant.

I. Replies to observations not relating to specific articles of the Covenant

1. Observation 24 Implementation of the Covenant

5. This report is the result of intensive consultations among federal, community and regional authorities on the basis of the Committee's concluding observations.
6. Belgium welcomed the launching in March 2009 of the procedure for sovereign States to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. This procedure is important because the adoption of the protocol by the General Assembly of the United Nations does not, in and of itself, make the Protocol binding. Only its ratification by States will make this mechanism legally binding.
7. Belgium was one of the first countries to sign the Optional Protocol on 24 September 2009. The Belgian Government has now set in motion the parliamentary procedure (at the federal, regional and community levels, since this involves a joint agreement) for ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

2. Observation 25 Direct applicability of Covenant provisions

8. The provisions of the Covenant were incorporated into Belgium's domestic legal order by the Act of 15 May 1981, the decree of 8 June 1982 of the French Community and the decree of 25 January 1983 of the Flemish Community. The Act and the decrees, as well as the Covenant itself, were published in the *Moniteur belge* pursuant to article 167 of the Constitution.
9. Two conditions must be met in order for a provision of international law to be directly applicable under Belgian law and thus able to be invoked before the Belgian courts. Firstly, the intention of the parties must have been to create rights for private individuals. Secondly, the provision must be sufficiently precise and comprehensive to be directly

applicable in the domestic legal order without any need for an enforcement measure. These issues are generally addressed in case law.

10. An examination of Belgian case law shows that Belgian courts rarely apply the provisions of the Covenant. In the absence of any case law and in view of doctrinal disagreements, it is difficult to assess whether Covenant provisions are directly applicable under Belgian law. Those provisions are in fact formulated in a rather programmatic way: they commit States to taking measures but do not directly declare subjective individual rights. One exception is the 6 September 1987 ruling by the Council of State in the *M'Feddal* case, which recognized a “standstill” effect with regard to article 13 (2) (a) concerning the right to primary education.

3. Observation 26
National human rights institution

11. There were political discussions on the creation of a national human rights institution under the previous legislature. Such a project raises numerous institutional issues, because Belgium already has several institutions with a human rights mandate. The issue is still being discussed and various options are still under consideration. A coalition of non-governmental organizations also gave its opinion in a document containing specific proposals for the creation of a federal commission for fundamental rights. In 2006, the Office of the United Nations High Commissioner for Human Rights (OHCHR) was asked to give a detailed opinion on two specific options (extension of the mandate of the Centre for Equal Opportunities and Action against Racism or the proposal put forward by the non-governmental coalition).

12. Although there is as yet no national human rights institution, there are other institutions that deal with human rights issues. These include:

(a) The *Institute for Equality between Women and Men*, set up in 2002, which is responsible for ensuring respect for gender equality and for combating all forms of gender-based discrimination and inequality;

(b) The *Centre for Equal Opportunities and Action against Racism*, established in 1993 to promote equal opportunity and to combat all forms of discrimination, exclusion, restriction or preference based on certain criteria. It is also responsible for ensuring respect for the fundamental rights of foreigners, promoting efforts to combat human trafficking and informing the public authorities about the nature and magnitude of migrant flows. It has been granted type-B national human rights institution status;

(c) The *Service to combat poverty, precarity and social exclusion*, set up in 1998, is an inter-federal service whose anti-poverty role is defined in human rights terms;

(d) The *National Commission on the Rights of the Child*, established in 2007, is a consultative platform in which all levels of authority and civil society enjoy broad representation;

(e) Belgium also has an *Interministerial Commission for Humanitarian Law*, responsible for coordinating national measures to implement the Geneva Conventions and their additional Protocols and examining international humanitarian law issues.

4. Observation 38
Publicity

13. This latest report is the result of intensive, ongoing consultations among Belgium's different public authorities, which contributed various inputs to it based on the powers assigned to them by the Constitution.

5. Observation 39
United Nations Convention of 13 December 2006 on the Rights of persons with Disabilities and its Optional Protocol

14. Belgium ratified these instruments on 2 July 2009.¹

6. Observation 42
Core document

15. Belgium has taken due note that, in accordance with the latest guidelines on States parties' reporting obligations, national reports must be accompanied by a common core document.

16. Given the workload involved in preparing for Belgium's assumption of the European Union Presidency for a six-month period beginning on 1 July 2010, it will not be possible for Belgium to submit a core document by the 30 June 2010 deadline. This consolidated core document, which must incorporate the inputs and gain the approval of the many stakeholders involved in such an exercise in a federal State such as Belgium, will be transmitted to the Committee secretariat as soon as possible.

17. A description of the structure of the Belgian federal State is attached to this report for information.

18. Belgium is a constitutional monarchy and a parliamentary democracy. From its independence in 1830 until 1970, the structures of the Belgian State were those of a decentralized, unitary State. Belgium has the traditional branches of government: executive, legislative and judicial.

19. Since the 1970s, the structure of the Belgian State has evolved from a unitary State to a federal State and the Belgian Constitution has been amended on five successive occasions (in 1970, 1980, 1988, 1993 and 2001) in order to put in place the structures of the federal State. This process is still not complete, however. Alongside the federal authorities, there are regions and communities that, in their area of responsibility, have powers identical to those of the federal authority.

20. Federal executive power is exercised jointly by the King and ministers. The King appoints and dismisses ministers, but has no political responsibilities. None of his orders can be applied unless countersigned by a minister who takes responsibility for it.

21. The federal legislative branch has evolved in line with the country's new structure. Comprising members elected by proportional representation, the Chamber of Representatives remains the mouthpiece of the Belgian people. The Senate, for its part, is made up of representatives of the federate entities. Federal legislative acts take the form of laws.

22. Under article 2 of the Constitution, Belgium comprises three communities – the French Community, the Flemish Community and the German-speaking Community – whose responsibilities cover person-related, linguistic and cultural issues such as education, health care and culture.

23. Article 3 of the Constitution also establishes three regions — the Walloon Region, the Flemish Region and the Brussels-Capital Region — which have responsibility for territorial issues, such as agriculture, the economy, public works and housing.

¹ See the Act of 13 May 2009, *Moniteur belge* of 22 July 2009 – Parliamentary records, Senate, Nos. 4–1069/1–4 and Chamber of Representatives, Nos. 52–1752/1–2.

24. These public authorities have political institutions that exercise legislative power through an elected assembly and executive power through a government. Regional and community legislative acts take the form of decrees (except in the Brussels-Capital Region, which acts by ordinance). There is no hierarchical distinction between federal laws and the laws of federate entities. A court of arbitration is competent to rule on conflicts of jurisdiction among the federal State, communities and regions and among different legislatures, as well as on compliance with certain constitutional provisions.

25. Belgian federalism allows its institutions to change their organization and functioning; since federate entities have identical powers, they can alter their structure without consulting the other entities. For instance, the Flemish Region and the Flemish Community merged their respective parliament and government and thus have common institutions, whereas the Walloon Region and the French Community have maintained separate institutions. The Brussels-Capital Region has internal structures adapted to the presence of both Dutch speakers and French speakers in its territory.

26. Federate entities may cooperate with one another in certain spheres and, where appropriate, with the federal authority. Such cooperation may be formalized by formal agreements.

II. Article 2

Impact of international economic and technical assistance and cooperation

1. Observation 27 Official development assistance

27. Belgium increased its official development assistance (ODA) to 0.55 per cent of its gross domestic product (GDP) in 2009 and intends to honour its commitment to increase ODA to 0.7 per cent of GDP in 2010. This target reflects Belgium's intention of stepping up its activities in the area of cooperation for development and, notably, the promotion of respect for economic, social and cultural rights.

28. Belgium is working internationally to ensure respect for and the development of economic, social and cultural rights.² Its development cooperation activities are framed by the Millennium Development Goals, the attainment of which it views as being directly linked to the promotion of respect for human rights in its partner countries. This belief has prompted Belgian cooperation to encourage the mainstreaming of a human rights dimension in all components of its anti-poverty activities. Such mainstreaming is effective both for activities conducted through competent institutions (institutional and budgetary backstopping, core funding of multilateral institutions) and for specific activities on the ground (through projects and programmes).

29. Belgian cooperation views equal rights and opportunities for women and men as a crosscutting theme and is determined to accelerate progress in this area by supporting its partners' efforts to achieve tangible results in this regard. To this end, it is pursuing a strategy that combines a gradual, long-term process of integrating the goal of gender equality in its policies, strategies and actions with the financing of specific actions designed to combat discrimination against women and safeguard their rights and their access to development opportunities. At this level, Belgian cooperation gives priority to four areas of

² On the understanding that respect for cultural rights is a Community responsibility.

action: (a) sexual and reproductive health and rights; (b) implementation of Security Council resolution 1325 (2000) on women, peace and security, including efforts to combat sexual violence against women; (c) education for girls and training for women (literacy, vocational training); and (d) promotion of women's economic independence.

30. Belgium's development cooperation supports international studies, advocacy and standard-setting in the field of human rights, mainly through OHCHR but also through other multilateral partner organizations, such as the United Nations Children's Fund (UNICEF) and the United Nations Population Fund (UNFPA), and through its diplomatic relations.

31. The promotion and protection of the rights of the child have long been a priority and a crosscutting theme of Belgian cooperation. Belgium is working actively in several international forums for the protection of children's rights. It also raises the situation of children's rights regularly in its bilateral contacts with its cooperation partner countries. Analysing the situation of children's rights is an integral part of its bilateral cooperation and children's rights are mainstreamed in chosen sectors. With regard to multilateral cooperation, Belgium quadrupled its contribution to UNICEF general resources in 2009. Its commitment is also reflected in the funding of numerous projects in the field.

32. Belgian cooperation supports the strengthening of fragile societies and conflict prevention. The aid it provides, notably to women's organizations, peasant organizations and trade unions in countries of the South, contributes to the promotion of and respect for economic and social rights. The Peacebuilding Service of the Federal Public Service supports projects that can contribute to strengthening the rule of law, reparation for injury, disarmament, demobilization and reintegration of active rebel groups (especially children involved in conflict) and respect for human rights.

33. The right of access to services is a founding, omnipresent principle of Belgian cooperation activities, particularly in the sectors of education and training and basic health care.

34. Through the Peacebuilding Service, Belgium implements long-term projects designed to promote the functioning of socioeconomic and cultural (as well as political) institutions. Belgium sees this as essential for maintaining lasting peace and stability.

Outcomes

35. In the absence of aggregated quantitative data on outcomes achieved by sector, some examples of projects/initiatives funded or carried out by Belgian development actors as part of Belgium's commitment to enhancing the exercise of economic, social and cultural rights are detailed below. It goes without saying that the outcomes of projects/programmes/initiatives are monitored and evaluated on a case-by-case basis and that their success contributes, albeit in a way that is difficult to quantify, to progress in ensuring respect for social, economic and cultural rights in partner countries and worldwide.

36. Examples of the orientation of some projects co-developed or supported through initiatives or funding by Belgian political entities are:

(a) The "Community health and development programme for the upliftment and empowerment of tribal poor families" in India;

(b) In Benin, efforts to raise public awareness of the discrimination suffered by persons with disabilities;

- (c) A number of projects related to access to the different levels of education; for instance, school attendance for young people in Shatshikumba, Democratic Republic of the Congo;
- (d) Projects/programmes related to prenatal and perinatal care, disease prevention (health education), family planning, health insurance, etc;
- (e) Water supply and sanitation services, protection and management of water resources, waste management;
- (f) Support for agricultural cooperatives, improvement of working conditions, food security for Cambodian fishermen;
- (g) Since 2005, Belgian involvement in the economic, social and environmental development of populations of the South by supporting fair trade through the creation of the Trade for Development Centre (formerly the Fair Trade Centre);
- (h) Institutional capacity-building in the area of social services, social security and other social plans;
- (i) Support for cultural infrastructure (museums, libraries) and artistic activities.

2. Observation 28
Specific initiatives to combat discrimination

37. Prompted by European directives,³ Belgium has undergone a process of legislative harmonization of measures to combat discrimination at the level of both the federal State and federate entities.⁴ The different legislatures have adopted very similar provisions, thereby easing the task of reading the many texts dealing with these subjects.⁵ It should be pointed out, however, that the Brussels-Capital Region chose to incorporate anti-discrimination provisions by area of responsibility (civil service, private employment, housing) rather than adopt a general text aimed at combating discrimination as the other entities did, with the result that some sectors, such as public transport and access to goods and services (except housing), are not covered by special legislation.⁶

³ Council Directive 2004/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, and Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

⁴ Reflected in the adoption of the following texts: Act of 30 July 1981 punishing certain acts based on racism and xenophobia, as amended by the Act of 10 May 2007; 8 May 2002 decree of the Flemish Community (amended in 2004, 2007 and 2009) on proportional participation in the employment market; 17 May 2004 decree of the German-speaking Community (amended in 2007) guaranteeing equal treatment in the employment market; COCOF decree of 22 March 2007 on equal treatment for persons in vocational training; Act of 10 May 2007 on combating certain forms of discrimination; 10 July 2008 decree of the Flemish Community establishing a framework for equal opportunities and equal treatment in the Flemish Region; 4 September 2008 ordinance of the Brussels-Capital Region on promoting diversity and combating discrimination in the civil service; 4 September 2008 ordinance of the Brussels Region on combating discrimination and ensuring equal treatment in the area of employment; 6 November 2008 decree of the Walloon Region (amended in 2009) on combating certain forms of discrimination; 12 December 2008 decree of the French Community on combating certain forms of discrimination; and 19 March 2009 ordinance of the Brussels Region amending the Brussels Housing Code.

⁵ There are occasional nuances that will not be taken up in this report. Reference is made to the comparative table published in the 2008 report of the Centre for Equal Opportunities.

⁶ The social legislation adopted by the French Community Commission states explicitly that all discrimination based on gender, ethnic origin and philosophical or religious beliefs is prohibited. Likewise, with the 5 March 2009 decree on the supply of drop-in services in the areas of social action,

38. *Criteria for protection*: presumed race, skin colour, parentage, national or ethnic origin, nationality, age, sexual orientation, civil status, birth, wealth, religious or philosophical beliefs, political beliefs, language, current or future state of health, disability, physical or genetic characteristics and social origin. Following a ruling of the Constitutional Court, the Act of 10 May 2007 added the criterion of belief in freedom of association.

39. *Prohibited behaviour*: direct discrimination, indirect discrimination, incitement to discriminate, harassment and a refusal to make reasonable adjustments for persons with a disability. A justification mechanism is provided for, with requirements that vary depending on the criterion for protection and the area of application. Base motives constitute an aggravating circumstance for a whole range of criminal offences. The anti-racism law of 30 July 1981 also covers some specific criminal offences.

40. *Areas of application*:⁷ employment, goods and services, social security and social protection, references in official documents or records, access to and participation in any economic, social, cultural or political activity open to the general public.

41. *Sanctions*: in civil cases, an injunction may be obtained, ordering an end to the discrimination (with a penalty for failure to comply), awarding damages to the victim, declaring a discriminatory provision null and void or publishing or posting the judgment. In criminal cases, fines and/or prison sentences can be imposed. A person may also be stripped of his or her civil and political rights.

42. *Protection mechanisms*: victims and witnesses can be protected against possible reprisals, both at work and elsewhere, provided that certain procedural conditions are met.

43. *Right to take legal action*: associations that defend human rights and/or combat discrimination, representative or professional associations (trade unions, etc.) and the Centre for Equal Opportunities and Action against Racism can all take legal action. The Centre can only take legal action under federal laws.

44. In 2009, following the adoption of anti-discrimination legislation *in the Walloon Region* (6 November 2008) and *the French Community* (12 December 2008), these federate entities signed two cooperation protocols with the Centre for Equal Opportunities and Action against Racism, which gave the Centre jurisdiction to:

(a) Deal with individual situations of discrimination based on one of the criteria for protection under anti-discrimination decrees. In the absence of a cooperation agreement between the federal State and federate entities conferring the status of inter-federal institution on the Centre, however, the latter does not have the power to take legal action, even on its own behalf, under regional and community legal provisions;

(b) Issue opinions and make recommendations to regional and community authorities and conduct studies on issues related to anti-discrimination efforts;

(c) Organize education, information and awareness-raising activities for the general public and for the staff of departments of federate entities and departments under their authority.

45. *In the Flemish Region*, pursuant to article 42 of the decree of 10 July 2008, 14 contact points (*meldpunten*) were set up in the main Flemish towns to give all citizens

family and health, approval of such services is conditional on their being universally accessible and performing their function without discrimination of any kind. Lastly, the French Community Commission is in the process of drafting a decree on combating certain forms of discrimination and implementing the principle of equal treatment.

⁷ Concerns federal laws. For the details of other provisions, see the Centre's 2008 report, p. 128.

easy access to information and support if they wish to report discrimination or racism. A specialized department of the Flemish administration coordinates these contact points. In this context, an agreement has been signed with the Centre for Equal Opportunities, resulting in a single, integrated computerized system for the processing and recording of complaints.

46. *In the Brussels Region*, an agreement has been signed between the Territorial Employment Pact and the Centre for Equality Opportunities in relation to employment ordinances. The agreement defines procedures for cooperation in areas related to diversity policy and anti-discrimination measures. The Employment Pact is also responsible for actively promoting diversity plans with employers in the Brussels Region.

47. *The German-speaking Community* has designated the non-profit organization Prisma and the Economic and Social Council to be responsible for implementing the decree guaranteeing equal treatment in the employment market.

48. **The number of complaints of racial discrimination or racist acts or language** received by the Centre was 1,145 in 2007, 1,005 in 2008 and 1,081 in 2009 (giving rise to the opening of 827 cases)⁸. Of all the criteria for protection against discrimination over which the Centre has jurisdiction (disability, age, sexual orientation, religious and philosophical beliefs, etc.), racial criteria are always those that give rise to the most complaints (39 per cent in 2007,⁹ 57 per cent in 2008, 50 per cent in 2009). The distribution by sector is as follows:

	<i>Internet/ media</i>	<i>Goods and services (housing, Employment insurance, HORECA etc. ...)</i>	<i>Social (conflicts with neighbours, on the public thoroughfare)</i>	<i>Police, justice</i>	
2007	27%	13%	16%	15%	7%
2008	25%	17%	16%	14%	5%
2009	34%	21%	15%	12%	7%

49. The proportions can be seen to be relatively stable, although with a marked increase in cases concerning new media such as the Internet (sites, chain mails, social networks), SMS, etc.¹⁰

<i>Discrimination and negationism</i>	2006	2007	2008	2009
Number of incidents recorded by the police	1,375	1,304	1,292	
Reported by the Prosecutors Association		1,056	1,024	974

50. The following table gives **the number of cases prosecuted in Belgium in 2009**. A distinction is made between cases based on a code against racism or xenophobia and those based on context. Cases registered under an anti-racism code are the most numerous, accounting for 77 per cent of cases prosecuted.

⁸ The distinction between complaints and cases has existed only since 2009, when a new recording system was introduced.

⁹ Actually 54 per cent if complaints over which the Centre has no jurisdiction are excluded. The method of calculation changed in 2008).

¹⁰ For a fuller account of the relevant laws and decrees and for more detailed and contextualized data, see the Centre's annual reports for 2007 (pp. 12–19) and 2008 (pp. 125–129): http://www.diversite.be/index.php?action=artikel_detail&artikel=274.

Number of cases of racism and xenophobia prosecuted in Belgium in 2009

Selection based on an anti-racism code						Selection based on context				Total	
Racism/ xenophobia		Racism		Xenophobia		Other forms of discrimination		Context racism/ xenophobia			
n	%	n	%	n	%	n	%	n	%	n	%
35	3.59	751	77.10	19	1.95	122	12.53	47	4.83	974	100.00

Source: Prosecutors Association database: statistical analysts.

51. The following table shows the progress as at 10 January 2010 of cases entered for criminal prosecution in 2009. If one considers the progress of the 64 parent cases to which cases of racism and xenophobia have been joined, the following information emerges: 11 cases are under preliminary investigation, 23 cases have been closed, 11 are under criminal investigation, 2 cases are before the council chamber for settlement of the proceeding, 16 have given rise to a court summons or a decision subsequent to a summons and, lastly, there is 1 joined case for which the outcome of the parent case is unknown.¹¹

Progress as at 10 January 2010 of cases of racism and xenophobia entered for criminal prosecution in Belgium in 2009

Preliminary investigation		Closed		For action		Joined		Settlement		Penal mediation		Criminal investigation		Summons et seq.		Total	
n	%	n	%	n	%	n	%	n	%	n	%	n	%	n	%	n	%
161	16.53	657	67.45	45	4.62	64	6.57	10	1.03	12	1.23	7	0.72	18	1.85	974	100

Source: Prosecutors Association database: statistical analysts.

- ¹¹ 1: This category covers all cases still under preliminary investigation as at 10 January 2010.
 2: This category covers cases where prosecution has been abandoned provisionally, putting an end to the preliminary investigation. The decision to close a case is always provisional. As long as the public action has not been extinguished, the case may be reopened.
 3: This heading covers cases that, as at 10 January 2010, had been referred for action. As long as they are not sent back to the referring prosecutor's office, referred cases remain so and may be considered closed for that office. Such cases are reopened under another number by the prosecutor's office to which they were referred.
 4: This heading covers cases that, as at 10 January 2010, had been joined to another case, referred to as the parent case. Joined cases are considered closed, given that they remain in this final state and that any subsequent decisions are taken in the parent case.
 5: This category covers cases for which a settlement has been proposed and which are awaiting a final decision (this includes part-paid settlements), cases closed by virtue of the payment of the settlement and for which the public action has been extinguished and, lastly, cases in which the settlement was refused but whose progress since then remains unchanged.
 6: This category covers cases for which penal mediation has been proposed and which are awaiting a final decision, cases closed as a result of fulfilment of the mediation conditions and for which the public action has been extinguished and, lastly, cases for which penal mediation has failed but whose progress since then remains unchanged.
 7: This heading covers cases under criminal investigation and not yet referred to the council chamber for settlement of the proceeding.
 8: This heading covers cases for which a summons or a post-summons decision is issued. These are cases for which there is a summons, a decision before the criminal court, a sentence, a decision to contest, an appeal, etc.

52. The final table shows the number of persons accused of involvement in cases of racism and xenophobia and sentenced by the criminal court during the period 2006 to 2009.

Number of persons accused of involvement in cases of racism and first sentenced on the substance by the criminal court between 1 January 2006 and 31 December 2009

		2006		2007		2008		2009		Total	
		n	%	n	%	n	%	n	%	n	%
Conviction	Conviction	24	40.00	21	34.43	21	42.00	34	40.96	100	39.37
	Suspended sentence	16	26.67	13	21.31	6	12.00	23	27.71	58	22.83
	Sentence suspended subject to probation	1	1.67	1	1.64	1	2.00	1	1.20	4	1.57
	Total	41	68.33	35	57.38	28	56.00	58	69.88	162	63.78
Acquittal	Acquittal	9	15.00	16	26.23	11	22.00	11	13.25	47	18.50
	Total	9	15.00	16	26.23	11	22.00	11	13.25	47	18.50
Suspension	Simple suspension	8	13.33	7	11.48	6	12.00	7	8.43	28	11.02
	Suspension subject to probation	-	-	-	-	2	4.00	3	3.61	5	1.97
	Total	8	13.33	7	11.48	8	16.00	10	12.05	33	12.99
Other	Public action extinguished	-	-	2	3.28	1	2.00	1	1.20	4	1.57
	Absorption	2	3.33	-	-	-	-	1	1.20	3	1.18
	Inadmissibility/Lack of jurisdiction	-	-	1	1.64	-	-	2	2.41	3	1.18
	Variation	-	-	-	-	2	4.00	-	-	2	0.79
Total	2	3.33	3	4.92	3	6.00	4	4.82	12	4.72	
Total	60	100.00	61	100.00	50	100.00	83	100.00	254	100.00	

Source: Prosecutors Association database — statistical analysts (10 January 2010).

53. The Centre for Equal Opportunities and Action against Racism has launched several campaigns designed to enhance tolerance and respect for foreigners and members of ethnic and national minorities (observation 28):¹²

(a) *La discrimination s'arrête ici!* (Discrimination stops here) (2010): information and awareness-raising campaign on the strengthening of the anti-discrimination framework in the Walloon Region and the French Community;

(b) *New in Town*: website for new arrivals, following amendments to the Aliens Act with respect to European Union citizens (www.newintown.be);

(c) *International Day of Migrants* (2006–2008): dissemination of information on the human rights and fundamental freedoms of migrants through exchanges of experience and the adoption of measures to ensure the protection of migrants;

(d) *Ne faites pas le singe* (Don't monkey about) (2006): the Centre has been stressing to the Belgian Football Federation the need for scrupulous compliance with the

¹² <http://www.diversite.be/?action=onderdeel&onderdeel=107&titel=Campagnes>.

anti-racism and anti-discrimination rules adopted by FIFA and the need for it to call on clubs to crack down more harshly on the verbal abuse that is so prevalent. The Centre itself is reaching out to clubs in order to come up with a plan of action together;

(e) *Cast Me*: this national awareness-raising campaign is designed to combat discrimination against young people (16 to 26 years) of foreign origin in the employment market;

(f) *Discriminer est intolérable. Et illégal* (Discrimination is intolerable, and illegal): campaign forming part of the 2007 European Year of Equal Opportunities for All.

III. Article 3

54. Belgium has demonstrated its political will substantially to strengthen the **institutional mechanisms** for combating sex discrimination and promoting gender equality.

55. *At the federal level*, three new anti-discrimination laws were adopted on 10 May 2007 to combat a number of grounds for discrimination, notably in employment, social security, provision of goods and services and access to economic, social and cultural activities. There is a specific law¹³ designed to combat discrimination between men and women in these areas. The Institute for Equality between Women and Men (IEFH) has the power to intervene in the event of breaches of this legislation.¹⁴ In 2009, 150 cases resulted in a complaint – 20 per cent more than in 2008. Most complaints concern women; 20 per cent of the total number of cases are based on pregnancy-related disputes.

56. Federate entities also have legislative measures designed to combat all forms of discrimination against women.

57. On 6 November 2008, the *Walloon Region* adopted a decree on combating certain forms of discrimination, including sex discrimination, in the economy, employment and vocational training. This was supplemented by a decree of 19 March 2009. The region entrusted the implementation of this legislation to two independent bodies, which to this end are responsible, inter alia, for promoting compliance with the decree by regional and local institutions and for gathering and processing any complaints.

58. On 12 December 2008, the *French Community* adopted a decree on combating certain forms of discrimination in order to enhance citizens' protection against direct and indirect discrimination (including an effective system of sanctions and protection against retaliatory measures).

59. In the *Brussels-Capital Region*, the 4 September 2008 ordinance on promoting diversity and combating discrimination in the civil service aims to create a general framework for the promotion of diversity in public bodies and to prohibit discrimination and promote equal treatment in workplace relations in the civil service. Drafting of the ordinance's enforcement decree, which comprehensively defines the general methodology to be used to promote a policy of diversity and non-discrimination in public institutions, is nearing completion. In consultation with the other federated entities, the Government will designate one or more bodies that can take legal action in the event of disputes.

¹³ Act of 10 May 2007 combating discrimination between women and men.

¹⁴ Additional information can be found at: http://igvm-iefh.belgium.be/fr/introduire_une_plainte/index.jsp.

60. The *German-speaking Community* has a decree dated 17 May 2004 guaranteeing equal treatment in the employment market.

61. On 10 July 2008, the *Flemish Community* adopted a decree on the framework for Flemish equal opportunity and equal treatment policies. The decree established two policy frameworks, one for equal opportunities and one for non-discrimination, and prohibited all forms of discrimination on a number of grounds, including gender, throughout the Flemish Region.

62. Since the Fourth World Conference on Women, held in Beijing in September 1995, Belgium has actively pursued a process of **gender mainstreaming**, namely, the integration of a gender dimension in all public policies.

63. *At the federal level*, the Act of 12 January 2007¹⁵ requires the federal Government to establish strategic goals for achieving gender equality not only in governmental statements but also in the general policy notes of each ministry. The goals will then have to be put into effect in a more operational manner in the management plans of public administrations. The Act requires public services to make sure that the statistics they produce and collect in their sphere of action are gender disaggregated and that gender indicators are established. Under the Act, draft laws and regulations adopted by the Government will have to pass a “gender test” evaluating the impact of the proposed measures on the respective situations of women and men. Moreover, the general spending budget will have to identify credits allocated specifically to gender-equality actions for each public administration. A royal decree¹⁶ put in place an interdepartmental coordination group to monitor the Act’s implementation.

64. In the *French Community*, a five-year governmental action programme for the promotion of gender equality, interculturalism and social inclusion has been in effect since 25 February 2005. The programme foregrounds gender equality, measures to combat violence against women, gender equality and coeducation in compulsory and higher education, promotion of gender studies, balanced participation of men and women in decision-making, establishment of a system of gender-disaggregated statistics and a system for evaluating policies in relation to the goal of gender equality, implementation of the principle of equal treatment and encouragement of women’s access to employment.

65. In order to encourage the introduction of gender mainstreaming, the equal opportunity unit of the *Brussels Region ministry* (Department of Human Resources and Equal Opportunities), acting on the recommendations of the Beijing Conference, is producing a progress report on initiatives undertaken in the context of the Conference goals. Like the federal Government, the government of the Brussels-Capital Region is working on a preliminary draft ordinance mainstreaming a gender dimension in the region’s policy guidelines. The government has approved the preliminary draft ordinance in first reading and employers and workers have adopted it. After its second reading, the protocol will be referred to the Council of State for an opinion.

66. In the *Walloon Region*, gender equality is a crosscutting issue for all departments. The responsibilities entrusted to the Department of Social Welfare and Immigration include identifying any action taken or supported by the region to promote gender equality in all departments. The Department is also responsible for monitoring trends in international

¹⁵ Act of 12 January 2007 on monitoring the implementation of the resolutions of the Fourth World Conference on Women, held in Beijing in September 1995, and mainstreaming a gender dimension in all federal policies, *Moniteur belge* of 13 February 2007.

¹⁶ Royal decree of 26 January 2010 on the composition, responsibilities and functioning of the interdepartmental coordination group.

gender equality law and for preparing the Walloon government's annual report to the Walloon parliament on the Walloon Region's gender equality policy (Beijing report).

67. *In the Flemish Community*, the open method of coordination in place since 2005 was incorporated into the 10 July 2008 Flemish decree on equal opportunities and non-discrimination as a working method for Flemish equal opportunities policy, the aim being to mainstream a gender perspective systematically in all political spheres of the Flemish government. To start with, all Flemish ministers must propose strategic and operational goals with regard to equal opportunities and, more specifically, gender issues. Each minister is then responsible for achieving those goals within his or her own sphere of competence. Lastly, within the Equal Opportunities Commission, in which all political spheres of the Flemish government are represented, the regular oversight, evaluation and analysis provided by expert colleagues enables members to share information and encourage one another. The equal opportunities minister and his administration, *Gelijke Kansen in Vlaanderen*, coordinate the entire process.

68. In addition to the prohibition of all gender-based discrimination contained in the social legislation of the *French Community Commission* (social action, family and social cohesion), some legislation is designed to encourage affirmative action in favour of gender equality. *Family planning centres* play an important role in promoting women's reproductive autonomy by providing access to contraception and by raising awareness principally among young men and women. *Social cohesion actions* also aim to promote gender equality, inter alia, in environments where such equality is less embedded culturally. Every five years, the Commission establishes the priority goals to be achieved over the next five-year period with a view to guaranteeing social cohesion. For 2006–2010, one priority goal was precisely to address gender issues.

69. The **promotion of a work-life balance** is an important component of equality policies in Belgium. A 15 July 2005 royal decree made a number of important changes to **the rules governing parental leave for private-sector workers and employers**. These changes concerned the age of the child, the procedures for taking parental leave and notifying employers, and allowances; the duration of parental leave was not changed. The aim was to expand entitlement to parental leave and to make it even more accessible by allowing, for instance, combinations of different parental leave formulas. This should give workers a wider range of possible options for combining family and working life. The changes are also designed to make parental leave more attractive to male workers, so that they share the burden of raising a family (see art. 10).

1. Observation 29 Gender equality in the workplace

70. Eliminating the wage gap between men and women has been a top priority for politicians, employers and unions in Belgium for several years and is the subject of an annual report.¹⁷ According to the 2010 report,¹⁸ female workers earn on average 11 per cent less per hour than their male counterparts. Over a year, the gap rises to 24 per cent, since women tend to work part-time more often than men. The figures on the wage gap for 2007 are much the same as those for 2006, but the gap narrowed markedly between 2004 and 2005.

¹⁷ The 2010 report on the wage gap in Belgium can be downloaded at: www.iefh.belgium.be; www.statbel.fgov.be; and www.emploi.belgique.be.

¹⁸ The 2010 report uses survey data from 2007, which therefore do not reflect the impact, if any, of the economic crisis on the wage gap.

71. Belgium has also developed a gender-neutral job classification system to form the basis of wage calculations. While previous systems often undervalued the functions and characteristics of typically female occupations, this evaluation tool¹⁹ allows employers to easily check their system.

72. Moreover, Belgium has adopted a range of measures to increase female participation in various areas of public life. A 2008 study entitled “*Femmes au sommet*”²⁰ (Women at the top) analysed female representation in these different sectors.²¹ In addition, in order to support gender mainstreaming in practice, a database on gender-related training (the “Genderbase”) has been updated and another one on women who are experts in their field (the VEGA database) has been put online.

73. A gender-mainstreaming charter produced by the trade unions was widely distributed in September 2009 to mark its fifth anniversary. The aim of the charter is to encourage unions to pay more attention to the gender dimension in their activities, thereby making employers aware of the need to treat women and men equally.

74. During its Presidency of the Council of the European Union (EU) in the second half of 2010, Belgium intended to put the issue of equal pay on the table for discussion with the other EU member States.

2. **Observation 32** **Combating domestic violence**

75. In Belgium, there are various laws governing the criminalization of acts of domestic violence. The Act of 24 November 1997²² stipulates that physical violence against a spouse or domestic partner is an aggravating circumstance, while the Penal Act of 28 January 2003²³ increases to a maximum of one year’s imprisonment the penalty for aggravating circumstances defined in article 410 of the Criminal Code. The Act of 4 July 1989²⁴ amending certain provisions on the crime of rape expanded the definition of rape; spousal rape is subject to prosecution and conviction in the same way as other forms of rape and is also an aggravating circumstance. Female genital mutilation was criminalized under Belgian law (art. 409 of the Criminal Code) by the Act of 28 November 2000²⁵ on the penal protection of minors, while forced marriage was criminalized by the Act of 25 April 2007.²⁶

76. Since the issuance of ministerial circular COL 3/2006 of the General Prosecutors College, the recording of acts of domestic violence (including violence between partners)

¹⁹ This tool, a checklist for avoiding sexism in job evaluation and classification, has two parts: the checklist itself and a guide to the points to be considered if such a system is to be gender-neutral. For more information, see <http://www.emploi.belgique.be/WorkArea/showcontent.aspx?id=8560> and 8562.

²⁰ The study can be consulted at: http://igvm-iefh.belgium.be/fr/etudes/vrowen_aan_de_top_in_belgi_.jsp?referer=tcm:337-85311-64

²¹ Including businesses, workers’ and employers’ organizations, the media and press, academia, professional associations, non-governmental organizations, politics, the judiciary, the army, the civil service and the Banque Nationale.

²² Act of 24 November 1997 combating violence within the couple.

²³ Act of 28 January 2003 supplementing article 410 of the Criminal Code and awarding the family home to spouses or domestic partners who have been physically abused by their partners.

²⁴ Act of 4 July 1989 amending certain provisions on the crime of rape.

²⁵ Act of 28 November 2000 on the penal protection of minors.

²⁶ Act of 25 April 2007 inserting an article 391sexies in the Criminal Code and amending certain provisions of the Civil Code with a view to criminalizing and expanding the means of annulling forced marriages.

has improved dramatically and has been standardized.²⁷ More accurate recording of cases has been made possible by the introduction of three reporting categories: couple violence, violence against children and violence against other family members. Reports on acts of domestic violence are drawn up in accordance with the circular. Police statistics on domestic violence are available and disseminated widely, notably through the Internet.²⁸

2008 Federal police criminal statistics	Physical violence	Psychological abuse	Economic abuse	Sexual violence
Couple violence	19 802	16 938	1 510	131
Violence against children	2 150	227	3 621	586
Violence against other family members	7 498	750	3 820	94

77. The marked increase between 2006 and 2008 in the number of reports of acts of violence between partners can thus be attributed primarily to the new rules. Between 2007 and 2009, the number of cases of violence between partners recorded by prosecution services increased from 44,822 to 47,971 (+7 per cent). During the same period, the number of cases of violence between partners recorded by the police rose from 36,285 to around 40,000 (+9 per cent).

78. It is unlikely that these two figures reflect a steady increase in violence between partners and more likely that they reflect an increase in the frequency and efficacy with which violence between partners is reported, recorded and addressed. Prosecution services nevertheless drop 70 per cent of cases before they come to trial, mainly because the situation has been resolved (25 per cent), there is insufficient evidence (18 per cent) or no offence was committed (14 per cent) or because of the relational nature of the offence (10 per cent). If the accused is summoned to appear in court, he or she is convicted in 74 per cent of cases or receives a suspended sentence in 17 per cent of cases.

79. A nationwide study of women's and men's experiences of gender-related physical, sexual and psychological abuse has also been conducted to obtain data on acts of violence not accounted for in official statistics.

80. Combating violence between partners remains a priority in **Belgium**. However, the third National Plan of Action 2008–2009²⁹ provided for the scope of the Plan to be expanded to include other forms of violence: *forced marriage, honour-related violence and female genital mutilation*. A draft fourth National Plan of Action (NPA) 2010–2014³⁰ was therefore drawn up, following consultations among the different ministries concerned. It should ultimately have two components: violence between partners and the more specific forms of intra-family violence mentioned above. It has still to be adopted at an interministerial conference before it can be implemented.

²⁷ Circular No. COL 3/2006 of College of General Prosecutors assigned to courts of appeal (definition of violence within the family and mistreatment of children outside the family, identification and recording of cases by the police and prosecution services).

²⁸ Police crime statistics, 2000 to the third quarter of 2009, Federal Police — GCOP/management date. These data can also be consulted at: http://www.polfed.be/crim/crim_stat_fr.php.

²⁹ National Plan of Action against violence between partners 2004–2007, adopted by the Council of Ministers on 7 May 2004: <http://igvm-iefh.belgium.be/fr/publications/overview.jsp?f=aWd2cVB1YmxpY2F0aWVUaGVtYT0vVmlvbGVuY2U=&s=>.

³⁰ National Plan of Action against violence between partners 2008–2009, adopted on 15 December 2008.

81. Nevertheless, the *governments of the French Community and the Walloon Region and the French Community Commission (COCOF)* had already adopted a comprehensive guidance note³¹ in December 2009 as their input to the draft NPA.

82. The *Flemish authorities* have been participating in the Plan of Action, notably through the 7 July 2006 circular on improving the response to family and conjugal violence.

83. The three governments decided to coordinate their activities within a common framework in order to make the best possible use of their shared expertise in the prevention of couple violence and the care of persons experiencing such violence. Their aims include improving knowledge and understanding of the issues, dealing appropriately with victims and perpetrators of partner violence, implementing information and prevention campaigns and providing further training to actors on the ground. A coordinating committee has been established to follow up the measures taken by the three entities with regard to partner violence. A domestic violence hotline has been set up at the initiative of the three entities. A protocol on assistance to victims has also been agreed among the federal State, the Flemish Community, the French Community, the French Community Commission and the Joint Community Commission. The protocol envisages structural cooperation in the provision of *assistance to victims* among the competent services and aid services that these entities organize and approve. Such cooperation is necessary if victims are to receive quality assistance and services. A working group has been set up with a view to the conclusion of a cooperation agreement among the various parties.

84. Jurisdiction over efforts to combat partner violence is shared not only among several federal ministerial departments but also within communities and regions. The specific lines of action of the *Brussels-Capital Region* are set out each year in a regional plan of action approved by the Minister-President and the Secretary of State for Equal Opportunities. In keeping with the priorities of the National Plan of Action 2010–2014, different strategic goals and specific actions were highlighted in 2010.

85. Three legislative proposals have also been submitted to Parliament and one to the Senate. The first of these is designed to create a legal framework for tackling domestic violence. It also stipulates that persons sworn to professional secrecy cannot be punished for reporting cases of domestic violence that come to their knowledge.³² The second proposal is designed to protect from expulsion persons physically abused by their partner in the context of family reunification.³³ The third proposal is designed to criminalize psychological abuse, namely, any malicious attempt to harm a person's dignity, credibility or image by spreading words, rumours or images or presenting humiliating acts.³⁴ The fourth and last proposal, lodged in the Senate, is designed to ensure the unconditional, systematic prosecution of acts of violence between partners.³⁵

86. The prevention and detection of partner violence is one of the key goals of the National Plan of Action. The justice system can also contribute to this goal through early detection and by responding rapidly at the first signs of partner violence (as prescribed in

³¹ This note can be consulted at: <http://www.ega.ite.cfwb.be/index.php?id=1744>.

³² Legislative proposal (L. Vandenhove) punishing domestic violence and amending the Criminal Code with regard to professional secrecy, Doc. Chambre 2007–2008, No. 0410/001.

³³ Legislative proposal (L. Musin and colleagues) aimed at protecting from expulsion persons physically abused by their partner in the context of family reunification, Doc. Chambre 2007–2008, No. 0410/001.

³⁴ Legislative proposal (M. De Schamphelaere and R. Terwingen) supplementing the Criminal Code with a view to combating psychological abuse, Doc. Chambre 2009–2010, No. 1870/001.

³⁵ Legislative proposal (M. Hermans) amending various provisions with a view to combating violence between partners, Doc. Sénat 2007–2008, No. 4–163/1.

circular COL 4/2006), or through certain forms of technological prevention or protection of persons at risk. Considerable efforts have been made both federally and at the level of communities, regions, provinces and communes to break the taboo surrounding domestic violence (hotline, campaigns, etc.), inform and support (potential) victims (brochures, Internet, persons of trust, etc.) and promote greater gender equality, enhance social wellbeing and put an end to isolation and dependence within families.

IV. Article 6

1. Observation 30

Reduction of unemployment rates in target groups

87. Since autumn 2008, **the employment policies** of the various Belgian authorities have had to contend with the *consequences of the global financial crisis*, which plunged the Belgian economy into recession. The unemployment rate rose from 6.9 per cent in June 2008 to 8.1 per cent in April 2009, when it stabilized as a result of the different measures taken. It could rise to 9.4 per cent in 2010, however. The employment rate will increase from 62.4 per cent in 2008 to 59.8 per cent in 2010.

88. To tackle the crisis, the authorities have concentrated their efforts on maintaining employment levels and assisting, supporting and reorienting workers who have lost their jobs as a result of the economic difficulties. The High Council for Employment permanently monitors the impact of the crisis on the labour market and makes recommendations, based also on the good practices observed in other European Union member States, for fine-tuning measures to combat the crisis.

89. Demographic trends, globalization, technological progress and the need to move towards a green, environmentally efficient, low-carbon economy make an ambitious employment strategy essential. For the period 2010–2020, and even beyond, the goals remain an expanded labour supply and a more inclusive labour market, particularly for the most vulnerable groups. These goals only make sense, of course, in conjunction with a return to stable macroeconomic growth, high-performing product markets, strong social protection and an ambitious environmental policy geared towards sustainable development. The employment policy set forth in the National Reform Programme 2008–2010³⁶ is guided by the same principles.

³⁶ Lisbon Strategy. National Reform Programme 2008–2010 Belgium. 2009 progress report: www.be2010.eu.

90. It is therefore important to continue *monitoring progress in terms of goals*. The increase in the overall **employment rate** is still too slow by comparison with the European average. The following table indicates the goals by **target group**:

Goal	Belgium		EU	
	2004	2008	2004	2008
An overall employment rate of at least 70% for workers aged 15–64 years	60.5%	62.4%	62.7%	65.9%
An employment rate of at least 60% for women aged 15–64 years	53.0%	56.2%	55.3%	59.1%
An employment rate of at least 50% for older workers (55–64 years)	30.1%	34.5%	40.4%	45.6%
Participation in an active policy measure by 25% of the long-term unemployed	26.8%	40.8%		
An employment integration pathway for all unemployed young people before they have been unemployed for 6 months	Not for 10.1%	Not for 27.5%		
An employment integration pathway for all unemployed adults before they have been unemployed for 12 months	Not for 28.6%	Not for 26.3%		

Source: National Reform Programme 2008–2010 Belgium. Progress report 2009, p. 102.

91. The increase in the employment rate for **women** is also still too slow by comparison with the European average:

IDC01 (SEE 17.M3) – Percentage unemployment rate for the economically active population aged 15 to 74, 2004–2008. Annual statistics EUROSTAT, DGSIE, labour force survey 31 July 2009

		2004	2005	2006	2007	2008
Flemish Region	M	71.6	71.8	71.5	72.3	72.0
	F	56.7	57.8	58.3	59.8	60.8
	T	64.3	64.9	65.0	66.1	66.5
Walloon Region	M	63.2	63.7	63.6	64.3	64.0
	F	46.9	48.4	48.6	49.6	50.4
	T	55.1	56.1	56.1	57.0	57.2
Of which the German-speaking Community	M	:	:	:	74.2	76.5
	F	:	:	:	55.5	60.0
	T	:	:	:	65.0	68.4
Brussels-Capital Region	M	60.3	62.0	60.5	61.4	62.9
	F	47.9	47.9	46.6	48.3	48.4
	T	54.1	54.8	53.4	54.8	55.6
Belgium	M	67.9	68.3	67.9	68.7	68.6
	F	52.6	53.8	54.0	55.3	56.2
	T	60.3	61.1	61.0	62.0	62.4
EU-27 (1)	M	70.2	70.8	71.7	72.5	72.8
	F	55.4	56.3	57.3	58.3	59.1
	T	62.8	63.6	64.5	65.4	65.9

92. *Unemployment rates* for the country, its regions and the European Union, expressed as a percentage of the economically active population aged 15 to 74 years, give the following picture for women and men:

		2004	2005	2006	2007	2008
Flemish Region	M	4.6	4.8	4.3	3.8	3.7
	F	6.5	6.3	5.8	5,1	4.2
	T	5.4	5.4	5.0	4.4	3.9
Walloon Region	M	10.7	10.4	10.3	8.9	8.9
	F	13.8	13.7	13.4	12.4	11.4
	T	12.0	11.8	11.7	10.5	10.0
Brussels-Capital Region	M	16.1	16.3	17.1	17.2	15.5
	F	15.3	16.5	18.2	16.9	16.6
	T	15.7	16.3	17.6	17.1	16.0
Belgium	M	7.5	7.6	7,4	6.7	6.5
	F	9.5	9.5	9.3	8.5	7.6
	T	8.4	8.4	8.2	7.5	7.0
EU-27 (1)	M	8.6	8.3	7.5	6.6	6.6
	F	9.9	9.7	8.9	7.8	7.5
	T	9.2	8.9	8.2	7.1	7.0

Source: EUROSTAT, DGSIE, labour force survey.

93. In Belgium, *the achievement of a work-life balance* is supported by time credits and different leave systems. Child-care structures also play a key role in enabling parents to combine work and a family. All the communities increased the number of available places (up to 109,117) in 2008 and intend to continue to do so in the years to come. Efforts to reduce child-care costs have also continued. The Walloon Region has increased staffing levels for child-care centres and care centres for other groups, such as older persons and persons with disabilities, in order to increase care provision.

94. **Youth unemployment**, which was already high in Belgium and has been aggravated by the economic crisis, is especially problematic. In this context, the primary concern, particularly in education policy, is to ensure that young people have the necessary skills.

**IDC03 – Annual statistics, EUROSTAT, DGSIE, labour force survey 31 July 2009.
Youth unemployment as a percentage of the population aged 15 to 24 years,
2004–2008**

		2004	2005	2006	2007	2008
Flemish Region	M	5.0	5.5	4.5	4.1	4.2
	F	5.3	5.0	4.7	4.2	3.2
	T	5.2	5.3	4.6	4.2	3.7
Walloon Region	M	11.3	10.7	10.1	8.1	8.1
	F	10.0	10.1	10.2	9.6	8.9
	T	10.7	10.4	10.1	8.9	8.5
Brussels-Capital Region	M.	9.9	12.0	11.4	11.4	11.6
	F	10.0	8.8	11.1	9.3	9.3

		2004	2005	2006	2007	2008
Belgium	T	9.9	10.4	11.3	10.3	10.4
	M	7.6	7.9	7.0	6.2	6.2
	F	7.3	7.1	7.2	6.6	5.8
EU-27 (1)	T	7.5	7.5	7.1	6.4	6.0
	M	8.8	8.8	8.1	7.2	7.4
	F	7.5	7.6	7.2	6.4	6.3
	T	8.1	8.2	7.6	6.8	6.9

(a) In 2007, the *Walloon Region* introduced intensive personalized assistance for young jobseekers with few qualifications. The programme assisted 30,724 young people in its first year. Recently, the system was extended to young people with average qualifications (ie. a higher secondary education diploma) and assistance pathways were adapted to the target group's profiles in order to offer individualized services and promote their fastest possible entry to the labour market. In 2008, 34,587 young people benefited from this programme. Specific assistance to young people from problem neighbourhoods where the unemployment rate is high was continued and will be extended in the future;

(b) *Flanders* is following a similar approach, whereby young people with low or average qualifications are given intensive assistance from the moment they register and receive suitable job offers from the first day. Since last year, this programme has been extended to the most highly qualified young jobseekers. Based on their employability (rather than their education level), they are directed towards an appropriate employment pathway. Some 70 per cent of young jobseekers find employment after six months (although the crisis has made it more difficult to find employment within a shorter period of time). In 2010 and 2011, all young people aged under 30 who were not assisted in the previous year by the public employment and training services will be screened, assessed and directed towards the most appropriate pathway. These "exploratory pathways" may take the form of increased assistance, improved qualifications or training in employment applications. Nearly 4 million euros will be allocated in 2010 and again in 2011 to permit their launching;

(c) The *Brussels-Capital Region*, like the other regions, has decided to conclude a binding agreement with young jobseekers in order to be able to offer them individualized assistance. The regional authorities had already negotiated with employers and unions a mechanism for giving more young people a first job experience, notably in the form of internships.

Persons aged over 55

95. Only one in three persons aged 55 to 64 is currently employed in Belgium, the lowest rate in the EU-15 countries. The increase in the employment rate for older workers, from 30.1 per cent to 34.5 per cent in 2008, is still too small by comparison with the European average (from 40.4 per cent to 45.6 per cent). Even though only a third of persons aged 55 and older are working, however, this represents a marked increase – around 8 per cent — since the beginning of the decade, a result notably of the implementation of a range of measures designed to prevent an early exodus from the labour market. These include gradually raising the legal retirement age for women since 1997; in January 2009, it was increased from 64 to 65, bringing it into line with the retirement age for men. The qualifying age for classification as an older unemployed person who is not seeking work was also raised to 58 years in 2004, with a few exceptions related to length of service.

96. The intergenerational solidarity pact, adopted in December 2005 to promote increased participation of older workers in the labour market, also limited the possibilities of claiming a pre-pension. Since 2007, people who continue working after the age of 62 or after working for at least 44 years receive a bonus when their pension is calculated. In 2008, some 29,000 retired persons received this pension bonus.

97. *Employers and unions* have designed a system of compensation for loss of wages following a shift from a well-paid job to a less strenuous but also less well-paid one. Such compensation will take the form of a standard temporary premium, paid from a working life fund. The amount of the premium, payable for one to three years, will be based on age and will range from 75 to 125 euros a month. The re-employment premium, which allows workers returning to work to keep a portion of their unemployment benefit, is now available to all unemployed persons aged over 50, whereas previously it was limited to workers who had accumulated 20 years of working life.

98. *The regions and communities* are also contributing in various ways to increasing the employment rate for older workers. The Walloon Region is promoting an intergenerational policy in businesses through a European Social Fund project and reserving a new quota for workers aged over 50 in all subsidized jobs. The German-speaking Community has pursued similar efforts and a new “matching” mechanism for older workers has been introduced. The Brussels-Capital Region is also deliberating on this issue, while Flanders has been giving it priority for quite some time now, notably through the provision of special advisory services for older jobseekers. Voluntary advisory services, which were not achieving the desired results, are now being supplemented by a compulsory component for the youngest target group (50 to 52 years). More systematic screening of older jobseekers is also permitting appropriate advice and support for those with more complex problems (medical, psychological, social).

Foreign nationals and workers with disabilities

99. Like young people and older persons, foreign nationals are underrepresented in the Belgian labour market. According to data from the labour force survey, in which data are disaggregated according to nationality and foreign nationals who have acquired Belgian nationality are counted as Belgian, on average only 4 in 10 non-EU nationals residing in Belgium were working in the first nine months of 2008, compared with 63 per cent of Belgians. This group’s disadvantaged situation on the labour market is also reflected in unemployment statistics: in the first nine months of 2008, an average 27.4 per cent of economically active non-EU nationals residing in Belgium were looking for work — four times the overall unemployment rate.

IDC08 – Unemployment rate of the immigrant population, by nationality, as a percentage of the economically active immigrant population aged 15 to 64 years, 2008³⁷. Annual statistics EUROSTAT, DGSIE, labour force survey 10 September 2009

		Immigrants			Recent immigrants		
		EU-27	Non EU-27	Total	EU-27	Non EU-27	Total
Flemish Region	M	6.0	22.7	11.6	6.5	21.8	12.4
	F	8.0	24.3	12.4	6.1	22.3	12.2

³⁷ Immigrants: persons of a nationality other than that of the country of residence. Recent immigrants: persons of a nationality other than that of the country of residence who have resided in that country for five years or less.

		Immigrants			Recent immigrants		
		EU-27	Non EU-27	Total	EU-27	Non EU-27	Total
Walloon Region	T	6.8	23.3	11.9	6.3	22.0	12.3
	M	9.5	35.2	14.3	13.5	35.4	20.6
	F	13.3	33.4	15.7	18.4	38.9	24.9
Brussels-Capital Region	T	11.1	34.7	14.8	15.4	36.7	22.3
	M	8.1	27.0	15.4	5.2	30.1	14.0
	F	11.0	30.2	16.7	9.7	29.6	16.6
Belgium	T	9.4	28.1	15.9	7.1	29.9	15.0
	M	7.9	26.9	13.7	7.5	28.3	14.9
	F	10.8	28.3	14.9	10.5	28.7	16.9
EU-27	T	9.1	27.4	14.2	8.8	28.5	15.7
	M	7.5	13.8	11.5	7.1	14.1	11.1
	F	9.9	15.4	13.2	9.8	18.2	14.6
	T	8.6	14.5	12.3	8.3	15.9	12.7

100. To expand the job supply, the different authorities are pursuing an active diversity policy by encouraging and helping firms to draw up diversity plans. In 2008, the Flemish Region concluded 572 diversity plans with 674 firms or organizations and the Brussels-Capital Region concluded 11, while in the Walloon Region the diversity charter was signed by over 100 enterprises.

101. Although diversity promotion is already mainstreamed in their policies, public employment services are also developing an approach specifically geared to at-risk groups.

(a) The *Flemish Region* has developed a special job-offers channel (*Jobkanaal*) which in 2008 placed 4,270 foreign nationals, persons with disabilities and persons aged over 50. The employment service creates specific routes into employment for persons with disabilities (9,000 in 2008). Differentiated treatment has been put in place for jobseekers with multiple problems: of 3,000 such persons, almost half were directed towards employment integration, a quarter were placed in unpaid work while receiving care³⁸ and 14 per cent were reclassified on the ordinary labour market. No way was found to integrate the remaining 14 per cent in the labour market, however. In 2010, the job offers channel will be extended to two new target groups: persons who have received a short course of training and persons living in poverty. This extension of the job channel to two further disadvantaged groups will increase the number of jobseekers served by nearly 70 per cent. The two groups will be supported by targeted measures so that the channel's focus is not lost;

(b) The *German-speaking Community* has been working with the services responsible for persons with disabilities and supported 118 such persons in 2008;

(c) In the *Brussels-Capital Region*, the employment service has continued its partnership approach for jobseekers most marginalized from the labour market. It is also mobilizing strongly against discrimination in that market and finalized the relevant

³⁸ This approach is reserved for persons who cannot be placed in work via the normal job circuit. The work is unpaid, but for a person receiving care it may provide a transition to normal employment.

legislative framework in 2008. A specific Internet site (www.wheelit.be) supports participation by persons with disabilities;

(d) The *Walloon Region* uses a specific job-placement credit to provide highly individualized assistance to the hardest to employ jobseekers (low-skilled, long-term unemployed, welfare recipients and foreign nationals). In 2008, 3,170 jobseekers received such assistance under a job-placement contract. As part of measures to address the financial crisis, it was decided not only to provide ongoing workplace support to jobseekers who, after receiving job-placement assistance, accepted a low-paid job but also to subsidize child-care and travel costs.

102. Jobs subsidized directly by the regions have long been set aside for workers with disabilities. The wage costs of persons with disabilities who enter the normal labour market may also be subsidized. A new mechanism put in place in Flanders resulted in the payment of 5,700 wage premiums. The number of directly subsidized jobs has also grown in the Walloon Region, while the number of subsidized jobs on the normal labour market increased by 130.

2. Reclassification of workers following the economic restructuring of enterprises

103. The crisis has made it necessary to strengthen and extend measures to prevent lay-offs in the event of temporary economic difficulties. The corresponding social security entitlements have also been adapted to ensure that the impact of a period of crisis on workers is contained and their purchasing power is preserved. At the same time, increasing the amount of unemployment benefit payable initially has expanded protection for those who lose their jobs despite the measures taken to prevent lay-offs. This is one way in which the existing welfare system has been made more responsive.

104. In 2004, it was decided that all enterprises that restructure and wish to avail themselves of the early-pension scheme must set up an employment unit, in which workers who lose their jobs are assisted intensively by the employment services for six months. In 2009, the federal authority decided to extend the obligation to create an employment unit to all enterprises whose restructuring affects more than 20 workers. The unit must arrange at least 30 hours of outplacement for workers under the age of 45 and at least 60 hours for those over 45. Workers who find a new job through an employment unit are entitled to a temporary reduction in their personal social security contributions. Their new employer also pays lower contributions for a number of three-month periods. In 2009, this entitlement was extended to workers who are not assisted by an employment unit because their company has closed or gone bankrupt.

3. Work in the informal economy

105. The new system of service vouchers came into force on 1 January 2004. The vouchers are a federal Government initiative designed to promote jobs and services close at hand. The aim is to create jobs and combat informal employment.

106. The service voucher allows private individuals (users) to pay an approved company for providing housework services. The company, which is specially approved by the federal State under the service-voucher system, must recruit workers to provide the services requested by users. The worker is not subject to any specific recruitment conditions. The service-voucher system gives users a tax benefit in the form of a standard 30 per cent tax reduction, while the worker receives the following benefits: an employment contract, a

wage based on current wage scales, social security coverage and industrial accident insurance.³⁹

107. The procedure is the following: when the user has chosen an approved firm, the firm sends a worker to the user's home to perform the requested service. The user gives the worker a signed and dated service voucher for each hour worked. The user pays 7.5 euros for a voucher, which is valid for eight months from the first day following the month of issue. The worker hands in the voucher(s) to his or her employer (the approved firm), which surrenders the voucher(s) to the issuing company (Sodexho). For the approved firm, vouchers remain valid for nine months following the month of issue. The issuing company then pays the approved firm the value of the service voucher (7.5 euros), plus the federal Government subsidy (13.30 euros). The approved firm thus receives a total of 20.80 euros per service voucher.

4. Technical and vocational training programmes

108. The efforts made to expand the supply of training were a response to the crisis, the primary aim being to use periods of unemployment or reduced employment to remedy the skills gaps of workers exposed to the consequences of the crisis, thereby increasing their long-term employability. Measures have also been taken to ensure that economic difficulties do not result in cutbacks in companies' and workers' training efforts. The development of job-related skills has continued in various sectors of education and vocational training.

109. The *regions and communities* have continued to define skills profiles, working on the basis of the European Qualifications Framework (EQF). Their employment services are working together to ensure that these skills are comparable, in order to promote interregional mobility. Profiles are also used for issuing certificates validating the experience gained; the regions and communities are continuing to put in place mechanisms for this purpose. In Flanders, 2,086 validation processes (leading to over 1,000 validations) were launched in the period from 2006 to June 2009, while 1,402 such processes were launched in the French Community in the period from 2005 to 2008. Brussels (Brussels-Capital Region and COCOF) has used such profiles on a special website to further improve its information on the labour market.

110. The *French Community Commission* (COCOF) relies on *Bruxelles-Formation* to provide vocational training for jobseekers and workers. Training is available in 200 different fields (construction, industry, clothing, etc.). COCOF also approves and funds socio-professional integration operators and local agencies responsible for helping low-skilled adults to access training and acquire basic and/or vocational skills, as well as to identify their career path in order to find work. Specialized centres also provide vocational training for persons with disabilities.

111. *Employers and unions* have reaffirmed their commitment to earmarking 0.1 per cent of the total wage bill annually to training for at-risk groups (as part of the broader agreement to allocate 1.9 per cent of the total wage bill to training). However, since the results of sectoral reporting on this issue do not allow fulfilment of these commitments to be verified thoroughly, the Ministry of Employment will make an in-depth evaluation of their activity in favour of target groups. Sectors often work with the specialized centres of employment services. In 2008, these centres trained 101,359 persons in Wallonia (jobseekers, workers or pupils). Training programmes have been reoriented to meet the

³⁹ Source: Federal Public Service (SPF) for Employment, Labour and Social Consultation (<http://www.emploi.belgique.be>).

needs of potential growth poles of the Walloon economy. In Flanders, new agreements on skills policy were concluded with the various sectors on 12 February 2010. These agreements affirm the importance of traditional issues, such as the link between education and the job market, in-service training, skills policy and diversity. They also underscore the role of small and medium-sized enterprises in this regard.

V. Article 7

1. National minimum wage and indexation system

112. Legal minimum wage scales are set by collective agreements. These agreements take precedence over individual employment contracts and any provisions of individual contracts that contravene collective agreements are deemed null and void, giving rise to the application in their place of the amounts set by collective agreements.⁴⁰

113. The system of wage moderation has been replaced by one of caution *vis-à-vis* the country's competitiveness with neighbouring countries. Employers and unions are encouraged to observe the situation of the Belgian economy in this regard and then determine a wage norm.⁴¹

114. The Central Economic Council, comprising employer and union representatives and also experts, is responsible for examining Belgium's situation in this regard. Its role in the functioning of a socioeconomic democracy is also important. With regard to wages, its latest technical report on the available margins for increasing wage costs (12 November 2009) can be consulted on its website, which also contains information on a number of issues related to the International Covenant on Economic, Social and Cultural Rights: <http://www.ccecrb.fgov.be>.

115. This issue is also covered under European Union employment policy. In Belgium, the period of validity of the interprofessional agreement is two years and the agreement for 2009–2010 is currently being finalized. Exceptionally for 2009–2010, a “net” approach (namely, at no additional cost whatsoever to employers) is being applied. Thus, for 2009–2010, employers and unions agree to set the negotiation envelope at a maximum of 250 euros per worker in normal situations, in addition to applying the system of wage indexation and wage-scale increases. For 2009, a maximum of 125 euros may already be granted, either offset against the above amount or on a one-off basis.

116. In introducing the *guaranteed average minimum monthly income* (R.M.M.M.G.) in 1975, Belgium chose to set a minimum wage applicable to all private-sector wage earners. The R.M.M.M.G. is the minimum work-derived income that a private-sector employer must guarantee in an average month to a full-time worker. Since 1 October 2008, it has been set at 1,387.49 euros.⁴²

2. Other mechanisms to ensure that all workers receive adequate remuneration

117. One mechanism currently provides a supplementary unemployment allowance, the *income guarantee allowance*, for part-time workers. The allowance is paid to

⁴⁰ See the third periodic report of Belgium submitted pursuant to the Covenant: E/C.12/BEL/3, April 2006.

⁴¹ *Ibid.*

⁴² *Ibid.*

unemployed persons who accept a low-paid part-time job but remain available for a full-time job.⁴³

3. Working conditions

118. There have not been any notable changes since Belgium's 2006 report with regard to time off, the length of the working day, Sundays off, night work and holidays.

4. Equal pay for equal work

119. Despite all the legal instruments, wage differentials persist between women and men. The average pay gap between women and men is 15 per cent and has decreased only slightly in recent years. The 2008 report on this problem makes it clear that the wage gap is multidimensional. The report's main findings are the following:

(a) Labour market segregation is the primary cause of the wage gap. Almost 60 per cent of the wage gap can be explained by the different position of women and men in the labour market;

(b) Major wage gap differentials are caused by status;

(c) Part-time work increases the wage gap.⁴⁴

120. Belgium has also developed a gender-neutral job classification system to form the basis of wage calculations. While previous systems often undervalued the functions and characteristics of typically female occupations, this evaluation tool⁴⁵ allows employers to easily check their system.

5. Legislation specifically criminalizing sexual harassment in the workplace

121. The first statutory measures with regard to *sexual harassment* were introduced into Belgian law by the royal decree of 18 September 1992 organizing the protection of workers against sexual harassment in the workplace.

122. The Act of 4 August 1996 on workers' wellbeing at work added the notion of the *psychosocial burden* occasioned by work to the concepts of "health and safety at work" by introducing the concept of "*wellbeing at work*". The Act of 11 June 2002 added a further section to the Act, dealing with violence and sexual or psychological harassment at work. Following an evaluation of these provisions, the Acts of 10 January 2007 and 6 February 2007 introduced a number of amendments. Enforcement measures are described in the royal decree of 17 May 2007 on the prevention of the psychosocial burden occasioned by work, including violence and psychological or sexual harassment at work.⁴⁶

123. *Sexual harassment* at work is defined as any unwanted verbal, non-verbal or physical behaviour with sexual connotations aimed at or having the effect of undermining a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. Sexual harassment at work may take different forms, both physical and verbal: looking at a person insistently or lasciviously, looking at people in a way that makes them feel as if they are being undressed, making ambiguous remarks or insinuations,

⁴³ *Ibid.*

⁴⁴ <http://www.emploi.belgique.be/defaultTab.aspx?id=8486>.

⁴⁵ The checklist for avoiding sexism in job evaluation and classification has two parts: the checklist itself and a guide to the points to be considered if such a system is to be gender-neutral. See <http://www.emploi.belgique.be/WorkArea/showcontent.aspx?id=8560> and 8562.

⁴⁶ <http://www.emploi.belgique.be/defaultTab.aspx?id=564>.

exhibiting pornographic materials (photos, texts, videos) or making compromising suggestions. It may also take the form of touching, physical assault or rape.

124. *Psychological harassment at work* is defined as several similar or different abusive conducts occurring either inside or outside the enterprise or institution, which continue for some time and are aimed at or have the effect of undermining a person's personality, dignity or physical or psychological integrity while at work, threatening his or her job or creating an intimidating, hostile, degrading, humiliating or offensive environment and which take the form, notably, of spoken or written words, intimidation, acts or gestures engaged in unilaterally. The constituent elements of psychological harassment are the abusive nature of the conduct, its repetition over time and its consequences.

125. In their *overall policy for the prevention* of the psychosocial burden occasioned by work, employers must take steps to combat violence and psychological or sexual harassment in the workplace. As a first line of prevention, they must decide what material and organizational measures need to be taken to eliminate situations that may give rise to violence or harassment. If situations that may give rise to abusive behaviour cannot be prevented, other measures must be taken to prevent such behaviour from occurring or, if it does, to limit the harm done. The material and organizational measures to be taken include:

- (a) Appointing a prevention counsellor and potentially designating persons of trust;
- (b) Establishing an in-house procedure allowing a person who considers himself or herself to be the object of abusive behaviour to be listened to and given the necessary counselling and have the person of trust and the prevention counsellor intervene rapidly and impartially;
- (c) Informing all employees of the procedures whereby a worker can seek the help of the competent prevention counsellor or the person of trust;
- (d) Determining the obligations of the various persons in the prevention chain of command;
- (e) Informing and educating employees;
- (f) Taking care of victims, for instance when workers who have been victims of abusive behaviour return to work.

126. Employers must thus appoint a *prevention counsellor specialized* in the psychosocial aspects of work, including violence and psychological or sexual harassment at work. Employers with fewer than 50 workers must call on an outside prevention counsellor, while those with more than 50 workers must decide, after consulting the workplace protection and prevention committee, whether the functions of specialized prevention counsellor are to be performed by an internal prevention counsellor or whether to call on an outside service.

127. Workers, employers and third parties are all protected against violence and harassment at work. Workers who consider themselves to be the object of violence or psychological or sexual harassment have three options: they can use internal channels, appeal to the officials responsible for oversight or institute proceedings before the competent court.⁴⁷

⁴⁷ Case law: extracts from labour court rulings up to 1 January 2009:
<http://www.emploi.belgique.be/WorkArea/showcontent.aspx?id=21270>.

6. Health and safety at work

128. In Belgium, health and safety at work are viewed as part of a broader concept: wellbeing at work. This concept is developed in the Act of 4 August 1996 and its enforcement decrees, which apply to all workers and their employers, with the exception of domestic and other household employees and their employers. This exception does not apply to maternity protection or protection against harassment.

129. The general rules on labour protection used to include health and safety provisions. Almost all these provisions have now been transformed into royal decrees designed to form part of the Code on wellbeing at work. The new royal decrees are thus enforcement decrees for the Act of 4 August 1996 and also include those transposing European directives on health and safety at work into Belgian law.

130. The many new provisions adopted since 2006 include not only the abovementioned provisions on the various forms of harassment but also measures for the training of prevention counsellors, the protection of workers against noise and mechanical vibration, as well as optical radiation, the investigation of serious accidents (model report) and the safety of old electrical fittings and wiring.

131. The occupational health and safety policy of the Minister for Employment is described in the national strategy for wellbeing at work 2008–2012.⁴⁸ The main lines of this strategy are the following:

1. *Reduce the number of workplace accidents in line with the Community target of an overall reduction of 25 per cent;*
2. *Encourage changes in workers' behaviour by promoting a culture of risk prevention, inter alia by disseminating information and codes of good practice through BeSWIC, the interactive knowledge centre on occupational safety and health;*
3. *Improve the functioning of prevention services, notably by adjusting their payment scales, putting in place a system for their authorization and improving the training of prevention counsellors;*
4. *Modernize and simplify the regulations and improve the oversight and effectiveness of their application.*

7. Observation 40

United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

132. Given the current state of its legislation on the employment of foreign workers, Belgium is not in a position to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. It nevertheless takes the Convention's aims into account and continues to coordinate with its European partners on the legal protection of migrant workers within the framework of overall European policy on migration.

133. Recent trends in migration and changes in immigration and integration policy in Belgium in 2007 are described in the Belgian contribution to the 2009 report of the OECD Continuous Reporting System on Migration (SOPEMI).⁴⁹

⁴⁸ http://www.beswic.be/fr/systems/nationale_strategie_FR.pdf.

⁴⁹ The text of the contribution and the associated tables can be consulted at: <http://www.emploi.belgique.be/WorkArea/showcontent.aspx?id=28772>.

VI. Article 8

1. Conditions that must be fulfilled to form or join the trade union of one's choice

134. The Constitution and laws guarantee freedom of association. Previously, there was no special category (freedom to form or join a trade union) in Belgium, but an order dated 2 April 2009 of the Court of Arbitration recognized the legal necessity of proper protection against discrimination based on belief in freedom of association. Freedom to form or join a trade union was therefore introduced into Belgian constitutional law. This protection was also written into ordinary law (Act of 30 December 2009).

135. There was a recent challenge to the power of trade unions to expel, in the name of trade union freedom, members of a political party whose principles are diametrically opposed to those of the union concerned. In February 2007, the European Court of Human Rights invoked this freedom in its ASLEF judgment to justify the internal autonomy of trade unions.

136. One important change with regard to the organization of collective bargaining is the introduction of new objective criteria that organizations representing workers must fulfil in order to be judged the most representative and therefore entitled to sit on the National Labour Council. For over 20 years, the ILO Committee on Freedom of Association had been objecting to the fact that, in Belgium, the Act on the National Labour Council does not contain any objective, clear and predefined criteria for assessing how representative the workers' organizations seeking representation actually are. The legislature sought to end this situation by formulating a number of criteria that should offer more objective safeguards for determining how representative such organizations are.

137. To be considered one of the most representative workers' organizations, such organizations must henceforth fulfil four cumulative conditions set forth in new article 2 of the Act of 29 May 1952 organizing the National Labour Council.⁵⁰ The most representative workers' organizations must:

- (a) Be constituted nationally and function interprofessionally;
- (b) Represent the absolute majority of sectors and categories of staff in the private and public sectors, provided that the majority of workers are also represented by those sectors;
- (c) Over the four-year period preceding the nominations provided for in article 5, have an average of at least 125,000 paid-up members, including members of affiliated or associated organizations;
- (d) Have as their statutory aim the defence of workers' interests.

138. The mandates for the most representative workers' organizations are distributed among those organizations by a royal decree discussed in the Council of Ministers. Under the new rules, the King may alter the distribution of mandates, by royal decree deliberated in the Council of Ministers after obtaining the opinion of the National Labour Council, when they come up for renewal. The King may exercise this power only if it is established irrefutably that the distribution of mandates can no longer be consistently and meaningfully justified on the basis of objective indicators of representativeness. If the opinion of the National Labour Council is unanimous, the King may overrule it only if he gives formal and specific reasons for doing so.

⁵⁰ Article 91–106 of the Act of 30 December 2009 enacting various provisions (Moniteur belge of 31 December 2009).

139. Other laws, such as the Act of 5 December 1968 on collective labour agreements and joint commissions, now refer to the definition of most representative organization contained in the Act on the National Labour Council.

Independence of trade unions

140. Like the Central Economic Council (CCE), the National Labour Council brings together workers' and employers' organizations said to be representative of Belgium's economic and social sectors. Together, the two Councils constitute the highest-level institutions of a negotiation and consultation structure that has developed over time and comprises three levels:

(a) At the lowest level, there is the enterprise, which, when it employs a certain number of workers, has a board with powers defined, inter alia, by National Labour Council collective labour agreement No. 9 of 9 March 1972 and, more specifically for health and safety issues, the workplace protection and prevention committee;

(b) At the level of branches or sectors of activity, there are some 150 joint commissions and subcommissions which allow workers' and employers' organizations to regulate more particularly, through the conclusion of collective labour agreements, the working conditions of the employers and workers whom they represent. Economic concerns, for their part, are dealt with by the special advisory committees functioning within the Central Economic Council;

(c) Lastly, at the highest level, there are the National Labour Council and the Central Economic Council, which function interprofessionally, jointly covering all branches of activity of the Belgian economy in respect of all issues coming under federal jurisdiction.

141. The workers' and employers' organizations represented in the National Labour Council also play an important role in international coordination, for instance, within the International Labour Organization (ILO) and at sessions of the International Labour Conference. They take part in the work done each year at the Conference's June session to prepare and adopt ILO conventions and recommendations. The National Labour Council contributes to this process as the primary forum for drafting the opinions and reports that the ILO principle of tripartite consultation requires of each of its member States and which give Belgian workers' and employers' organizations the opportunity to express their views on the texts prepared for the Conference by the International Labour Office.⁵¹

2. Collective bargaining mechanisms

142. To be able to play a role in the system of collective labour relations, the employers' and workers' organizations concerned must be representative as stipulated by law.⁵² An organization fulfilling these conditions may exercise certain rights, including the right to:

⁵¹ Source: National Labour Council. <http://www.cnt-nar.be/FII.htm>.

⁵² Nationwide interprofessional workers' and employers' organizations represented in the Central Economic Council and the National Labour Council (workers' organizations must also have at least 50,000 members); trade union organizations affiliated or belonging to an interprofessional organization referred to under 1; and employers' organizations that the King, based on the opinion of the National Labour Council, recognizes as representative in a given sector. National interprofessional organizations and professional organizations approved in accordance with the Act of 6 March 1964 on the organization of the middle classes and representing company managers in small-scale industry, small- and medium-sized business and light industry, as well as independent members of a liberal profession or other intellectual profession, are also considered to be representative employers' organizations.

- (a) Take legal action in any disputes that may arise from the application of the law on collective labour agreements and defend the rights that its members derive from the collective labour agreements that it has concluded;
- (b) Conclude collective labour agreements and accede to them at the enterprise, sectoral or intersectoral level;
- (c) Put forward its candidacy for representation in a joint commission or subcommission;
- (d) Request that an agreement concluded in a joint commission be made binding by the King;
- (e) An organization that fulfils the requisite conditions and wishes to be represented in a joint commission must also prove that it is representative of the sector covered by that commission. It is the minister who decides whether or not the organization is representative.⁵³

143. The royal decree of 28 September 1984 enforcing the Act of 19 December 1974 organizing relations between the public authorities and unions representing the staff of those authorities includes a chapter VII on the protection of trade union delegates who are staff members employed under contract. The chapter stipulates the procedure that must be followed before the procedure for the planned dismissal of a member of the contractual staff can begin.^{54 55}

3. Observation 31 Right to strike and restrictions on the right to strike

144. The prohibition against strikes was repealed in Belgium in 1948 by means of a political compromise: strikes became possible on condition that a system of self-regulation was established. This condition was fulfilled by the adoption of the Act of 19 August 1948 on peacetime public services and confirmed by the Court of Cassation, which, in its judgment of 21 December 1981 (*SIBP v. De Bruyne*), ruled that participation in a strike was neither illegal nor prohibited. Reference may also be made to various legal provisions equating strike days with days worked for social security purposes. Lastly, there is the Act of 15 March 2002 approving the revised European Social Charter and its annex, done at Strasbourg on 3 May 1996 and observed by all Belgian courts.

145. Employers and unions abide by the March 2002 gentlemen's agreement through which they undertook, at the interprofessional level, to observe certain rules in the event of a strike. In so doing, they confirmed that dialogue, particularly conciliation and mediation, between the two sides took precedence over any other form of settlement of collective disputes. The gentlemen's agreement has substantially reduced the number of cases of recourse to the courts (unilateral applications), without however completely eliminating them.⁵⁶

146. From 2005 to 2008, the number of cases of recourse to the courts was, on average, fairly low. The Belgian State finds such cases regrettable because, ultimately, they do not

⁵³ Source: <http://www.emploi.belgique.be/home.aspx>.

⁵⁴ These rules were amended by a royal decree of 20 December 2007, in particular, in order to increase the number of staff members for whom the above procedure must be followed in the event of planned dismissal. These amendments were explained by circular No. 582 of 23 June 2008, *Moniteur belge* of 15 July 2008, pp. 37093 et seq.

⁵⁵ http://www.coe.int/t/dghl/monitoring/socialcharter/Reporting/StateReports/Belgium4_en.pdf.

⁵⁶ *Ibid.*

help to resolve social conflict. It should nevertheless be noted that, overall, such cases remain the exception. By comparison with the 300 to 500 conciliation processes conducted annually through a dialogue between employers and unions, unilateral applications to the courts are fortunately an exception. While there has been not been any exponential increase in such cases, however, in 2005 and 2008 certain factors triggered an increase in judicial proceedings.

147. In addition to a broad regulatory framework, the State also invests in human and material resources in order to encourage employers and unions to opt for dialogue and consultation, including the prevention and settlement of collective disputes. One approach has been to make a corps of 20 professionally trained conciliators available free of charge. The large number of successful conciliation procedures (300 to 500 a year) is proof of the efficacy of this approach. As in any democratic country, however, there is always the possibility that some individuals or companies may go to court because they believe that certain courses of action that are not intrinsic to strikes (recourse to violence, physical intimidation) do them disproportionate harm.

Essential services for which the right to strike could be restricted

148. Article 1 of the Act of 19 August 1948⁵⁷ on peacetime public services stipulates that joint commissions must determine and delimit, for enterprises within their jurisdiction, the measures or services that must be provided in the event of a collective, voluntary work stoppage in order to meet certain vital needs, carry out certain emergency work on machinery or equipment or perform certain tasks dictated by a situation of *force majeure* or unforeseen necessity. The King may make the joint commissions' decisions binding. This system gives employers and unions the responsibility and autonomy to decide which minimum services are to be provided in the event of a strike. In addition to these decisions, several general enforcement measures have been taken with regard to rubbish collection, electricity, gas and fuel supplies and the provision of medical care.

VII. Article 9

1. Universal social security coverage

149. The right to social security is guaranteed by article 23 of the Belgian Constitution. There are three main social security schemes in Belgium: for wage earners, self-employed workers and civil servants. While there are some differences among these schemes, they cover all the risks envisaged in ILO Convention No. 102, the Social Security (Minimum Standards) Convention, which Belgium has ratified.

150. Belgium has also ratified the Council of Europe European Code of Social Security, as amended by its Protocol, which establishes higher standards. In its most recent report, the Committee of Experts on the Application of Conventions and Recommendations, set up by the ILO Governing Body, indicated that Belgium's national legislation and practice continue to give full effect to all the Code's provisions.

151. In its concluding observations on the implementation of the Covenant (E/C.12/BEL/CO/3), the Committee on Economic, Social and Cultural Rights noted with satisfaction the high quality, comprehensiveness and almost universal coverage of the social security and health-care systems existing in the State party.

⁵⁷ Moniteur belge of 21 August 1948.

152. In the Flemish Community, the decree on health-care insurance was adopted on 30 March 1999. Based on this decree and its enforcement decrees, the *Vlaamse zorgverzekering* (health-care insurance) became operational on 1 October 2001. It provides for a fixed-rate contribution towards the non-medical *costs of persons affected by a serious, long-term reduction of their autonomy*, which may be used to pay for home care, informal care or residential care. The health-care insurance scheme is funded by a grant from regular budgetary resources and by member contributions. The member contribution is 25 euros per year, reduced to 10 euros per year for certain categories of person. Between 2005 and 2010, the informal and home-care allowances were increased from 90 to 130 euros and the residential care allowance was increased from 125 to 130 euros (www.vlaamsezorgverzekering.be).

2. Minimum amount of benefits, including pensions

153. There is a legally established minimum amount of benefits, which is revised at regular intervals and pegged to fluctuations in the consumer price index.

154. With regard to pensions, it should also be noted that the policy of increasing small pensions and adjusting the oldest pensions to wellbeing, in other words, to wage increases, has also continued. The minimum pensions for wage earners were increased on 1 September 2007, 1 July 2008 and 1 June 2009. Under the same scheme, the minimum remuneration taken into account, subject to certain conditions, for pension calculations was increased on 1 October 2006 and 1 September 2007 and 2009.

155. To reduce the gap between the minimum pension for self-employed workers and that for wage earners, the minimum pension for self-employed workers was increased on 1 December 2005, 1 December 2006, 1 January, 1 April (only the married couple's pension), 1 September and 1 December 2007, 1 July and 1 October 2008 and 1 May and 1 August 2009.

156. Over the same period, pensions, especially the oldest pensions, were adjusted regularly to wellbeing. In late 2005, the Act on the intergenerational solidarity pact created a structural mechanism for adjusting wage earners' social security benefits to wellbeing, in that the Government takes a decision every two years on the adjustment of allowances to wellbeing.

157. The same mechanisms are applied to other benefits (incapacity, disability, maternity, industrial accident and occupational disease benefits), which may in no case be less than the integration income (*revenu d'intégration*), a welfare benefit designed to guarantee recipients and their families an adequate standard of living.

3. Non-contributory welfare benefits

158. The social security system is supplemented by non-contributory welfare benefits for disadvantaged and marginalized persons and families who are not covered by contributory schemes (integration income, allowances for persons with disabilities, guaranteed family allowances, income guarantee allowance for older persons).

159. These benefits are conditional on recipients not exceeding the stipulated resource ceiling. They are also recalculated on the basis of fluctuations in the consumer price index and increased at regular intervals. For instance, the amount of the income guarantee allowance for older persons (non-contributory scheme designed to give needy older persons a minimum income) was increased on 1 December 2005, 1 December 2006, 1 December 2007, 1 July and 1 October 2008, 1 June 2009 and 1 January 2010.

4. Private schemes or informal arrangements

160. To supplement the medical coverage provided by compulsory health-care insurance and compensation, members of health insurance funds receive additional coverage in return for payment of a monthly contribution. Most health insurance funds offer a series of benefits and services over and above those offered by compulsory insurance. These may include vaccinations, care for sick children, dietary care, speech therapy and acupuncture. Health insurance funds are private, non-profit associations responsible for providing services such as contributions towards the cost of health care or the payment of sickness compensation. They are based on a mutual aid system and are grouped into five national unions.

161. Compulsory health-care insurance is governed by a law, whereas supplementary insurance is an insurance that health insurance funds propose to, and sometimes even impose on, their members. The compulsory or non-compulsory nature of this insurance, the amount of the member contribution and the services offered by supplementary insurance vary from fund to fund and are mentioned in the fund's statutes. When the health insurance fund's statutes make supplementary insurance compulsory, members must contribute to it.

162. Any insured person who does not want supplementary insurance coverage may join or register with a sickness and disability auxiliary fund. These funds are public social security institutions that, like health insurance funds, provide all the benefits of the compulsory health-care insurance and compensation scheme but under a public statute.

5. Equal enjoyment by men and women of pension rights

163. There is complete equality between men and women with respect to pensions. Until recently, there was still a difference in the age at which men and women became eligible for a pension, but on 1 January 2009, following a transition period lasting over 11 years, equality was achieved. The normal pension age for men and women is 65 years and a full pension is payable after 45 years of cumulative periods of work and assimilated periods.

6. Social security programmes to protect workers in the informal economy

164. In recent years, the Government has worked to strengthen the social security protection of some population groups, such as certain self-employed workers, voluntary workers, home-based child carers and artists, in order to move them out of the informal economy.

165. At the same time, it is giving priority to combating welfare fraud and moonlighting, which harm workers more than anyone else.

7. Non-contributory schemes benefiting non-nationals

166. Non-contributory schemes are accessible to non-nationals on the conditions established by law.

167. Generally speaking, applicants must be residing legally in Belgium and have lived there without interruption for at least five years prior to applying for the scheme. The condition of prior residence is nevertheless waived for:

- (a) Persons covered by EU Regulation No. 1408/71 (or 883/2004);
- (b) Stateless persons;
- (c) Refugees;
- (d) Nationals of a State that has ratified the European Social Charter or the revised European Social Charter.

168. The condition is also waived for persons who apply for guaranteed family benefits for a child who is a national of a State to which Regulation No. 1408/71 (or 883/2004) applies or a State that has ratified either of the European Social Charters, or a child who is stateless or a refugee.

169. If a person receiving benefits under a non-contributory scheme and registered as a member of the population joins a health insurance fund, he or she is also eligible for health care.

**8. Observation 41
ILO Conventions Nos. 117 (1962) and 118 (1962)**

170. Belgian regulations are consistent with the provisions of ILO Convention No. 117, so there is no obstacle to its ratification.

171. As regards Convention No. 118 concerning Equality of Treatment of Nationals and Non-Nationals in Social Security, Belgian law is inconsistent with some of the Convention's provisions. Belgian ratification of the Convention would entail the amendment of some provisions of domestic law, for instance, the repeal of Belgian residence requirements (also applicable to nationals) with regard to pensions (income guarantee for older persons), disability benefits or allowances to cover funeral costs. The legislation concerned cannot be amended at the present time.

VIII. Article 10

1. Right of men and women to enter into marriage freely and to found a family

172. The Government refers to the information provided by Belgium with respect to articles 23 and 24 of the International Covenant on Civil and Political Rights in its fifth periodic report dated 28 January 2009 on the implementation of the Covenant (document CCPR/C/BEL/5 of 17 July 2009), concerning custody and living arrangements for children, legal recognition of same-sex unions, divorce reform, mediation, adoption and filiation.

173. The following provisions should nevertheless be emphasized.

174. The Act of 4 May 1999 amending certain provisions on marriage provides for annulment of a marriage contracted with a view to benefiting in terms of residential status. The Act of 12 January 2006 amending the Act of 15 December 1980 on the entry, temporary and permanent residence and removal of aliens inserts a provision making the contracting of marriage with a view to benefiting in terms of residential status a criminal offence liable to prosecution. The provision also criminalizes the acceptance of money in return for entering into such a marriage and the use of violence or threats against a person to force that person to enter into such a marriage.

175. Under the Act of 25 April 2007 inserting an article 391*sexies* into the Criminal Code and amending certain provisions of the Civil Code to make forced marriage a criminal offence and broadening the grounds for annulment of such marriages, forced marriage can now be prosecuted and annulled. Article 391*sexies* of the Criminal Code also makes it possible to punish persons who use violence or threats to force someone to enter into a marriage. Attempts to do are also punishable. Inasmuch as forced marriage is a violation of human rights that is prohibited by several international norms, the purpose of the new Act is to protect the victim's right to enter freely into marriage and to protect his or her dignity and physical integrity. Article 146*ter* of the Civil Code inserted by the Act of 25 April 2007 henceforth provides that: "*Likewise, no marriage is valid when it is contracted without the free consent of the two spouses, and when the consent of at least one of the spouses was obtained through violence or threat*". The civil registrar may now refuse to perform the

marriage if it is a forced marriage. In addition, a forced marriage that has been performed may now be declared null and void at the instance of the Office of the Public Prosecutor, the spouses themselves or all interested parties. Furthermore, where there are clear indications of a forced marriage, the prosecutor's office may itself institute legal proceedings with a view to its annulment.

176. Pursuant to the Act of 15 May 2007 amending the Civil Code with regard to marriage between persons related by marriage, the prohibition on marriage between two relatives by marriage in direct line is no longer absolute.

177. The Act of 19 February 2009 amending the Civil Code and article 1399 of the Judicial Code with regard to opposition to marriage repealed the provisions on opposition to marriage.

178. Mention should also be made of the following laws:

179. The Act of 24 April 2003 reforming adoption and the Act of 13 March 2003 amending the Judicial Code in respect of adoption, both of which entered into force on 1 September 2005, have two basic objectives. First, they introduce into Belgian law the amendments required for implementation of the Hague Convention of 29 May 1993 on Protection of Children and Cooperation in respect of Intercountry Adoption, which was ratified by Belgium on 26 May 2005. Second, they close certain loopholes in the previous legislation, modernize adoption law and introduce a number of innovations.

180. The Act of 18 May 2006 amending certain provisions of the Civil Code for the purpose of enabling adoption by persons of the same sex. The reference to adoptive parents of different sexes was deleted from the Civil Code and special provisions concerning the name of the adopted child were introduced for both simple and plenary adoption. The principle is that the spouses or cohabitants of the same sex, in adopting a child, must decide which of them will pass on his or her family name to the child. The same family name will be given to any other children whom they may adopt together in the future.

2. Social services designed to assist families, children, older persons and persons with disabilities

181. In the *German-speaking Community*, article 4 of the decree of 19 June 1990 setting up a community office for persons with disabilities (*Dienststelle der Deutschsprachigen Gemeinschaft für Personen mit einer Behinderung*: <http://www.dpb.be/>) defines the office's responsibilities. To enable persons with disabilities to remain in their homes for as long as possible, paragraphs 1 to 3 of that article entrust the office with:

(a) Registering persons with disabilities who request assistance and ensuring that an individualized assistance and support programme is established, taking into account such persons' specific needs;

(b) Promoting advice, guidance and support for persons with disabilities and their families with a view to maximizing their integration in working life and in all other areas of social life;

(c) Offering persons with disabilities, their families and those around them assistance and adaptation measures appropriate to their disability.

182. To perform this task, the office gives the persons concerned information and subsidizes the cost of material adaptations and different kinds of aids such as:

(a) Technical aids to facilitate their lives at home, at school and in the workplace and improve their mobility;

(b) Aids for personal care and protection (commodes, toilet, shower and bath seats, adult diapers);

(c) Personal mobility aids (walking sticks, crutches, vehicle adaptations, additional standard manual buggy, supplement for electric buggy, portable ramps);

(d) Aids for reading, writing, hearing, talking (such as computers, Braille materials, wireless sound transmitters, communication equipment);

(e) Assistance with house adaptations (need for additional surface area, adaptation of living rooms, adapted furniture, electric beds and bed bases and anti-bedsore mattresses, chairlifts, support rails and knobs, electrical devices for opening and closing doors, hoists and platform lifts, stairlifts).

183. The *Flemish authority* is responsible, inter alia, for the planning, oversight and approval of structures for older persons in Flanders. On 13 March 2009, the Flemish government approved a decree on care and housing that integrates home care and residential care for older persons and aims to promote older persons' physical and mental autonomy. The decree makes the provision of care more flexible in response to the user's request for care. At the same time, it provides maximum care for those who need it. The new decree, centred on offering personalized care and guaranteeing continuity of care throughout the person's care history, replaces the 1998 decree on home care and the 1985 decree on care for older persons. It entered into force on 1 January 2010.

184. The decree on care and housing has three main priorities:

(a) To offer personalized care and guarantee continuity of care by putting in place appropriate, individualized self-care, family care and professional care;

(b) To improve harmonization of the rules governing care, housing and wellbeing, thereby facilitating and strengthening coordination among home care, residential care and support for home care;

(c) To improve the quality of housing and care by responding properly to the individual physical and psychological needs of persons seeking care while paying adequate attention to their social inclusion and wellbeing.

185. Flanders also has jurisdiction over the policy for assisting persons with disabilities. The Flemish agency for persons with disabilities (*Vlaams Agentschap voor Personen met een Handicap* – VAPH) was set up by decree of 7 May 2004 to promote the social integration of persons with disabilities and their participation in society by providing them with assistance aimed at maximizing their autonomy and quality of life. The agency's main functions are to organize support for persons with disabilities and their living environment, specify criteria for delineating the target group of persons with disabilities and organizing guidelines and responsibilities.

186. VAPH provides services in four areas: assistance (support and reception), tools, personal assistance budget and implementation of an inclusive policy for the target group of persons with disabilities. The novelty is that a conscious decision was taken to opt for an innovative care policy, in line with the United Nations Convention on the Rights of persons with Disabilities, which will translate into more integrated housing solutions.

187. On 5 March 2009, the *French Community Commission* adopted a decree on the provision of drop-in services, which will provide subsidies for:

(a) Comprehensive social action services, which welcome new users and provide them with individual support or collective or community development activities in order to avoid their isolation and encourage their social inclusion;

(b) Debt mediation services for heavily indebted persons, who are helped to find lasting solutions to their problems and to take responsibility for their finances through advice on independent budgeting;

(c) Assistance services for persons involved in legal proceedings, namely, victims and their families, accused and convicted persons who are at liberty and former prisoners and their families. There are two services specifically for victims of conjugal violence and victims of sexual violence;

(d) Meeting spaces for families coping with family breakdown, divorce or separation. These spaces facilitate meetings between parents and children supervised by a neutral professional third party, allowing children to exercise normally their right to a personal relationship with the non-custodial parent.

188. A 27 May 1999 decree on shelters for adults provides subsidies for shelters for people on their own or with children (emancipated minors, under-age mothers, under-age pregnant girls). These shelters also provide psychosocial support to help residents become independent and reintegrate in society.

189. A 22 March 2007 decree on the policy for sheltering and housing older persons regulates the approval of commercially operated residential establishments and non-residential services aimed primarily at older persons.

190. In the area of assistance to persons with disabilities, a COCOF decree of 4 March 1999 establishes the main outlines of a social and occupational integration policy. Under this policy, persons with disabilities are offered individualized assistance, specialized educational and vocational guidance and access to the training provided to non-disabled persons, while employers are offered incentives to employ them (in-service training, recruitment premiums, workstation adaptation) and day centres and shelters are provided for adults and children.

3. Protection of maternity

Working conditions: risk evaluation

191. Protection of the health of pregnant and nursing employees and employees who have recently given birth is provided by the Act of 3 April 1995 (amending the Labour Act of 16 March 1971) and its enforcement decree of 2 May 1995.⁵⁸

Prohibition of dismissal during pregnancy

192. As soon as an employer is informed of a pregnancy, special protection against dismissal comes into effect. From this moment on, the employer cannot take any action to terminate the employment relationship unilaterally, except on grounds unrelated to the employee's physical condition as a result of pregnancy or childbirth. Such protection against dismissal expires one month after the end of maternity leave, which includes the eight-week period during which the employee must, where necessary, take her postnatal leave days. If an employee covered by the above protection is dismissed either without cause or for reasons associated with her condition, she must be paid compensation equivalent to six months' gross wages. Once her employer is informed of the pregnancy, the pregnant employee is likewise entitled to paid absences from work for prenatal medical examinations that cannot take place outside working hours. Lastly, a pregnant employee

⁵⁸ See the third periodic report of Belgian submitted pursuant to the International Covenant on Economic, Social and Cultural Rights (E/C.12/BEL/3, April 2006).

cannot be required to perform night work during the eight-week period preceding her due date, or at other times upon presentation of a medical certificate. Pregnant or nursing women are also barred from working overtime.

Paid maternity leave before and after childbirth

193. The conditions governing the granting and maintenance of the right to maternity leave are the same as those governing entitlement to incapacity benefits, namely:

(a) Membership of a health insurance fund as a primary beneficiary (dependents are not entitled to maternity benefits but are indirectly entitled to health care);

(b) Completion of a qualifying period of 120 days' work or similar over a six-month period. Part-time workers, seasonal workers and casual workers must prove that they have worked for 120 days or 400 hours during a six-month period. This period may be extended up to 18 months, however, for workers who, because of their work requirements, are unable to complete their qualifying period within six months;

(c) Payment of a minimum amount of contributions under the heading of compensation or benefits.

194. The duration of compulsory maternity leave is 15 weeks (17 weeks if a multiple birth is expected). Such leave comprises two distinct periods, prenatal leave and postnatal leave:

(a) *Compulsory prenatal* leave begins no more than six weeks (eight weeks in the event of a multiple birth) before the due date. From the seventh day preceding her due date, the woman must stop working completely (or interrupt her registered unemployment). The period of prenatal leave thus comprises an optional period of five weeks (seven weeks for a multiple birth) and a compulsory period covering the seven days before she is due to give birth;

(b) *Postnatal leave* also comprises a compulsory period of nine weeks following childbirth. This minimum nine-week postnatal leave may be extended up to 14 weeks (16 weeks for a multiple birth), depending on whether or not the woman took optional prenatal leave. Thus, maternity leave can last up to a total of 15 weeks (17 weeks in the event of a multiple birth) and may be extended in some cases. For instance, in the event of a multiple birth, postnatal leave may, at the woman's request, be extended by a maximum of two weeks, bringing such leave up to 19 weeks. Women workers giving birth on or after 1 April 2009 may (subject to certain conditions) convert the last two weeks of their optional postnatal leave (ie. two weeks of optional prenatal leave not taken before giving birth) into ordinary leave days taken after giving birth. This allows them to return to work gradually after the end of their maternity leave.

195. For insured women with an employment contract, the *amount of the maternity* benefit is calculated as follows:

(a) For the first 30 days of maternity leave: 82 per cent of gross pay (before deduction of ONSS contributions), with no upper limit;

(b) From the thirty-first day to the end of maternity leave and in the event of extension of prenatal leave: 75 per cent of gross pay up to a maximum of 88.77 euros (for women giving birth on or after 1 January 2010);

(c) For unemployed women, the amount of the unemployment benefit is taken into account;

(d) For the first 30 days of maternity leave: basic benefit + 19.5 per cent of gross pay up to a maximum of 94.10 euros (for women giving birth on or after 1 January 2010);

(e) From the thirty-first day to the end of maternity leave and in the event of extension of prenatal leave: basic benefit + 15 per cent of gross pay up to a maximum of 88.77 euros (for women giving birth on or after 1 January 2010).

196. For women workers on incapacity benefit:

(a) For the first 30 days of maternity leave: 79.5 per cent of gross pay up to a maximum of 94.10 euros (for women giving birth on or after 1 January 2010);

(b) From the thirty-first day to the end of maternity leave and in the event of extension of prenatal leave: 75 per cent of gross pay up to a maximum of 88.77 euros.

197. Childbirth is one of the health services covered by compulsory health-care insurance, meaning that injections, prenatal care, monitoring and assistance during labour, childbirth, postnatal care, etc. are all covered. Both insured persons and their dependents (including female dependents not eligible for maternity benefits) can benefit from the childbirth services provided under compulsory health-care insurance.

Paternity leave

198. A wage earner is entitled to take 10 days' leave from work on the occasion of the birth of a child of whom he is the father. He may take this leave, either all at once or in several instalments, during the four months following the birth. During the first three days of such leave, the father continues to be paid a wage; during the subsequent seven days, he is paid a paternity benefit by his insurer, the amount of which is calculated for the entire period of leave, based on the average daily wage on the first day of paternity leave.

199. Paternity leave is currently guaranteed for homosexual couples in the civil service. Talks are under way on extending paternity leave to the private sector.

200. Part of the postnatal maternity leave may be converted into paternity leave:

(a) In the event of the mother's death, the father may take paternity leave, the duration of which may not exceed the portion of postnatal maternity leave to which the mother was still entitled at the time of her death;

(b) In the event of the mother's hospitalization, the father may take paternity leave from the eighth day at the earliest following the birth of the child, provided that the mother's hospitalization lasts more than seven days and the newborn child has left hospital;

(c) Paternity leave expires at the moment when the mother leaves hospital and, at the latest, at the end of the period corresponding to the maternity leave still to be used by the mother when she was hospitalized.

Parental leave

201. The right to parental leave is governed by the royal decree of 29 October 1997 introducing an entitlement to parental leave in the form of a career break. Parental leave may take one of three forms: a three-month break from work (full parental leave), which may be broken up into months; six months' part-time work (part-time parental leave), which may be broken up into periods of two months or a multiple thereof; or a 15 months period of work, which may be broken up into periods of five months or a multiple thereof, during which the employee's working hours are reduced by a fifth. A combination of the three forms is also possible. The aim of this leave is to encourage men to become more involved in the domestic sphere.

4. Efforts to combat forced labour and economic exploitation of children

202. Child labour is regulated by the Labour Act of 16 March 1971, into which an Act of 5 August 1992 incorporated the prohibition of child labour. These laws apply to minors who are aged under 15 or are still subject to compulsory full-time school attendance. There is thus a blanket prohibition on child labour, subject to the following exceptions provided by law:

(a) Activities forming part of children's education or training: jobs in school, in a youth organization, etc., even if they are productive in nature

(b) An individual exemption granted by the director of the social legislation oversight department of the Federal Public Service for Employment, Labour and Social Consultation. This exemption is granted, on certain strict conditions, for a given period of time and for activities specified by law. The activities in question are related to the cultural, artistic and advertising spheres and their duration, frequency and rest breaks are governed by special conditions that vary according to the child's age (see table below).⁵⁹

<i>Age</i>	<i>Max. duration of activities</i>	<i>Rest break</i>	<i>Frequency of activities</i>
Up to 6 years	4 hrs a day between 8 a.m and 7 p.m	30 mins after 2 hrs of activity	Max. 6 activities in the first 6 years
7 to 11 years	6 hrs a day between 8 a.m and 10 p.m	30 mins after 3 hrs of activity	Max. 12 activities a year
12 to 15 years	8 hrs a day between 8 a.m and 11 p.m	30 mins after 4 hrs of activity	Max. 24 activities a year

203. Conditions for the granting of an exemption:

(a) The application must come from the individual in charge of organizing the activity;

(b) The activity must not adversely affect the child's educational, intellectual or social development, threaten the child's physical, psychological or moral integrity or be prejudicial to any aspect of the child's wellbeing;

(c) The applicant must comply with any additional regulations stipulated by the director in authorizing the exemption;

(d) The child's father, mother or guardian must have given prior written consent.

204. The child's pay (money or benefits that can be evaluated in monetary terms) is placed in trust in an interest-bearing savings account in the child's name opened with a financial institution. The child can access the money once he or she comes of age.

205. Articles 53 to 59 of the Act of 16 March 1971 make infringements of this legislation punishable by fines and prison sentences.

206. Thus, without exception, article 7(1) of the Act of 16 March 1971 strictly prohibits child labour, including forced labour. "*Likewise, it imposes a blanket prohibition on making or letting children engage in an activity that may adversely affect their educational, intellectual or social development, threaten their physical, psychological or moral development or be prejudicial to any aspect of their wellbeing*".

⁵⁹ Royal decree of 11 March 1993 on child labour.

207. It should be noted that, apart from the aforesaid regulations, the raising of the compulsory school-leaving age to 18 (Act of 29 June 1983 on compulsory school attendance) has had the indirect effect of restricting child labour.

208. In addition to the Labour Act, mention may be made of more specific provisions:

(a) Article 4 of the European Convention on Human Rights prohibits slavery, servitude and forced labour;

(b) Articles 379 et seq. of the Criminal Code punish persons guilty of child prostitution;

(c) Article 433 of the Criminal Code imposes penalties on persons who use minors to commit a crime or offence;

(d) Articles 433*ter* and 433*quater* impose prison sentences and fines on persons who profit from other people's begging.

209. Articles 433*quinquies* et seq. of the Criminal Code on human trafficking may also be applied to child labour (arts. 433*quinquies*, para. 1(3), and 433*septies*, para. 1, of the Criminal Code).

210. It should also be noted that in July 2009, a legislative proposal amending the preliminary title of the Code of Criminal Procedure with regard to the universal criminalization of persons who make children work abroad was submitted to the Chamber of Representatives (proposal of 8 July 2009 submitted by Dirk Van der Maelen, Hans Bonte and Meryame Kitir).

5. Rights of older persons

211. Abuse of older persons remains a social taboo that can seriously undermine victims' confidence in a safe society. It consists of actions or omissions on the part of anyone who is in a personal or professional relationship with an older person, (often) causing that person physical, psychological or material harm.

212. To prevent and combat older person abuse, the Flemish authority is trying to maximize the coordination of cooperation and networking, prevention and the handling of complaints. To this end, an agreement has been concluded with the Flemish contact point for older person abuse (*Vlaams Meldpunt Ouderen(mis)behandling*), the Flemish provinces and local health and welfare services. The contact point must respond appropriately to any request for information, advice, intervention and reporting in Flanders and Brussels. Its functions include centralizing and recording reported incidents, giving advice, promoting expertise, raising awareness, providing information, intervening by transmitting complaints to assistance points, doing policy preparatory work and promoting scientific research.

213. In 2009, the contact point recorded 503 cases. The most frequently reported incidents were psychological abuse (30 per cent) and financial or material abuse (22.5 per cent).

214. To encourage older persons' autonomy, the Walloon Region emphasizes the importance of treating them well. It designed a strategy for doing so on the occasion of the adoption of the 3 July 2008 decree on combating abuse of older persons.

215. A Walloon agency, *Respect Senior*, is responsible for carrying out its activities throughout the French-speaking territory, creating a decentralized branch in each province. Its mission is to assist older persons who are victims of abuse by providing access to a free hotline, organizing information and awareness-raising activities, notably via a website, organizing training for professionals likely to be confronted with cases of abuse and

exchanging information, statistics or good practices with similar associations or organizations in neighbouring regions or communities or in other countries.

6. Economic and social rights of asylum seekers and their families

216. One of the major changes in asylum proceedings is the fact that the consideration of each asylum application henceforth includes consideration of the potential need for subsidiary protection. With regard to the economic and social rights of asylum seekers, a distinction needs to be made between the situation of applicants during asylum proceedings and their situation once those proceedings end.

217. Generally speaking, throughout the duration of asylum proceedings, in other words, from the lodging of an asylum application to any appeal lodged either in plenary jurisdiction before the *Conseil du Contentieux des Étrangers*, an administrative court of appeal, or before the Council of State, the asylum seeker is entitled to material assistance, including during the time limits for lodging appeals. Such assistance is provided by a reception structure that is responsible for giving the asylum seeker the help needed to live decently. The Federal Agency for Asylum Seekers (Fedasil) assigns the asylum seeker to a community reception structure or an individual reception structure.

218. When asylum proceedings end, there are three possible scenarios:

(a) The applications for asylum and subsidiary protection are rejected and the unsuccessful asylum seeker receives an order to leave the country. Once the deadline stipulated in the order expires, the person is in the country illegally and is eligible only for emergency medical care. However, in the case of a minor accompanied by parents and residing in the country illegally, material assistance may be provided in a federal reception centre. Material assistance is also extended if a person who has been refused asylum signs a commitment to return to the country of origin voluntarily. In that case, the person continues to receive material assistance in a reception structure until he or she leaves the country (unless departure is delayed by the person's behaviour);

(b) The asylum application is granted. The applicant is considered a refugee and is issued an alien's registration certificate of unlimited duration. As soon as the person is granted refugee status, he or she becomes entitled to social integration assistance;

(c) The asylum application is rejected but the application for subsidiary assistance is accepted. The applicant is issued an alien's registration certificate, valid for one year, which may be extended and renewed. Once five years have elapsed since the asylum application was lodged, a person granted subsidiary protection is allowed to stay in the country indefinitely. As soon as the person is granted subsidiary protection, he or she becomes eligible for welfare assistance.

Reception of asylum seekers

219. During asylum proceedings, asylum seekers are entitled to reception in the form of material assistance provided by Fedasil or one of its reception partners. When asylum proceedings end, the entitlement to material assistance may be extended in the following situations: to safeguard family unity, to allow a child to complete the school year, in the event of pregnancy, when return to the person's country of origin is impossible, if the person is the parent of a Belgian child, if the person has signed a commitment to leave voluntarily, or for medical reasons. Asylum seekers are not obliged to stay in a reception structure, however, and are entitled to obtain reimbursement of medical expenses from the authorities if they choose not to do so.

220. The material assistance provided in open collective or individual reception structures must be adapted to individual needs and enable the asylum seeker to live decently. Such

assistance comprises the following elements: housing, food, social support, free legal aid, medical and psychological support, right to education for minors, training for adults and access to the services of translators and interpreters. If they have not received a reply to their asylum application within six months, asylum seekers have access to the labour market and to the training offered by employment services.

Family reunification of migrants

221. A third-country national wishing to sponsor a spouse, legal partner or children for entry to Belgium in order to form or reunify a family must demonstrate that he or she has proper and adequate accommodation to house them and sickness insurance to cover them in Belgium. Over the years, it has become clear that practical and legal constraints often prevent local authorities and the Immigration Department from verifying the adequacy of such accommodation in time, even though they are supposed to prevent abuses.

222. In transposing Directive 2003/86/EC into domestic law, Belgium did not choose to apply the condition of stable and regular resources to all sponsors of family reunification. Only for two specific categories of foreigner does Belgium require sponsors to provide proof of regular and adequate resources: family members of a student with a temporary residence permit (art. 10*bis* of the Act on the entry, stay, settlement and departure of aliens) and disabled adult children (arts 10 and 10*bis* of the Act on the entry, stay, settlement and departure of aliens).⁶⁰

7. Observation 33

Measures to combat violence against children within the family

223. No legislation expressly prohibiting corporal punishment has been adopted since the last report. Three legislative proposals on the subject have been introduced but have never been discussed in Parliament (20 August 2003 proposal by Sabine de Béthune,⁶¹ 17 February 2007 proposal by Clitilde Nyssens and Christian Brotcorne⁶² and 16 January 2007 proposal by Magda Raemaekers⁶³). Christian Brotcorne also introduced a new legislative proposal on 14 July 2008.⁶⁴ All these proposals seek to add a supplementary provision to the Civil Code.

224. Any eventual civil legislation expressly prohibiting corporal punishment would fall more within the jurisdiction of the communities, which are in principle competent in matters of family policy, including all forms of aid and assistance to families and children. The communities are also competent in such matters as the protection of young people, including social and judicial protection (apart from the existing rules of the Civil Code on the status of minors and the family), loss of parental authority and supervision of family allowances or other social allowances.

⁶⁰ European Migration Network. Belgian contact point. Annual policy report. Policy report regarding asylum and migration, Belgium, p. 28.

⁶¹ Proposing the insertion in the Civil Code of an article 37*bis*: "All children are entitled to care, safety and a good education. They must be treated with respect for their person and their individuality and may not be subjected to degrading treatment or any form of physical or psychological violence".

⁶² Proposing a new paragraph in article 371 of the Civil Code: "Children have the right to a non-violent education. They may not be subjected to corporal punishment or other forms of physical or psychological violence".

⁶³ Proposing a new paragraph in article 371 of the Civil Code: "They shall not inflict any physical or psychological violence or any other form of humiliating treatment." This also applies to violence against parents.

⁶⁴ Identical to his earlier proposal introduced on 17 February 2006 under the previous legislature.

225. With regard to the prohibition of corporal punishment of children under criminal law, however, the Minister of Justice sent a ministerial circular to the country's different judicial bodies, reminding them that corporal punishment of children may, in some circumstances, constitute assault and/or degrading treatment, which are criminalized in articles 398 et seq. and 417 *quinquies* of the Criminal Code.

226. As regards communication among agencies intervening in cases of corporal punishment, the Federal Public Service for Justice and the *French and German-speaking Communities*, as well as the *Walloon Region*, signed a protocol in 2007 aimed at optimizing coordination between the medical and psycho-social sector and the justice sector in the interest of children confronted with violence. The protocol provides an intervention model rather than an exhaustive analysis of all the problems encountered or likely to be encountered and their solutions. The working group that drew up the protocol is currently arranging for it to be disseminated more widely among the agencies concerned.

227. The Federal Justice Service and the *Flemish Community* also signed an abuse protocol on 30 March 2010, which incorporates a *stappenplan* describing the ideal trajectory to be followed. The plan describes the different stages in an abuse case, distinguishing between abuse within the family (which is handled more by the social assistance sector) and that outside the family (handled mainly by the justice sector). The abuse protocol also provides tools designed to facilitate communication among concerned agencies and optimize their action with a view to taking better care of abused children.

228. With regard to sentencing, the criminal policy service has reliable statistics up to and including 2007. Slapping has not been expressly declared punishable under Belgian law, so it is not possible to provide accurate figures on it. The statistics also do not make a distinction between violence within and outside the family; both categories are therefore included in the figures. Subject to these nuances, the statistics on child abuse convictions can be seen in the table below.

229. The BUL columns in the table indicate the number of conviction bulletins and not the *number of persons convicted*, with the result that a person who has been convicted twice in the same year is counted twice. INT indicates the number of *internments*. A dash (“-”) in the space for the number of offences means that no figure was found in the service's database. This may mean that there were no convictions/internments or point to an error in the coding of such offences.

	2004		2005		2006	
	<i>Bul</i>	<i>Int</i>	<i>Bul</i>	<i>Int</i>	<i>Bul</i>	<i>Int</i>
Sexual abuse						
Indecent assault	526	42	498	32	427	37
Rape	368	24	316	24	312	25
Debauchery	74	1	83	4	64	3
Affront to public decency	137	3	141	19	112	11
Abuse						
Intentional assault	277	15	293	7	308	12
Deprivation of food or care	2	0	3	0	10	1
Mutilation of the genital organs of a female child	-	-	-	-	-	-
Neglect or exposure of a child	2	0	1	0	-	-
Child-care related crimes	8	0	4	0	5	0

8. Public awareness-raising and education measures

230. (a) *Awareness-raising measures* have targeted health professionals working in hospitals. Two pilot studies, in 2006 and 2007, considered the feasibility of recording incidents of conjugal violence in a representative sample of hospital emergency services. The experts' conclusion was that some specific questions should be included in the emergency services online recording system once it is operational. Multidisciplinary training activities designed to improve the detection, care and follow-up of victims of conjugal violence took place in 18 hospitals in 2008–2009. Some 500 people were trained and will be offered advanced training in 2010;

(b) A *public awareness-raising brochure* dealing with three major issues – child abuse, conjugal violence and older person abuse — was disseminated to emergency, paediatric, geriatric, gynaecological, obstetric and psychiatric services not only to encourage doctors and health-care personnel to detect cases of domestic violence but also to facilitate the care of victims;⁶⁵

(c) Another project on the problem of domestic violence, targeting general medical practitioners and comprising a guide to good practice, a training module and a recording system, will last several years;

(d) Pilot studies involving the collection and recording of domestic violence data in a sample of hospital emergency services were conducted over two *recording* periods in a representative sample of the country's hospitals. The reports are available on the website;

(e) Lastly, a *training* project for health *professionals* in hospitals was carried out to improve the detection, care and follow-up of victims of conjugal violence and violence against older persons and children.

9. Human trafficking

231. The Act of 10 August 2005 amending various legal provisions with a view to strengthening *efforts to combat human trafficking* and the practices of slum landlords (*Moniteur belge* of 2 September 2005) incorporated in the Belgian Criminal Code the specific criminalization of human trafficking (arts 433 *quinquies* to 433 *novies*). The constituent elements of this crime are the existence of an act (recruiting, housing, transporting or receiving a person) and a well-established goal of exploitation, namely, the exploitation of child prostitution or pornography, begging, the labour of persons working in conditions contrary to human dignity, organ removal and constraint to commit a crime or offence.

232. The mechanisms for monitoring the Act's application include oversight by judges, an independent annual report drawn up by the Centre for Equal Opportunities and Action against Racism (www.diversite.be) and the twice-yearly government report produced by the criminal policy service of the Federal Justice Service.

233. The federal Government adopted a *national plan of action* to combat human trafficking on 11 July 2008. The plan of action emphasizes the importance of an integrated approach to combating human trafficking and focuses on five areas: changes in laws and regulations, prevention, victim protection, search and prosecution and coordination and information-gathering.⁶⁶

⁶⁵ It is also available to all hospitals on the Federal Public Service for Health website: <http://www.health.belgium.be/Healthcare/Specialisedcare/Domesticviolence/index.htm?fodnlang=fr>.

⁶⁶ Available at: <http://dsb-spc.be> and www.diversite.be.

234. Three *specialized reception centres* for victims are responsible specifically for offering victims of human trafficking accommodation, where necessary, and medical, administrative, psychosocial and legal assistance.

IX. Article 11

1. The right to the continuous improvement of living conditions

235. In the European Union, a person is considered to be poor if he or she has an income equal to or lower than the poverty threshold, namely, 60 per cent of the median income in the country of residence. The amount of the poverty threshold differs from country to country. In Belgium in 2008, a single person earning less than 899 euros a month or a family with two children earning less than 1,888 euros a month would have been living below the poverty threshold and thus regarded as poor.

236. The **poverty threshold** is calculated by first calculating median income. Belgium has just over 10 million inhabitants or roughly 4.5 million (4,569,519) households. To calculate the median income, the standardized incomes of these households are classed from lowest to highest and the median income is that dividing the population exactly in two. The median income for a single person in Belgium in 2008 was 1,498 euros a month and the poverty threshold was 60 per cent of this amount: 899 euros per month.

237. Although Belgium already had a successful mechanism for ensuring a decent income, many new elements have been introduced in recent years.⁶⁷

238. In 2008, Belgium adopted a **federal anti-poverty plan** comprising 59 specific measures with regard to incomes, employment, health, housing and access to energy and public services. This plan also permitted the creation of a new instrument: the inter-federal poverty barometer designed to provide a more accurate picture of poverty in Belgium. The barometer is based on 15 indicators that measure poverty trends in Belgium and allow future action to be targeted more effectively.

239. Belgium is also distinctive in that every two years it publishes a **report** by the service to combat poverty, precarity and social exclusion, which works with actors on the ground to measure the effective exercise of fundamental rights with regard to poverty at federal, community and regional level.

240. Like all European Union member States, Belgium also has a national action plan for social inclusion and against poverty. Given that there has been no marked decrease in poverty in Belgium in recent years, the 2008–2010 plan is continuing to focus on the key challenges identified in 2006:

- (a) Activation and diversity: more workers from at-risk groups;
- (b) Decent, sustainable and affordable housing for all;
- (c) Combating child poverty: breaking the poverty cycle.

241. At the federal level, the most significant change was probably brought about by the Act on **the right to social integration**,⁶⁸ which entered into force on 1 October 2002, replacing the 1974 Act on a minimum livelihood.⁶⁹ The integration income is currently 483.86 euros for a person in shared accommodation and 725.79 euros for a person living

⁶⁷ All these elements can be consulted in detail at: <http://www.mi-is.be>.

⁶⁸ Act of 26 May 2002 on the right to social integration, *Moniteur belge* of 31 July 2002, p. 33610.

⁶⁹ For more details on this subject, see the third report of Belgium on the implementation of the International Covenant on Economic, Social and Cultural Rights.

alone, an increase of around 18.33 per cent over the integration income in effect four years ago.

242. Alongside the right to social integration, there is the **right to social assistance**, designed to enable everyone to live a decent life.⁷⁰ Such assistance is provided by public welfare centres, of which there is one per commune. The social assistance to be provided is designed not only to bridge some gaps related to life in society (palliative or curative assistance) but also to provide preventive assistance. It may consist of various types of assistance, ranging from material aid (financial assistance, assistance in kind) to non-material aid (legal or budgetary advice, help with administrative procedures, help in the form of employment). More specifically, centres must analyse a person's social situation and make a precise diagnosis of his or her assistance needs, with a view to providing assistance in the form most appropriate to the situation.

243. Although **illegal immigrants** can only claim emergency medical care (see observation 35), material assistance in a reception structure is provided to foreign minors residing illegally in Belgium with their parents.⁷¹

2. The right to adequate food

244. The national nutrition and health plan was launched in April 2006 as a follow-up to the findings of the survey on the Belgian population's food consumption, conducted in 2004 at the request of the federal Minister for Public Health. On 7 May 2009, the Federal Health Service launched a new campaign on reducing salt intake, to make the population aware of the risks of consuming too much salt. On 30 September 2009, a campaign was launched to promote breastfeeding in Belgium by reminding the public that it is the most natural way of feeding a baby.

245. Food is one of the *Flemish Community's* six health-promotion targets. The target was approved by the Flemish government in 2009 and reads as follows: "Achieving health benefits for the population by increasing the number of people who engage in sufficient physical activity, eat a balanced diet and maintain a healthy weight". To reach this target, the Flemish Community recognizes and subsidizes by multi-annual agreements or management agreements partner organizations such as *Eetexpert* and *Vlaams Instituut voor Gezondheidspromotie en Ziektepreventie*.

246. On 1 June 2004, the *German-speaking Community* established a health promotion advisory board with the following priorities: promoting health, combating obesity and addressing mental health issues.

3. The right to water

247. Belgium has ratified the 1999 Protocol on Water and Health to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention). The Parties will evaluate regularly the progress made in implementing the Protocol. In March 2010, Belgium submitted its first report on the measures taken to ensure access to safe water in sufficient quantities.⁷²

⁷⁰ Article 1 of the Act of 8 July 1976 organizing public welfare centres.

⁷¹ See art. 57(2)(2) of the Act of 8 July 1976 organizing public welfare centres, as replaced by article 22 of the Act of 27 December 2005, *Moniteur belge*, p. 57359, and the royal decree of 24 June 2004 establishing the conditions and procedures for the granting of material assistance to foreign minors living illegally in Belgium with their parents.

⁷² For more details, see: http://www.enece.org/env/water/Protocol_reports_pdf_web/Belgium_summary_report_en_fr.pdf

248. In recent years, the different regions have taken several initiatives to help people living in poverty or precarity pay their water bills, which are rising steadily as a result of the increase in sanitation costs. In the *Flemish Region*, some groups are exempted from paying supra-communal sanitation charges and partially or fully exempted from paying communal sanitation charges. In the *Walloon and Brussels Regions*, there is a social fund for water on which public welfare centres can draw if they decide to pay a water bill.

4. The right to adequate housing

National study on homeless or poorly housed persons

249. Neither Belgium nor Flanders has official statistics on the number of homeless persons. In 2007, 10,316 homeless persons received general welfare assistance. According to FEANTSA estimates, there were 17,000 homeless persons in 2003.

250. In Belgium, the European Union Statistics on Income and Living Conditions (EU-SILC) survey provides statistics on income and living conditions. Although the survey is based on population records, some population groups such as the homeless are not questioned. At the request of the service to combat poverty, precarity and social exclusion and as part of the AGORA federal research programme, the survey has been adapted and now includes 250 undocumented persons and 250 homeless persons.

5. Observation 34

Ensuring access to adequate and affordable housing

251. Different federal measures have been taken to give homeless people access to housing and social rights:

(a) Any homeless person moving into housing that will be his or her primary residence may claim an installation grant payable once in a person's lifetime. The grant, introduced by the Act of 23 August 2004,⁷³ is designed to enable the person to furnish and equip his or her new home;

(b) Any homeless person benefiting from an individualized social integration plan negotiated with a public welfare centre and, if possible, with an outside social organization that provides support and expertise may claim the integration income at the single-person rate. This measure, introduced by the Act of 26 October 2006,⁷⁴ is designed to encourage homeless persons to integrate in society and to help end their exclusion;

(c) The maximum period during which an increased subsidy equal to 100 per cent of the integration income can be granted by the federal State may be extended from one year to two when the integration income is paid to a homeless person who moves into permanent accommodation, the intention being to encourage the efforts made by public welfare centres to integrate homeless persons in society.

252. Other recent improvements include the granting of federal subsidies to public welfare centres⁷⁵ to help cover the cost of *paying rental guarantees*.⁷⁶

⁷³ Act of 26 October 2006 amending the Act organizing public welfare centres and extending the personal scope of the installation grant, *Moniteur belge*, 27 September 2004, p. 69308.

⁷⁴ Act of 26 May 2002, *Moniteur belge* of 30 March 2007, p. 18356.

⁷⁵ There is a public welfare centre in each commune.

⁷⁶ Royal decree of 18 June 2004 granting a subsidy to public welfare centres to help cover the costs of paying rental guarantees for persons unable to pay them, *Moniteur belge*, 16 July 2004, p. 55689.

253. Moreover, at the request of the interministerial conference on housing in 2006, joint rental commission pilot projects were launched in three Belgian cities. The three projects functioned differently, depending on the local situation and local opportunities, and pursued three objectives: to put in place an indicative grid for evaluating rental prices on the basis of various criteria, to promote mediation as a means of dispute settlement and to introduce a standard lease. The commissions functioned on the basis of a consultation model in which landlord and tenant representatives participated.

254. Since the right to housing and the right to human dignity may also be compromised by utility costs, the federal authorities have adopted a law entrusting public welfare centres with the task of *providing energy* supply guidance and financial assistance to the poorest people. The law is a response both to the need to address the consequences of liberalization of the gas and electricity market and to growing demands for financial assistance to cope with indebtedness. Implementation of the law, which allows public welfare centres to help people who are finding it difficult to pay their gas and electricity bills, has been made possible by the creation of a fund financed by an energy transportation tax.⁷⁷

255. To help low-income households meet their winter heating needs, the federal authorities decided to set up a social fund for heating oil,⁷⁸ which enables public welfare centres to provide heating allowances to households that fulfil certain conditions, thereby helping them to pay their heating bills.

256. An automatic procedure for obtaining subsidized gas and electricity rates is being put in place that will greatly increase the number of people actually benefiting from these rates. At the same time, it will be important to maintain a “paper” procedure for people for whom the automatic procedure is not effective.

Impact of social housing measures

257. The *Flemish* decree of 27 March 2009 on land and property policy sets ambitious, quantified, time-based targets for catching up with the demand for social housing to rent or buy and social housing building lots. Over the period 2009–2020, social housing supply should increase by 43,000 rental units, 21,000 units available for purchase and 1,000 building lots (plots of land in a social housing estate).

258. The rules on *rental social* housing are reproduced in the *Flemish* government decree of 12 October 2007.⁷⁹ Applicants must not only fulfil income and property ownership conditions but also demonstrate that they are prepared to learn Dutch and, in specific cases, to take steps to integrate in society. In allocating adapted social housing units, priority is given to applicants who are aged over 55 or have a disability. There are rules governing how rent is calculated, which include taking income into account.

259. The rules governing the *sale of social housing and social housing building lots* are reproduced in the *Flemish* government decree of 29 September 2006.⁸⁰ Income and property ownership conditions apply. In allocating adapted social housing units, priority is given to potential buyers who have a disability. There are rules governing the level at which

⁷⁷ Act of 4 September 2002 entrusting public welfare centres with the task of providing energy supply guidance and financial assistance to the poorest people, *Moniteur belge*, 29 December 2008, p. 68,701.

⁷⁸ 22 December 2008 programme Act, *Moniteur belge*, 29 December 2008, p. 68,701.

⁷⁹ Regulating rental social housing and enforcing title VII of the *Flemish* Housing Code.

⁸⁰ Decree on the conditions governing the transfer of real estate from the *Flemish* Housing Company and social housing associations pursuant to the *Flemish* Housing Code.

sale prices are set; price norms apply to social housing units offered for sale and social housing building lots.

Accessibility of habitable housing for persons with special needs

260. The following are actions taken by the *Flemish Community* in favour of families and single persons in need of housing:

(a) A *rental subsidy*, in the form of a contribution towards rent, is paid to tenants who move from unsuitable or substandard housing into adapted housing that is up to standard and tenants who rent through a social rental office. Income and property ownership conditions apply;

(b) An *adaptation grant* is paid for adapting a home to the physical condition of an older occupant. Income conditions apply;

(c) An *improvement grant* is paid for making improvements on a home that is at least 20 years old. Income conditions apply;

(d) A *housing renovation grant* is paid, in the form of a contribution towards the cost of the renovations, to the owners of a home that is at least 25 years old. Income and property ownership conditions apply.

261. *Brussels-Capital Region*: the legislation governing the removal and installation allowances and rental subsidies (ADIL) scheme was amended by government decree of 22 December 2004 and ministerial decree of 30 June 2005 to make such allowances payable quarterly and in advance. Generally speaking, the new legislation is more flexible and makes the ADIL scheme more accessible to low-income households. The income taken into account for calculating such allowances may be current income, as in the case of social housing.

262. The legislation organizing social real estate agencies (AIS) was amended by government decrees of 28 February 2008 and 4 September 2008 and by ministerial decrees of 4 November 2008 and 20 November 2008 mainly to make the AIS scheme more attractive, refinance the sector and simplify the scheme's administration and adapt it to the Housing Code. The sector currently manages a total of 2,487 housing units (situation as at 30 September 2009).

X. Article 12

1. National health policy and universal access to primary health care

263. The Belgian health-care system is organized mainly into *two levels*, federal and community/regional. The federal Government is responsible for regulating (organic laws) and funding compulsory sickness insurance, determining accreditation criteria, funding hospitals, legislating on professional qualifications and registering medicines and monitoring their prices. Community and regional governments are responsible, within their respective community or territory, for prevention, health promotion, maternal and child health, different aspects of older person care, implementation of hospital accreditation rules and funding of hospital investments. The holding of periodic interministerial health conferences ensures the coherence of health policy in Belgium.

264. *Compulsory health-care* insurance covers all paid-up members of an insurance scheme. In some very exceptional cases, an employee must complete a qualifying period in order to be eligible for health care. Members may join a scheme as primary beneficiaries (they qualify for health care either because of their work or because they are in receipt of a social allowance) or as dependents (they have a derived right to health care because they

are related to the primary beneficiary; for instance, parents or other cohabitants). In practice, the entire population of Belgium is covered by compulsory health-care insurance.

265. *Primary health care* is the foundation of the health-care system. The primary health care protocol concluded on 25 July 2001 between the federal Government and the communities and regions is designed to offer patients the most accessible and coherent care possible at the most appropriate level.

266. Belgium *sees the provision of universal, affordable quality health care* as one of its basic responsibilities.⁸¹ The percentage of GDP allocated to health care — 10.2 per cent in 2007 — speaks for itself.⁸² The most recent health survey (2008) organized by the Scientific Institute of Public Health provides a description of the population's health in Belgium and in the three regions (Flanders, Wallonia and Brussels-Capital). The survey's initial findings are already available online.⁸³

267. An Act on compensation for harm resulting from health care was published in the *Moniteur belge* of 2 April 2010. The Act offers patients who have suffered harm as a result of health care *the possibility of receiving compensation* from a medical accidents fund, without prejudice to the right of the victim or his/her representatives to claim compensation for the harm before the courts.

268. In the *Flemish Community*, the policy goal is to create the conditions for promoting, protecting and restoring the health and wellbeing of the Flemish population both now and in the future in order to achieve an optimum level of health and wellbeing for each citizen. The Flemish health-care agency, which is responsible for achieving this goal, is seeking to promote healthy lifestyle choices, prevent diseases, risk factors and complications, improve the performance of health-care facilities, adjust the supply of health-care facilities to the population's needs, provide accessible and affordable care and increase the active participation and appropriate treatment of health-care recipients.

269. In the *French Community*, two successive five-year health promotion plans have been introduced, the first for the period 1998–2003 and the second for 2004–2008.⁸⁴

270. The *Walloon Region* approves and subsidizes many outpatient assistance and care mechanisms, such as integrated health-care associations, and approves hospitals, rest homes and care homes. This also contributes to the quality of assistance and care provision.

271. The *French Community Commission* is developing a policy for health promotion in the Brussels-Capital Region, which involves not only ensuring a high volume of care provision but also developing conditions conducive to health. The projects receiving support are aimed at combating social exclusion and promote access to care for the most disadvantaged groups, support people's living environment and enable individuals to take responsibility for their own health. The Commission's medical care policy involves approving and subsidizing health-care institutions and agencies that prioritize health-care provision outside a hospital setting. This outpatient care policy relies on medical centres that provide centre-or home-based primary health care and on palliative and continuous care services that provide aid and assistance in the home or in non-hospital accommodation.

⁸¹ An updated version of the excellent series of health system profiles produced by the European Observatory on Health Systems and Policies will soon be available online: http://www.euro.who.int/observatory/HiTs/20020525_1.

⁸² OECD Health Data 2009.

⁸³ <http://www.iph.fgov.be/epidemie/epifir/index4.htm>.

⁸⁴ See Belgium's third periodic report, document E/C.12/BEL/3 of 21 September 2006. It should be noted that the second plan has been extended to 31 December 2011 to permit its evaluation: <http://www.sante.cfwb.be/thematiques/promotion-sante>.

272. The *German-speaking Community* has jurisdiction over health-care policy and health-care establishments (hospitals, retirement homes), health education and health promotion, and preventive medicine (preventive measures). The Community's health ministry is responsible for assisting, subsidizing and inspecting the different health services. It also plans and implements a number of public health campaigns. The bulk of its health budget is used to subsidize the two hospitals in the German-speaking territory.

2. Observation 35

Accessibility of health goods and services

273. It should be recalled that emergency medical assistance is universally guaranteed. Anyone residing legally or illegally in Belgium is entitled to receive emergency medical care. Doctors are responsible for certifying whether a person requires emergency care.⁸⁵

274. Any person who fulfils *all the criteria for eligibility for health care* is entitled to have all or part of his/her health-care costs covered by compulsory health-care insurance. All health services covered by such insurance are listed in a nomenclature. A similar nomenclature exists for reimbursable medicines.

275. Some categories of *disadvantaged or chronically ill persons* are entitled to increased insurance coverage of health-care costs (BIM or OMNIO status) or can benefit from certain measures such as third-party billing, the comprehensive medical record (DMG), maximum billing (MaF), chronic illness maximum billing or fixed rates, or a long-term care plan. These measures make health care more affordable for certain categories of socially disadvantaged persons.

276. In 2009, long-term care plans for the treatment and *monitoring of certain chronic illnesses* were designed and put into effect by royal decree of 21 January 2009 to encourage care cooperation between the patient, the general practitioner, the specialist and other caregivers by providing financial incentives for both doctors and patients. The decree introduced a long-term care plan for patients with chronic renal insufficiency (in effect since 1 June 2009) and patients with type 2 diabetes (in effect since 1 September 2009).

277. In the *Flemish Community*, the policy goal is to provide universally accessible, personalized, quality health care. Where access is unequal, additional efforts are made. Accessible health-care provision is an integral part of quality health care. The Flemish authority is implementing an inclusive policy, paying particular attention to the following groups: people living in poverty, ethnic and cultural minorities (all non-Flemish persons, refugees and travellers) and foreigners not belonging to the above groups who are in Belgium illegally and request assistance or the right to stay. In keeping with the relevant WHO recommendation, the Flemish Community is seeking to expand primary health care by encouraging, first and foremost, cooperation among primary-health-care providers. The Flemish government has adopted a decree in this regard,⁸⁶ which determines, inter alia, that care providers must make a special effort to optimize access to primary health care for disadvantaged persons. This means that health-care provision must also take account of human diversity, which is linked to different factors such as culture and economic status. Affirmative action may need to be envisaged to achieve such equality of opportunity.

278. On 13 March 2009, the *Flemish Community* adopted a decree on *home care (woonzorgdecreet)* that combines existing and new forms of home-based care, support for home care and supplementary care and also residential care for older persons. It advocates

⁸⁵ Act of 8 July 1976 organizing public welfare centres, *Moniteur belge*, 5 August 1976, p. 9876. See also under the heading "Economic and social rights of asylum seekers and their families".

⁸⁶ Decree of 3 March 2004 on primary health care and cooperation among care providers.

preserving the independence and autonomy of older persons and emphasizes accessibility of home care without discrimination on grounds of ideology, religion, belief or philosophical position.⁸⁷

279. To increase the *affordability of health care*, the Flemish government introduced a health-care insurance scheme (*Vlaamse zorgverzekering*) in 1999 designed to subsidize the non-medical costs of persons in need of care.⁸⁸ Since July 2007, new rules on the cost of staying in rest homes and rest and care homes have been in effect.⁸⁹ The primary goal of these rules is give Flemish residents greater financial protection and more transparency and clarity as to the amounts charged for their stay, the care received and the equipment for which they are billed. They also gain a clearer idea of the breakdown of daily costs and any additional elements for which they have been billed separately. Such financial protection for Flemish residents and their beneficiaries must be offered in all institutions. To this end, a number of principles are uniformly guaranteed by law (rules governing absence and death, deadlines for advance notice, guaranteed use, cessation of the written agreement).

280. By decree of 5 March 2009, the *French Community Commission* approves and funds centres for the coordination of home care and home-based services designed to enable anyone who is ill or disabled to live at home in dignity and freedom. Other services, such as home-help services, help people to stay in their homes or return home and provide, for as long as necessary, support and assistance with daily living for people living on their own, older persons, persons with disabilities, people who are ill and families in difficulties. These services enable beneficiaries to live better at home and gain and maintain their autonomy with the help of family, older person and household assistance, giving priority to those who need them most, namely, those who are most disadvantaged financially, physically, psychologically and socially.

281. In the *Walloon Region*, the decree of 30 April 2009 governs the approval and funding of centres for the coordination of home care and assistance designed to enable any person, without discrimination, to live at home with complete autonomy after a hospital stay or other life event. The coordination centre establishes the person's needs, draws up an assistance plan, supports the person and those around him/her and, where appropriate, recommends the person's transfer to a residential setting. It also acts as mediator in any disputes with health-care or assistance providers. It supports the primary-health-care system and works permanently with the person's general practitioner.

Provision of appropriate, quality training to health-care personnel

282. Since 1999, the Belgian Antibiotic Policy Coordination Committee (BAPCOC) has organized an annual publicity campaign on responsible antibiotic use. Between 1999 and 2006, outpatient use of antibiotics has declined by 36 per cent (number of packets consumed per 1,000 inhabitants per day). After increasing steadily from 1985 onwards, pneumococcal resistance to penicillin began to decline in 2000 and has continued to do so.

283. BAPCOC has also organized three campaigns to promote hand hygiene in hospitals. With each campaign, compliance with hand hygiene rules increases from 50 per cent before the campaign to 70 per cent after it.

284. In *Flanders*, a plan of action has been drawn up on the basis of the recommendations made in two studies on nosocomial infection control in hospitals and old people's homes.

⁸⁷ <http://www.zorg-en-gezondheid.be/DefaultFR.aspx?id=9212>.

⁸⁸ See also the answer under article 9: Universal social security coverage.

⁸⁹ Flemish government decision of 9 February 2007 and ministerial decree of 14 February 2007.

The plan envisages a whole range of initiatives, some of which have already started while others are planned for a later phase.⁹⁰

3. Maternal and child health care

285. In the *Flemish Community*, since 2007 newborns can be screened for 11 congenital metabolic diseases instead of three. Screening is carried out by recognized centres at no cost to parents. Moreover, some psychiatric hospitals have care units where mothers suffering from postpartum psychological problems (postpartum depression or psychosis) and in need of care can be hospitalized along with their babies (up to 12 months). Children's health care used to be subsidized by *Kind en Gezin* (2000–2006). Since 2007, it has been subsidized by the Flemish government. The intention is that, from 2010 onwards, these projects will be subsidized by the National Sickness and Disability Insurance Institute (INAMI).

286. In the *German-speaking Community*, the preventive health scheme *Dienst für Kind und Familie* (DKF), the equivalent of ONE and *Kind en Gezin*, is designed to ensure and monitor the healthy development of children. A prevention and early warning system for monitoring children's wellbeing and normal development permits the identification of families where early intervention is needed for both the child and the whole family. Prenatal visits and financial assistance ensure optimum monitoring in pregnancy, including prenatal insurance coverage.

4. Immunization programmes and other strategies for combating communicable diseases

287. Each year, the federal authorities draw up a basic immunization calendar. Thus far, only poliomyelitis vaccination is mandatory, but other vaccinations are strongly recommended (diphtheria, tetanus, whooping cough, measles, German measles, mumps, hepatitis B and illnesses caused by type b haemophilus influenzae, group C meningococcus and pneumococcus). It is up to each community to design its own immunization policy: choice of target groups, free immunization, choice of immunization providers, etc.

288. The INAMI insurance committee may nevertheless conclude agreements that are limited in time and/or scope and are intended to subsidize the cost of vaccines as part of national prevention programmes. Article 56 (2)(1)(4) of the coordinated Act of 14 July 1994 (as supplemented by the programme Act of 27 December 2006 which makes it possible for the federal authority's contribution to be paid in the form of advances and a final balance) provides the legal basis for the federal authority to subsidize national preventive immunization campaigns through INAMI.

289. Some vaccines, such as Gardasil and Cervarix (cervical cancer vaccines), come under the heading of reimbursable pharmaceutical services. Other types of vaccines subsidized by INAMI include flu vaccines. The health-care insurance scheme recently began to subsidize the cost of flu vaccinations for certain categories of persons; it also subsidizes other vaccines such as diphtheria, rotavirus, measles, German measles, mumps and pneumococcus. Some health insurance funds provide additional vaccine coverage under supplementary insurance.

290. In Flanders, all children are immunized systematically and free of charge under the basic immunization programme. All vaccines covered by the programme are made available to immunizers by the authorities. The level of immunization achieved by these

⁹⁰ For more information, see: <http://www.zorg-en-gezondheid.be/zorginfecties.aspx>.

means in analysed periodically and, where it is high, is effective in providing targeted immunity for the diseases in question. The latest analysis was made in 2008.⁹¹

291. The immunization programme in the *German-speaking Community* is based on the recommendations of the High Council for Health. DKF and the school medicine programme immunize infants and children aged 0 to 18 years according to the expert-approved vaccine scheme. Immunization rates are recorded annually by the school medicine services.

292. In the *French Community*, immunization rates for infants (18–24 months) are as follows:

<i>Disease</i>	<i>2003</i>	<i>2006</i>	<i>2009</i>
Polio	92.3	92.5	90.4
Diphtheria/Tetanus/Whooping cough	92.7	94.9	90.6
Measles	82.5	89.0	92.4

5. Alcohol, tobacco and drug policy

293. In January 2010, the interministerial conference on drugs adopted a joint declaration in which it affirmed the guiding principles of Belgian policy with regard to *illicit drugs, tobacco, alcohol and psychoactive medicines*. These principles opt clearly for a comprehensive, integrated policy that gives priority to prevention and to assisting persons with addiction problems.

294. The Act laying down general rules for the *prohibition of smoking* in indoor spaces accessible to the public and the protection of workers against tobacco smoke was published in 2009. A temporary exemption was nevertheless granted for partitioned bars. Help with giving up smoking is subsidized under the compulsory health-care insurance scheme and is aimed primarily at pregnant women and their partners.

295. In June 2008, health ministers adopted a joint declaration on future alcohol policy. Since December 2009, there has been a ban on selling, serving or offering any drink or product with an *alcohol* content of over 0.5 per cent to young people aged under 16.

296. The compulsory health-care insurance scheme plays an important role in Belgium in funding *assistance for illicit drug users*. There are a large number of health-care providers and structures to which any drug addict can go for help. For example, general practitioners, psychiatrists, psychologists, psychotherapists and mental health centres can offer care and general and psychiatric hospitals can provide residential treatment. The Federal Public Health Service is pursuing an innovative policy with regard to the care of people with substance-abuse problems, for instance by funding pilot projects.⁹²

297. The existence of different levels of authority explains the diverse nature of the provision and forms of care available to drug addicts: public health (hospitals), prevention of addiction problems (communities) and outpatient care (regions). The cost of the care offered to addicts by care providers and structures is borne by insured persons and, to a large extent, by health-care insurance.

298. There are also different types of *specialized rehabilitation centres* for drug addicts. These centres sometimes also cater for alcoholics. Most specialized drug treatment centres,

⁹¹ http://www.zorg-en-gezondheit.be/uploadedFiles/Nlsite/Preventie/Infectieziekten_en_vaccinaties/Vaccinaties/professionelen/vaccinatiegraad/VCOV_fulltekst_2009_02_06-text.pdf

⁹² www.health.fgov.be/drugs.

which are not recognized as hospital centres, are funded under rehabilitation agreements, which enable insurers to cover the cost of the rehabilitation programmes attended by addicts in these centres. INAMI has availed itself of the legal option of concluding agreements with rehabilitation establishments in order to finance (through insurers acting as payment funds) various drug treatment centres.

299. The treatment options offered by these centres can be of several types: long-term residential programmes, crisis residential centres, drop-in centres mainly offering group therapy and support centres mainly offering one-on-one therapy.

300. Prevention of addiction is one of the priorities of the *French Community's* five-year programme 2004–2008.

301. The *Flemish Community* has set six preventive health goals, of which the one in relation to alcohol, tobacco and drugs,⁹³ adopted by the Flemish government in 2009, is to improve public health by reducing tobacco, alcohol and drug use by 2015. In order to achieve it, the Flemish Community recognizes and subsidizes partner organizations (*Vereniging voor Alcohol en andere Drugproblemen, Vlaams Instituut voor Gezondheids promotie en Ziektepreventie*) by means of multi-year agreements or management agreements.⁹⁴ In 2009, the Flemish government adopted a plan of action to this end.

302. In the *German-speaking Community*, the goal is to prevent alcohol and tobacco abuse and the use of illicit drugs and other harmful substances, particularly among children and adolescents, to ensure the treatment and reintegration of drug addicts and to support their families. The non-profit association entrusted with preventing addiction in the *German-speaking Community* is the *Arbeitsgemeinschaft für Sucht und Lebensbewältigung*, which organizes information and awareness-raising activities in schools on the subject of legal and illegal drugs. It also organizes smoking-cessation classes for anyone who wants to give up smoking. The association is responsible for coordinating mutual support groups on addiction for the persons concerned and their families.

303. In the *French Community Commission*, the services that deal with addiction take a multidisciplinary approach to specific prevention, support or care activities for persons experiencing, or likely to experience, addiction problems and are also responsible for their social, family, school and occupational reintegration.

304. Through the adoption of the decree of 30 April 2009 on assistance and care networks and services specialized in addiction, the *Walloon Region* provided a legal basis for the outpatient sector that works with addicts. Addictions include not only the abuse of licit or illicit substances but also gambling. Both the addict and his or her family receive help in the form of risk reduction, outpatient care or psychosocial support both before and after residential treatment and even subsequently. Activities are organized within a network that includes all stakeholders and tailors activities to existing needs. These networks are organized on a territorial basis coordinated with that of mental health coordination platforms.

6. Prevention of HIV/AIDS and other sexually transmitted diseases

305. In order to respond as comprehensively as possible to the needs of AIDS patients at the various levels of medical care and support, agreements are also concluded between INAMI and AIDS referral centres. These agreements organize reimbursement of the

⁹³ <http://www.zorg-en-gezondheid.be/default.aspx?id=20616>.

⁹⁴ Legal basis: Flemish decree of 21 November 2003 on preventive health-care policy.

multidisciplinary rehabilitative guidance and medical and psychosocial support provided by the referral centres concerned to AIDS patients, HIV-infected persons and seronegative children of seropositive mothers. There are currently nine referral centres, in Antwerp, Brussels, Charleroi, Liège, Ghent and Leuven.

306. The *Flemish Community* recognizes and subsidizes by multi-annual agreements or management agreements partner organizations such as Sensoa and organizations on the ground (Institute of Tropical Medicine, Pasop, GHPRO, needle-exchange organizations) involved in the prevention of sexually transmitted diseases and AIDS and the promotion of sexual health. Different target groups are reached through these prevention organizations.

307. The *French Community* has developed a concerted strategy for STD/AIDS prevention. Different agencies put in place specific activities related to STD/AIDS prevention, health promotion, screening and care.

308. As regards the *French Community Commission*, family planning centres operate as non-hospital drop-in services where individuals, couples and families receive sexual and emotional support and information.

309. The *German-speaking Community* coordinates a group of different actors on the ground (school medicine service, street educators) to ensure that information and awareness-raising activities on sexually transmitted diseases, particularly HIV, are conducted in all the community's secondary schools.

310. Belgium welcomed the adoption of the ILO Recommendation concerning HIV and AIDS and the world of work (June 2010).

7. Ensure affordable access to essential drugs

311. Compulsory health-care insurance reimburses the cost of antiretroviral medicines for the treatment of AIDS (nucleoside/nucleotide reverse transcriptase inhibitors, non-nucleoside reverse transcriptase inhibitors, protease inhibitors and fusion inhibitors), subject to authorization by the consulting physician. Different measures have also been taken over the years to improve access to health care for chronically ill and low-income persons (BIM and OMNIO status, maximum billing, maximum billing for chronically ill persons, fixed rates for medicines for chronic diseases, the comprehensive medical record).

8. Psychiatric facilities and effective judicial control of confinement

312. Psychiatric facilities provide the full range of adult psychiatric care (severe depression, psychotic disorders, alcohol dependence, etc.). Persons suffering from serious psychological problems may be admitted to an approved psychiatric hospital. Multidisciplinary teams (psychiatrist, psychologist, ergotherapist, nurse, social worker) in one or more specialized services determine and provide the therapy most suited to the diagnosed problem.

313. In the mental health area, the authorities have invested heavily over the past six years in public education about anxiety, stress and sleep problems. In 2008, some 2,500 general practitioners and almost all pharmacists in Belgium were trained in the treatment and support of patients and customers faced with such problems. The message of the 2009 campaign on sleeping pills and tranquillizers was: "*Think before using sleeping pills and tranquillizers. Talk to your doctor or pharmacist*". The campaign was aimed primarily at non-users and recent users, in order to inform them about the potential risks of uncontrolled use and propose alternatives.

314. The *Flemish Community* pays particular attention to the prevention of depression and suicide. In 2007, the Flemish government adopted a plan of action to implement the

preventive health goal relating to suicide prevention. Over the preceding years, the Flemish Community had allocated considerable budgetary resources to making the expertise of mental health centres available to sectors contacted via outreach activities. The main aim of such outreach activities is to detect psychological problems as early as possible and to provide the most appropriate care available.

315. Mental health and wellbeing is one of the priorities of the *French Community's* five-year programme 2004–2008.

316. For now, the *German-speaking Community* has an acute psychiatric service in the St. Vith hospital. The establishment of psychiatric centres is at the planning stage. Persons suffering from severe mental disorders and in need of confinement and long-term monitoring are sent to Germany or the French Community. However, there is also a support service for people with psychiatric disorders who are living at home.

317. The *French Community Commission* funds and approves mental health services, which offer an initial consultation, analyse and channel beneficiaries' requests, make diagnoses and provide psychiatric, psychological, psychotherapeutic and psychosocial treatment for mental health problems with a view to enhancing the patient's psychological wellbeing in his/her customary environment. It also funds telephone-counselling services, which provide anonymous, confidential assistance to any caller who is in a state of crisis or psychological distress.

318. In 2009, the *Walloon Region* adopted a new decree on mental health services in order to improve the functioning of the support network for persons with mental health problems. The decree, dated 20 April 2009, introduced the recognition of mental health referral centres designed to support the actions of mental health professionals, either generally or specifically for targeted problems, such as the treatment of sex offenders or addicts. Following intensive consultations with the sector, a position of liaison officer was created. Such officers focus on the needs of users and, to this end, are responsible for coordinating care interventions, guaranteeing any decisions taken and supporting the entire process aimed at ensuring the person's autonomy. This outpatient function is especially important for the patient's care pathway and in some cases helps avoid hospitalization.

Effective judicial control of confinement

319. Article 7(1) of the Social Defence Act of 1 July 1967 concerning persons with abnormalities, habitual offenders and perpetrators of certain sexual offences stipulates that courts may order the confinement of a person accused of committing a crime or offence. The only exception concerns persons who have already been convicted, in which case the decision rests with the Minister of Justice but is subject to the approval of a social defence commission (art. 21), of which there is one in each psychiatric section. These commissions consist of a serving or honorary magistrate, who presides, a lawyer and a doctor (art. 12). They determine how confinement decisions are to be enforced (location and potential transfer) and when confined persons are to be released (arts 18 et seq.).⁹⁵

Environment and health

320. A *national plan of action* for environment and health (NEHAP 2009–2013) was adopted in December 2009 and focuses mainly on projects aimed at reducing the incidence of respiratory problems, especially in children. A campaign on indoor pollution was

⁹⁵ The Act will be amended by the Act of 21 April 2007 on the confinement of persons with mental disorders, which will enter into force on the date set by the King and by 1 January 2012 at the latest. Courts of enforcement will then take over the commissions' responsibilities.

launched on 22 September 2009 to not only draw public attention to the problem of indoor pollution but also, and above all, to propose different solutions or behaviours for reducing it.

321. The promotion of a healthy environment is one of the priorities of the *French Community's* five-year programme 2004–2008.

322. The *Walloon Region* supports the overall aims of environmental health advocates such as *Inter-Environnement Wallonie* and takes part in institutional and functional consultations on environmental issues when health mechanisms are on the agenda. Environmental health is also one of the three priorities of its most recent health plan.

XI. Article 13

1. Observation 36 Educational norms

323. Note should be taken of the introductory explanation of the constitutional provisions governing the distribution of responsibilities in Belgium.

324. The (sole) *residual* federal responsibilities with regard to education are established in article 127(1)(2)(a) and (b) of the Constitution:

(a) Determining the beginning and end of compulsory schooling and interpreting the minimum conditions for diplomas; supporting various educational institutions and activities;

(b) Linguistic rules:⁹⁶ procedures for language inspections in educational establishments located in regions and communes where there is a degree of bilingualism;

(c) Foreign university students: State payment of grants to the French and Flemish Communities to fund the university education of foreign students;

(d) Foreign nationals⁹⁷ may also be authorized by royal decree to practise as architects in Belgium;

(e) Coordination and application in Belgium of Directive 2005/36/EC of the European Parliament and the Council of Europe on the recognition of professional qualifications.⁹⁸

2. Education on economic, social and cultural rights

325. Since 1998, human rights education and respect for human rights, tolerance, gender equality and religious and ethnic minorities have formed part of the curriculum. The *German-speaking Community* has also amended its legislation on religious education to permit Orthodox, Muslim and Anglican religious education in schools.

326. Moreover, any school organized or subsidized by the *German-speaking Community* must fulfil an educational role entrusted to it by society, namely, the pursuit of the following general aims in all classes and other educational activities:⁹⁹

⁹⁶ Article 129(2) of the Constitution, Act of 30 July 1963 and implementing decrees.

⁹⁷ Other than nationals of European Union member States or other States parties to the Agreement on the European Economic Area.

⁹⁸ http://www.belspo.be/belspo/res/coord/act_cult/ctrl_ling_fr.stm.

- (a) All educational work must be based on the recognition of and respect for human rights;
- (b) All educational work must be based on the defence and illustration of the language and the promotion of culture and identity;
- (c) The school must encourage pupils' growing maturity by taking account of their personality and their need for self-realization, boosting their self-confidence and developing their autonomy. In so doing, it must take all cognitive, socio-affective, psychomotor and health aspects into consideration;
- (d) The school must take account of pupils' social and cultural origin, thereby promoting equality of opportunity;
- (e) The school must teach pupils to recognize that everyone else has the same right to self-realization and self-determination. Their relationships must be governed by the principles of justice, solidarity, tolerance and gender equality;
- (f) Pupils must be capable of assuming their shared responsibility and their duties in the organization of human relations within the family, at school, out of school, in their working lives, in society and in the State;
- (g) The school must teach pupils to respect others and to behave responsibly towards the environment and nature;
- (h) The school's mission is to develop in all pupils a sense of the common good and elementary democratic practices by arousing their interest in social, political, cultural and economic relations. It must prepare pupils to take an active and creative role in economic and working life;
- (i) The school must teach pupils to be open to culture and science and to respect the religious and ideological beliefs of others;
- (j) The school must teach pupils to be open to the world and promote European thought and multilingualism.

3. Primary education

327. In Belgium, the right to education is recognized in article 24 of the Constitution. All school-age minors domiciled or residing in Belgium **are required to attend school**, irrespective of their status.¹⁰⁰ Minors must attend school for a period of 12 years from the school year in which they reach the age of six to the end of the school year in which they reach the age of 18. They must attend school full time until the end of the school year falling in the calendar year in which they reach the age of 15. Full-time school attendance must include at least the first two years of full-time secondary education. In no case may full-time school attendance extend beyond the school year ending in the calendar year in which the minor reaches the age of 16.

328. The period of compulsory full-time school attendance is followed by a period of compulsory part-time attendance. This requirement is met by pursuing full-time secondary education, by attending school for fewer hours (education comprising fewer weeks per year or fewer periods per week than the number established for full-education education) or by pursuing a course of training (all the types of training referred to in article 4 of the 8 August

⁹⁹ Articles 5 to 10 of the decree of 31 August 1998 of the German-speaking Community on the role entrusted to school boards and staff and enacting general educational and organizational rules for ordinary and specialized schools.

¹⁰⁰ Act of 29 June 1983 on compulsory school attendance.

1980 special Act on institutional reform) recognized as fulfilling the requirements of compulsory school attendance. A minor who has successfully completed full-time secondary education is no longer subject to the obligation to attend school. Persons exercising parental authority or assuming legal or de facto custody of a minor who is required to attend school must ensure that he/she does so. A minor may also fulfil the school attendance requirement by being schooled at home, provided that such home schooling meets the conditions laid down by the Government.

329. Foreign *minors who immigrate* at the same time as the persons exercising parental authority or assuming legal or de facto custody of them are subject to the above provisions from the sixtieth day following that on which the above persons were entered on either the aliens' register or the population register of the commune where they are living.

330. The Communities also guarantee the right of all school-age children (aged six to 18 years) living in Belgium, including children living there illegally or whose parents are there illegally, to enrol in and attend school on a compulsory basis. As long as they are accompanying their parents or the person exercising parental authority, minors living in Belgium illegally are allowed to attend school. School heads also accept the enrolment of unaccompanied minors, in which case they ensure that the minor takes the necessary steps to be taken care of by an institution until parental authority can be exercised.

331. Community schools and subsidized free schools in the *German-speaking Community* are required to enrol any Belgian pupil who is domiciled or habitually resident in that Community or any foreign pupil who is domiciled or habitually resident in the Community and whose name is on the aliens' register, the waiting list or the population register of a commune of the German-speaking region. In subsidized formal education, schools are required to enrol any Belgian pupil domiciled or habitually resident in the commune or, if the school where the pupil wishes to enrol is the closest one, in a neighbouring commune. The same requirement applies in the case of a foreign pupil domiciled or habitually resident in the commune or, if the school where he/she wishes to enrol is the closest one, in a neighbouring commune, provided that the pupil's name is on the aliens' register, the waiting list or the population register of the commune in question.

332. All educational establishments in *Flanders* are required to enrol all Belgian or foreign pupils.

333. The Belgian Constitution provides that **access to education is free** up to the end of compulsory education. Government — funded or — subsidized nursery, primary and secondary education is not therefore subject to the payment of enrolment fees. In nursery and primary education, parents do not have to pay for school supplies and activities, which are essential for achieving and pursuing child development goals (basic curriculum).

Direct costs

334. Access to primary education in an educational establishment organized or subsidized by the Communities is free. There are thus no direct costs.

Indirect costs

335. In the *German-speaking Community*, the parliament draws up, at the government's proposal, a list of the educational services and materials for which schools may charge the persons responsible for the child's education. No more than the cost price of these educational services and materials may be charged.¹⁰¹ In some schools, a charge is made for

¹⁰¹ Article 32(2) of the abovementioned decree.

school outings, sports and cultural activities and meals. The government is currently working on the list of educational services and materials for which schools may charge (at no more than the cost price) those responsible for the child's education. This list will be restrictive, meaning that schools will not be able to charge for any services or materials not included on it.

336. In *Flanders*, a dual system of maximum costs, the "double maximum billing" scheme, has been in effect in nursery and primary education since 1 September 2008. This means, firstly, that activities such as cultural visits, sports activities and school day trips are subject to a strict maximum cost. Secondly, the school supplies that children are required to buy through the school (for instance, a compulsory magazine subscription) are also subject to this maximum billing. The maximum bill is 20 euros per year for nursery school pupils and 60 euros for primary school pupils. There is also a less strict maximum billing scheme for school trips lasting several days and taking place partly or wholly outside school hours (for instance, a trip to the seaside). This maximum is 360 euros for the entire primary education cycle.¹⁰²

337. In the *French Community*, the following are not provided free of charge: admission to swimming pools and cultural and sports activities, photocopying (maximum amounts set annually) and the loan of schoolbooks, personal equipment and tools in secondary education. Schools receive annual operating subsidies to cover their operating and equipment costs and the free distribution of textbooks and school supplies to pupils subject to compulsory school attendance.

4. Secondary education

338. Access to secondary education provided by an educational establishment organized or subsidized by the *German-speaking Community* is free.¹⁰³ The parliament draws up, at the government's proposal, a list of the educational services and materials for which schools may charge the persons responsible for the child's education. No more than the cost price may be charged for these educational services and materials.¹⁰⁴ The government is currently working on this list.

339. The government also provides educational allowances to secondary school pupils whose income and/or that of the persons providing their support does not exceed the government-established threshold. Belgian or foreign pupils fulfilling the requirements set by the government are entitled to these allowances.

340. Since 1999, the *German-speaking Community* has repeatedly amended its legislation on foreign students to ensure that more foreign students, including asylum seekers and those with refugee status, have access to schools organized or subsidized by the Community. It has also made it easier for foreign students to obtain educational allowances, at least for secondary and higher education.

341. In the *Flemish Community*, secondary school expenditures must be effective, demonstrable and justified and tailored to the needs of the students concerned. School rules

¹⁰² Given the limited length of this report, the way in which Flanders guarantees the right to education will be explained briefly. Only some general principles will be described, as well as some recent trends with regard to the financial implications for parents and students. Of course, there have been many more developments than these in the design and implementation of Flemish education policy over the past five years.

¹⁰³ Article 32(2) of the decree of 31 August 1998 on the role entrusted to school boards and staff and enacting general educational and organizational rules for ordinary and specialized schools.

¹⁰⁴ *Ibid.*

must stipulate the list of school costs, with possible exemptions for families with limited resources. Parents and pupils may give their views on these costs in advance through the school council. A payment timetable has been introduced, so that parents have an overall idea at the beginning of the school year of the maximum costs per category. The government also subsidizes pupils' public transport costs.

342. In 2007, the Flemish government amended its legislation on scholarships. The following innovations were introduced: the same income threshold for higher, secondary, primary and nursery education; extension of scholarships to nursery, primary and part-time vocational education; changed nationality conditions (not only Belgians are eligible for educational funding, but also pupils with a residence permit living in Belgium and pupils recognized as refugees). Since the 2008–2009 school year, primary school pupils have also been entitled to receive an allowance to cover school costs.

343. In the *French Community*, access to education is free during the period of compulsory school attendance and parents are not charged for anything. The scope of the principle of free education was defined by articles 100 to 102 of the decree of 24 July 1997 on the role of school boards and staff, as were the costs which parents may be required to pay in both elementary and secondary education. The costs not covered by this principle are admission to swimming pools, cultural and sports activities, photocopying (maximum amounts set annually) and the loan of schoolbooks, personal equipment and tools in secondary education. Schools receive annual operating subsidies to cover their operating and equipment costs and the free distribution of textbooks and school supplies to pupils subject to compulsory school attendance.

344. To permit the exercise of freedom of choice, a subsidy is provided towards the travel costs of pupils who do not find a school of their choice at a reasonable distance from their home.

345. If a child is doing well in school but the parents' income is insufficient to allow him/her to remain in school normally, he/she is entitled to material and financial assistance from the local authority (general principle set forth in the Act of 19 July 1971 on the granting of educational allowances and loans). A number of criteria or conditions are taken into account in determining eligibility for and the amount of such allowances.

Technical and vocational education

346. In the three Communities, there are four types of secondary education: general, technical, artistic and vocational. General education prepares pupils for higher education, vocational education prepares them for an occupation and technical education prepares them for either of these options. Secondary artistic education combines a broad general education with active artistic practice.

347. Pupils who have obtained a *technical diploma* may continue their studies or enter an occupation. If they continue, they not only receive a general education but also acquire technical theoretical knowledge and have an opportunity to put it into practice. They may attend either an advanced technical school (*haute école*) or a university. Vocational education also prepares pupils primarily for an occupation, but obtaining a diploma at the end of the seventh year of vocational education gives access to higher education (*Haute École* or university).

5. Higher education

348. The government of the *German-speaking Community* provides educational allowances to students in higher education when their income and/or that of those responsible for their support does not exceed the government-established threshold. Belgian

or foreign students fulfilling the requirements set by the government are entitled to these allowances.

349. Since 1999, the *German-speaking Community* has repeatedly amended its legislation on foreign students to ensure that more foreign students, including asylum seekers and those with refugee status, have access to educational establishments organized or subsidized by the Community. It has also made it easier for foreign students to obtain educational allowances, at least for secondary and higher education.

350. In the *French Community*, roughly one student in seven in higher education receives an educational allowance from the Walloon-Brussels Community. Starting in 2010–2011, such students will have free access to higher education in the Walloon-Brussels Community. The financial conditions governing eligibility for an educational allowance are based on the incomes of the persons financially responsible for the student(s).

351. There are also moderate-income students, whose income or that of their family only slightly exceeds the threshold for eligibility for an educational allowance. As of 2010–2011, the maximum fee that such students must pay each year for higher education is 374 euros, compared with 835 euros for other students, and this amount will not change for five years (at least until the 2014–2015 academic year). Also starting with the 2010–2011 academic year, the government will require all higher education establishments to make all compulsory course materials available to students, at least electronically, in order to give all students access to them. Until now, the cost of course materials could be included in the list of related costs for which additional fees could be charged.

352. In 2007, the Flemish government amended its legislation on scholarships (see above).

6. Literacy teaching, adult and continuing education

353. In the *German-speaking Community*, since 1988 the Cultural Action and Presence (*Kulturelle Aktion und Präsenz — AKP*) association has been organizing classes for adults to learn to read and write or improve their literacy skills. Schoolchildren, apprentices, students and workers can also take part in the lifelong education and training programme, which offers individuals lifelong access throughout Europe to a dynamic learning process.¹⁰⁵

354. The *French Community Commission* approves socio-professional integration agencies whose role is to help low-skilled adults train, acquire basic and/or job skills and also decide on a career path in order to find a job. Some of these agencies teach literacy. Under the 13 May 2004 decree on social cohesion, literacy teaching and French language learning for adults with little or no schooling has been a priority goal since 2006.

355. In the *French Community*, continuing education is a concept, an approach and a cultural and civic practice developed in a context of social engagement and designed to promote participatory democracy. The 17 July 2003 decree on social engagement in continuing education defines its objectives as follows:

- (a) Critical analysis of society;
- (b) Encouragement of democratic and collective initiatives;
- (c) Development of active citizenship;

¹⁰⁵ Comenius for schools, Erasmus for higher education, Leonardo da Vinci for vocational education and training and Grundtvig for adult education.

(d) Exercise of social, cultural, environmental and economic rights from a standpoint of equality and social progress, with a view to building a more just, democratic and solidary society.

356. More than 250 associations receive structural support for developing local, regional or community actions, distinguished both by the methods used and types of activity involved and by the populations targeted, particularly along the following lines: civic participation and education; training of cultural outreach workers, instructors and stakeholders; services (educational and cultural tools); analyses and studies; and information and awareness-raising. All these associations and their activities involve non-formal educational activities aimed at building individual and collective capacities, public awareness and active civic responsibility.

357. Regional and community governments (*French Community, Walloon Region and Brussels-Capital Region*) have been giving priority to *literacy teaching* since 2001. The mechanisms used for literacy teaching and adult education are very diverse, the main ones being implemented by the education for social advancement, continuing education, social action and socio-professional integration sectors. Public and private operators organize literacy classes supported by these different mechanisms, so that literacy teaching can be tailored to the needs of the very diverse target population: people who have not completed their basic schooling, people who have never attended school and people who do not speak French and cannot read or write in French. Of the latter, many attended school abroad and have to learn French as a foreign language. These mechanisms and other more specific ones also help support detection, prevention, awareness-raising and executive-training activities.

358. A cooperation agreement on this subject was concluded in February 2005 among the French Community of Belgium/Wallonia-Brussels, the Walloon Region and COCOF. Its aims are to:

(a) Reverse the trend towards an increase in the number of people who are functionally illiterate (defined by UNESCO as being unable to “engage in all those activities in which literacy is required for the effective functioning of his or her group and community and also for enabling him or her to continue to use reading, writing and calculation for his or her own and the community’s development”);

(b) Improve policy coordination in this area;

(c) Launch an ongoing process of consultation and cooperation among the different levels of authority concerned.

359. The cooperation agreement provided for the creation of a permanent steering committee on adult literacy bringing together the main authorities involved in literacy policy, as well as associations. Its role is to ensure policy coordination in this area. Since 2006, the steering committee has published an annual progress report on literacy in the French Community.

360. In **Flanders**, adult education is completely separate from any prior education and may lead to the award of a diploma, attestation or approved certificate. Adults aged under 18 and young people who have completed their compulsory schooling may register for adult education. Specific admission conditions may apply, depending on the class chosen. Adult education consists of three levels: elementary education, secondary education for adults and advanced vocational education. Elementary education centres are pluralistic and operate as non-profit associations. Adult education centres operate as either free or formal centres and offer secondary education for adults and advanced vocational education. The 13 adult education consortia became operational on 1 September 2008. These regional cooperation arrangements optimize and harmonize the education and training provided by

elementary education and adult education centres, which also cooperate with other public adult education bodies.

361. The Flemish public authorities put into operation in 2005 a *Geletterdheid* (literacy) strategic plan drawn up in consultation with many stakeholders. Its aim is to put literacy teaching on the agenda of many more areas than education. The Flemish authorities are directing the new approaches themselves through an interdepartmental steering group, while the actual work is being done in the framework of development projects and prioritizes intersectoral cooperation. Primary education is the main component.

7. Children belonging to minorities

362. In Belgium, the language of instruction is that of the linguistic territory. Thus, German is the language of instruction in all schools in the *German-speaking Community*, French is the language of instruction in French-speaking schools and Dutch is the language of instruction in Flemish schools.

363. In some primary schools in the *German-speaking Community*, however, French-speaking sections have been established to protect the minority of pupils who are French-speaking. Each commune also has an obligation to create within an elementary school nursery or primary sections in which French or Dutch is the language of instruction, when the following conditions are met:

(a) The persons responsible for the education of at least 15 nursery school pupils or 30 primary school pupils make a request to this effect, in which they certify that French or Dutch is the pupils' mother tongue;

(b) The pupils are domiciled or habitually resident in the commune and cannot find any education in their own language within a four-mile radius in the German-speaking Region.

364. Other authorities may create a nursery or primary section on the same conditions.

365. To facilitate the attendance and *integration* of pupils who do not speak the language of instruction, the *German-speaking Community* adopted a decree in 2001 on the schooling of newly arrived pupils, which permits the creation of reception classes. These are educational structures designed to optimize the reception, guidance and integration of newly arrived pupils in ordinary primary or secondary education. Their primary aim is to teach newly arrived pupils the language of instruction and to integrate them in daily life.

366. With regard to *children with disabilities*, in 2009 the *German-speaking Community* adopted a decree defining a pupil with special educational needs as one requiring specialized educational support, according to an individualized plan, in special and ordinary schools. Specialized educational support is designed to enable children with special needs and adjustment or learning difficulties to live, study and act autonomously as part of the community, while taking their individual capacities into account.

367. In the *French Community*, children aged between two and a half and 18 can benefit from a mechanism created by the decree of 14 June 2001 when they have been recognized as refugees or stateless persons or are nationals of certain developing countries and have been in the national territory for less than a year. Newly arrived pupils are placed in *reception classes* for a period of one week to six months, with a maximum of one year, during which they receive special assistance in adapting to the country's sociocultural and school system and finding the level and branch of education best suited to them.

368. The French Community has signed bilateral partnership charters on the organization of classes in the language and culture of origin (LCO) with representatives of countries with high levels of immigration to Belgium (Greece, Italy, Morocco, Portugal, Romania,

Spain and Turkey) as a means of contributing to the development of a democratic, solidary and pluralistic society that is open to other cultures. Two types of LCO class are offered:

(a) A class in the language of origin, taught only to pupils whose parents have requested it. This class is open to all pupils, regardless of origin, and may be attended by pupils from different schools. It comprises at least two periods, which are added to the weekly timetable;

(b) A class introducing pupils to other cultures, taught jointly by the LCO teacher and the primary or secondary school teacher and designed to develop, using the LCO teacher's first-hand knowledge of his or her culture of origin, educational activities on cultural diversity for pupils attending the classes in question.¹⁰⁶

8. Admission criteria for boys and girls

369. In theory, all schools are mixed, since a school may not turn away pupils on grounds of gender. Fields of study and forms of education are accessible to both boys and girls without exception.

9. Measures to reduce dropout rates in primary and secondary education

370. In the *German-speaking Community*:

(a) The teaching of German, the language of instruction, has been strengthened;

(b) The parental contribution to costs is relatively limited. Moreover, there is the possibility of obtaining educational allowances in secondary and higher education;

(c) Homework help is offered in schools;

(d) In 2001, the Community adopted a decree on the schooling of newly arrived pupils, which permits the creation of reception classes where they can learn the language of instruction and become integrated in daily life.

371. In the *French Community*, the mechanisms for combating violence in schools and preventing pupils from dropping out include school dropout services. These services receive and temporarily assist underage pupils:

(a) Who have been excluded from a school organized or subsidized by the French Community and cannot be re-enrolled in school;

(b) Who are enrolled in a school organized or subsidized by the French Community and are in a crisis situation in that school;

(c) Who are not attending school but have not actually been excluded from school.

372. The role of school dropout services is to provide social, educational and teaching assistance to dropouts by receiving them during the day and, where necessary, providing them with help and support in their home environment. The assistance that dropouts receive is designed to help them improve the way in which they develop and learn. The purpose of each referral is to reintegrate dropouts as soon as possible and in the best way possible in a school structure or a training structure approved as part of compulsory schooling. In addition:

(a) The teaching of French, the language of instruction, has been strengthened;

¹⁰⁶ A new decree on the integration of children with disabilities in the French Community was adopted on 5 February 2009.

- (b) The number of primary school teachers has been increased;
- (c) Changes have been made to the first two years of secondary education and the way in which they are organized for pupils experiencing difficulties at school;
- (d) Schools are being funded differently;
- (e) The parental contribution to costs is relatively limited. Moreover, there is the possibility of obtaining educational allowances in secondary and higher education;
- (f) Homework help is offered in schools (or out of school);
- (g) The ministry of education has a department responsible for funding and assisting schools and monitoring compulsory school attendance;
- (h) In 2001, the French Community adopted a decree on the schooling of newly arrived pupils, which permits the creation of reception classes where they can learn the language of instruction and become integrated in daily life.

373. In the *Flemish Community*, the decree on equal educational opportunities has three main lines of action:

- (a) Right to enrolment: all pupils have the right to enrol in the school of their choice (parental choice). In a very small number of cases, a school may reject an enrolment application or transfer a newly enrolled pupil to another school;
- (b) Creation of local consultation mechanisms to safeguard, inter alia, the right of enrolment and cooperate in implementing a local policy of equal educational opportunities;
- (c) Additional support for the provision of increased in-school help, in the form of additional class time or a teacher working overtime.

374. Young truants reduce their chances of successfully completing their school career and obtaining a school-leaver's qualification. Truancy also makes it difficult for a school to function properly. Moreover, truants are often pupils who are socially immature and/or have difficulties in school and it is precisely these pupils who are most in need of a diploma. The comprehensive plan of action against truancy is designed to tackle this lack of equal opportunity. Truancy is a problem for which not only young people and parents but also schools and pupil guidance centres share responsibility. Many non-educational stakeholders, such as welfare services, the medical sector, local authorities, the judicial system and the police, can also play their part. The plan of action includes an ongoing public awareness and information programme on preventive and oversight measures, which may extend to penalties.¹⁰⁷

XII. Article 15

1. Observation 37

Framework Convention for the Protection of National Minorities

375. The Belgian federal Government signed the Council of Europe Framework Convention for the Protection of National Minorities on 31 July 2001 as part of a broader Community commitment (Lambermont Agreement).

¹⁰⁷ Basic information on truancy, the anti-truancy action plan and the role of the different stakeholders can be found at: www.od.vlaanderen.be/leerplicht.

376. Since the Framework Convention is a joint Convention, all federate entities must indicate their agreement by signing and ratifying it. The Flemish government had said that it was only willing to sign with the reservation that, given the institutional imbalances in the federal State and in linguistic legislation, neither Dutch — speakers nor French — speakers could be considered a national minority. Both Communities must be considered dominant in their own linguistic region and a minority in the other region, but equally dominant in federal structures and in the Brussels bilingual region.

377. The Flemish government's latest agreement of 2009 contains a formal statement that it will not ratify the Framework Convention. It considers this reservation to have nothing to do with the spirit of the Convention but everything to do with its potential impact on Community relations in the country. Belgium's current institutional organization and linguistic legislation are the result of a historical compromise. Various mechanisms for the protection of minorities have already been incorporated into the structure of the Belgian State, such as particular majorities, the warning procedure and parity within the federal Government and the Brussels government. As the constitutionalists point out, there is a fear that ratification without reservation or nuance might threaten the equilibria and complex, balanced agreements that exist between the linguistic communities.

2. Universal participation in and access to cultural life

378. The *German-speaking Community* has jurisdiction over cultural affairs in the German-speaking region, comprising nine communes situated in the east of the country. Organizations subsidized by the Community must guarantee the public and users of their infrastructures access to their activities without any discrimination on ideological grounds. Creative workshops allow anyone to take an active part in many creative cultural or craft activities. The decree of 16 December 2003 on the promotion of creative workshops sets the minimum number of creative events on offer at 75 per cent of all activities, the remaining activities being required to meet unmet sociocultural needs. The Community also encourages international artistic exchanges, thereby contributing to dissemination and knowledge of other cultures.

379. The cultural policy of the *French Community Commission* is in line with the major policy options defined by the French Community. It is attentive to the expression of the cultural diversity existing in Brussels and the concern to promote access to culture for as many people as possible by supporting initiatives to this end.

380. *Flemish cultural policy* is based on two main principles: the production of culture and participation in culture. Flanders subsidizes professional artistic production generously and invests in a forward-looking cultural heritage policy. Moreover, a substantial part of its culture budget is allocated to sociocultural work with young people and adults and to local cultural policy. In artistic and cultural heritage policy, priority is given to artistic production, even though new criteria have been added to the rules to promote cultural provision and improve access to it. Sociocultural work is aimed primarily at civil society and public participation in social life and in a wide range of cultural activities. It is therefore essential that work with young people be culturally rich. The aim of local cultural policy is to forge a closer cultural link with the public's living environment. It is therefore participatory in essence.

381. Research has shown that Flanders is within the European average for participation in artistic and cultural activities. The Flemish authorities have found that participation rates are markedly lower among some groups in society. The main obstacles to participation are family situation, educational level, size of the social network, time constraints, economic situation and physical distance from the culture on offer. There can be said to be a lack of participation by less privileged groups not only in the cultural sector but also in the charitable and administrative sectors. In recent years, the authorities have invited the

sector's subsidized members to reflect on the issue of diversity, particularly interculturalism. This has resulted in the development of a vision, a process of reflection and various initiatives. So far, however, relatively few organizations have incorporated diversity-related activities. Accordingly, in 2009 the sector was invited to formulate its own specific diversity goals and to undertake a structural self-evaluation in order to strengthen its capacity to learn and thus assume fully its shared responsibility for the diversity policy pursued. Aside from the priority given to interculturalism, Flemish cultural policy devotes attention to poor people, gender issues, prisoner participation and the accessibility of cultural infrastructure to persons with disabilities. Special attention is also paid to families with children.

382. Cultural participation is closely linked to cultural competence, which is developed at home, at school, in social relations and in the working environment. The Flemish authorities attach great importance to developing such competence and to this end are designing new cultural education initiatives in cooperation with the subsidized cultural sector and with other involved sectors, particularly education and training.

383. The promotion of universal access to and participation in cultural life is the central focus of cultural administration in the French Community and has been the object of numerous measures over recent years:

(a) *Launching of culture/sport vouchers* on 1 July 2006: culture/sport vouchers are given by companies to their workers or managers and enable them to take part in sports and cultural activities or events. They are regarded as tax-exempt social benefits, provided that they fulfil a number of conditions;

(b) Adoption in April 2006 of the *Code of respect for culture users*, which lays down the rules with which operators must comply. The Code was designed as a means of improving both the protection and the comfort of culture users (comprehensive information, clear prices, procedure in the event of cancellation, etc.);

(c) *Free admission to museums* on Sundays, and year-round to school groups and youth associations;

(d) Adoption in October 2007 of the Plan for the preservation and enjoyment of cultural heritage (*Pep's Plan*). This is a plan for digitizing the culture and heritage collections held in museums, archives, libraries and audiovisual institutions in the French Community (see www.numeriques.be). One of the Plan's aims is to make this heritage accessible, via a common access portal that is currently in development, not only to as many people as possible but also to education networks, using the tools of information and communication technology (ICT). The general delegation for the digitization of cultural heritage is responsible for the Plan's implementation. The importance of the digitization of cultural heritage for meeting the goals of cultural diversity and "culture for all" is reiterated in the policy statement of the present government of the French Community.

Access to the cultural heritage of mankind, including through new technologies

384. Access to culture has been significantly improved with regard to media that can be borrowed and consulted offline: the *German-speaking Community's* virtual media library (www.mediadg.be) acquired a central catalogue in 2003. In terms of both its collections and its members, which it has federated into a network, the media library is geared primarily to the German-speaking population. Users can search its collections via the Internet on their personal computers, order or reserve the media they want and pick them up at a public library/media library of their choice.

Participation of children

385. The 28 June 1988 decree of the *German-speaking Community* governing the approval and subsidizing of amateur arts companies is designed to promote broad public participation in the performing arts, support charitable cultural societies and, in particular, encourage young people to become involved in the arts. The Community also supports cultural initiatives and events explicitly aimed at a young audience. The aim of such measures is to develop young people's sense of cultural identity, as well as to encourage them to participate in social life and become involved in cultural activities.

Participation of older persons and persons with disabilities

386. To receive a subsidy from the *German-speaking Community*, cultural infrastructure projects must meet, inter alia, disabled access requirements (infrastructure decree of 18 March 2002).

387. Under the *French Community* decree on continuing education associations, the aims of which are described in the answers under article 13, *support* is given to *many associations* devoted to broadening the participation of low-income persons in cultural life, both through existing activities and through the development of public cultural activities led and organized by such persons: cultural expression, creative activity and demands for rights. One non-profit association (art. 27) has undertaken to organize a system of reduced-price access to the cultural and artistic activities of low-income persons. The association has created a network for the entire French Community, linking up social agencies with cultural workers and operators. Many of the accredited associations were set up and are run by persons with disabilities, persons living in poverty and persons or communities of foreign origin. All of them aim to give a public voice and place to such persons and social groups and to link them up with other cultural operators and audiences.

388. In its policy statement, the government of the French Community gives priority to expanding social, generational and financial access to culture. Access to culture does not refer only to cultural "consumption" but also to artistic and civic practices and actions by professionals and non-professionals, young people and adults from all individual and collective walks of life. To achieve this goal, the government plans to develop the following areas and measures:

(a) Increasing *public participation and bringing culture* closer to the public; finding solutions adapted to audiences and their environments, for instance rural areas, based on the map of cultural infrastructure produced by the cultural policy observatory;

(b) Involving the public in creative practice from the earliest possible age and *throughout life*;

(c) Involving cultural operators in expanding the *policy of offering reduced prices* for low-income users and families. To this end, the government will evaluate existing mechanisms for cultural accessibility and democratization with a view to their optimization (art. 27);

(d) Increasing access to culture for *persons with disabilities*: increased accessibility of cultural infrastructures and introduction of the use of sign language or subtitles in cultural programming.

3. Protection, development, expression and dissemination of cultural diversity

389. The *German-speaking population* is a minority in Belgium but a majority in the nine communes of the German-speaking region. Several decrees of the *German-speaking Community* concern the defence and illustration of the German language:

- (a) Decree of 21 December 1987 promoting the proper use of High German in schools;
- (b) Decree of 26 October 1998 on the introduction of the new German spelling system;
- (c) Decree of 10 May 1999 on the names of public thoroughfares;
- (d) Decree of 19 April 2004 on the transmission of linguistic knowledge and the use of languages in education.

390. The parliament of the *German-speaking Community* also awards annual prizes designed to promote use of the German language, dissemination of the region's literature and knowledge of the German-speaking region.¹⁰⁸ Lastly, a mechanism for the promotion of cultural activities is provided for the French-speaking minorities living in the communes of the German-speaking region.¹⁰⁹

391. Concerning support for cultural diversity, the *French Community emphasizes*:

- (a) The leading role played by the *French Community* in the adoption of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions;
- (b) Various grants and prizes for supporting young creative artists in several sectors;
- (c) The creation and funding of the Plasma (contemporary music sound platform) and Diagonale (art cinemas) networks, each of which brings together around a dozen operators in Brussels and Wallonia;
- (d) Increased support for urban arts (hip hop, slam, etc.);
- (e) The introduction of quality labels for bookshops (49 qualifying bookshops so far in Brussels and Wallonia);
- (f) The introduction of support for independent CD production, digital creative work, experimental cinema, and fairground, circus and street arts;
- (g) The foregrounding of literature for young people (creation and award of prizes, grants and residencies for authors and illustrators);
- (h) The introduction of recognition devices to make museums operate more professionally;
- (i) The decree on centres of expression and creativity and on amateur artistic practices;
- (j) In addition to the decree on continuing education, the development of specific programmes to encourage the emergence of cultural associations reflecting cultural diversity and thus the cultural expression and participation of the groups and communities concerned, and to increase their impact throughout the cultural and associative landscape;
- (k) The existence, within the French Community's cultural administration, of nearly 30 advisory boards and committees composed primarily of culture professionals. These play a vital role in advising on the orientation of cultural policy in the French

¹⁰⁸ Decree of 19 December 1988 on the award of the Prize of the Parliament of the German-speaking Community.

¹⁰⁹ Article 55 of the Act of 31 December 1983 on institutional reforms in the German-speaking Community.

Community and on the projects and programmes put forward by cultural operators. This mechanism provides greater guarantees for the exercise of democratic, transparent public action that respects cultural diversity.

4. School and vocational education in the field of culture and the arts

392. In the *German-speaking Community*, music and art classes are compulsory in primary education and up to the second year of secondary education.¹¹⁰ Some schools offer an applied arts section. The Community's music academy, organized in the form of an intercommunal association, offers music, theatre and dance classes.¹¹¹ It has some 1,200 pupils of all ages.

393. School is the place where each citizen has the opportunity to learn and participate in the language of culture, which is why the *French Community* supports the presence of culture in schools:

(a) A culture-education unit has been established in the French Community's culture ministry, responsible for initiating and facilitating synergies between the worlds of education and culture in the Community through the application of the decree on culture and schools, the implementation of activities that it manages directly, the production of various publications and the permanent updating of its website (www.culture-enseignement.cfwb.be), on which all its activities are described;

(b) The *decree on culture and schools*,¹¹² adopted on 24 March 2006, is designed to support cultural and artistic activities in schools (compulsory and special education). It identifies four areas of activity: lasting collaborations between a school, a cultural operator and/or a partner school; one-off collaborations between a school and a cultural operator; collaborations in the framework of mechanisms developed and implemented by the French Community; and special partnerships.

5. Access to scientific and technological progress

394. In schools in the *German-speaking Community*, classrooms are equipped with computers and Internet access, giving all pupils and teachers access to knowledge and information. The Media Centre, a public media library, provides affordable Internet access. Everyone has access to it and can borrow books, CDs and DVDs.

395. In Flanders, scientific communication has been considered an essential part of overall science and technology policy since 1993. Flemish scientific communication policy not only seeks to disseminate science to non-scientists in order to expand scientific knowledge but also actively encourages a genuine interactive dialogue on scientific issues between civil society and the scientific community. It is essential to improve communication and increase participation by all citizens in this dialogue. Bridging the technology gap and the knowledge gap is also essential for combating social exclusion, while encouraging a public debate on the use of scientific applications is considered vital for the democratic process. Flemish scientific policy seeks to achieve these aims through cooperation with different interested parties, such as universities, research centres, non-profit organizations and the Technopolis science park, and by regularly publishing an appeal for proposals for scientific information projects. Universities and higher education

¹¹⁰ Decree of 16 June 2008 establishing macro-skills and skills frameworks in education.

¹¹¹ Decree of 23 March 2009 introducing a reduced artistic education timetable.

¹¹² Decree on the implementation, promotion and strengthening of cooperation between culture and education.

establishments have set up special expertise units to coordinate their scientific communication efforts.

396. Several measures have been taken in the *French Community* to enable everyone to benefit from scientific progress and its applications: greater appreciation of literary heritage (website, etc); development of cultural information (including the launching of the www.culture.be and www.plurio.net websites); and ongoing action to safeguard, digitize and upgrade archives.

397. The French Community government is also committed to:

(a) Continuing, in consultation with the relevant authorities, its efforts to bridge the digital divide, given that a large proportion of emerging cultures are accessible via the Internet. Universal, low-cost access to information and communication technology (ICT) must be guaranteed, using public libraries to start with;

(b) Increasing support for digital culture;

(c) Promoting the funding, development and use of innovative digital tools or procedures in artistic, cultural, audiovisual or multimedia projects;

(d) Continuing the digitization of cultural heritage;

(e) Supporting spaces for creation and dissemination that are open to new forms of expression.

6. Measures to ensure the effective protection of the moral and material interests of authors

Copyright

398. Article 1(2) of the Act of 30 June 1994 on copyright and associated rights stipulates that the author of a literary or artistic work has an inalienable moral right to it. This includes the right to disseminate it, the right to claim or to deny authorship of it and the right to have it respected so that he or she can oppose any changes to it.

Protection of the basic material interests of authors

399. The copyright Act confers ownership rights on authors, allowing holders of the rights to a literary or artistic work to earn income from it. The main ownership rights are the exclusive rights of reproduction and of communication to the public (art. 1(1)). In addition to these rights, the Act also confers remuneration rights. In such cases, copyright holders cannot prohibit a certain type of use of their work, but are entitled to remuneration in return. Remuneration for a private copy (arts 55 to 58) and remuneration for reproduction (arts 59 to 61) are examples of this kind of prerogative.

Protection of the moral and material interests of indigenous peoples

400. Creators of works related to their cultural heritage and/or traditional know-how are protected by copyright and can therefore exercise the moral and ownership rights conferred by it, provided that their creations fulfil the general criterion for copyright protection, namely, originality.

Striking an adequate balance between the need to ensure the effective protection of the moral and material interests of authors and the State party's obligations in relation to other rights recognized by the Covenant

401. The copyright Act provides for various exceptions to exclusive copyright (arts 21, 22 and 46) in order to strike a balance between authors' interests and the general interest.

Article 21 provides, inter alia, for various exceptions in favour of education and/or scientific research and in favour of libraries, museums and archives.

402. In its policy statement, the *French Community* government affirms that it will take steps to increase its support for the status of artists and the creation and visibility of artists and their work. In particular, it will continue to enhance the social and financial status of artists, in consultation with the federal Government, in order to create conditions conducive to artistic and cultural activity. Lastly, although this is also a matter of federal legislation, it will protect authors' rights and the integrity of any of their works that are put into circulation, including on new media.

7. Freedom of scientific research and creative activity

403. This issue is regulated in the *German-speaking Community* by the decree of 6 June 1988 on the award of subsidies and grants for advanced training classes and courses and for scientific research projects. Scientific research is free and is covered by freedom of expression, which is protected by the European Convention for the Protection of Human Rights and Fundamental Freedoms (art. 10). However, the Community awards subsidies and grants, as a matter of priority, only in response to applications from which it may benefit (arts 2(2), 3(2) and 4(2) of the decree). Creative activity is a form of freedom of expression protected by article 10 of the European Convention.

404. In the Flemish legislation on scientific funding, freedom of scientific research is not explicitly guaranteed or even mentioned. Neither is there any mention of any restriction on the exercise of this freedom. Generally speaking, scientific funding is characterized by a bottom-up approach: it is the scientist who takes the initiative of proposing a project on a subject that interests him/her. Accordingly, there is no restriction on the exercise of the freedom to choose any subject or methodology. Apart from scientific funding, research is paid for directly by universities. There too, the law does not stipulate the kind of research to be conducted.

8. Conservation, development and (international) dissemination of science and culture

405. The *German-speaking Community* is a participant in the Global Learning and Observation to Benefit the Environment (GLOBE) programme, an international environmental science programme for primary and secondary school students, sponsored by NASA and the National Science Foundation (NSF). The Community is also working with the German *land* of Brandenburg under the SINUS programme, which is designed to help teachers and headteachers develop primary school mathematics and science courses. The decree of 16 June 2008 establishing macro-skills and skills frameworks in education includes a "science/technology" skills framework. In the cultural sphere, the Community imposes the principle of cultural exchange in the public law contracts on subsidies that it concludes with professional cultural organizations. There are also a multitude of cultural cooperation agreements in the cultural affairs area.

406. The Flemish government is currently investing in a knowledge — and innovation — based economy: the "Flanders in action" project (www.flandersinaction.be). One of the main aims of this project is to improve access to information on scientific research. Information on the aims, progress and results of current research is extremely important for centres of knowledge and universities, as well as for the governments that fund them. Only if they are well informed can governments develop an appropriate and effective research policy. The Flemish government is convinced that all interested parties stand to benefit from a good system of information-gathering and information-sharing on research. It was for this reason that it set up the Flanders Research Information Space (FRIS), which will increase the international competitiveness of the Flemish region.

407. The FRIS programme is developing a simple, transparent and open information space where all information on scientific research in Flanders is available, making it easier for innovators to find good ideas and good experts and creating more synergies in the innovation chain. Knowledge producers in Flanders are becoming more visible, increasing the visibility of Flanders in the international knowledge landscape. More specifically, all information on research projects being carried out in Flemish universities is available on the FRIS research portal (www.researchportal.be), using the CERIF data model. In this way, the portal envisages the inclusion of knowledge networks in particular research areas.

408. Since 1 January 2009, *Wallonia-Brussels International (WBI)* has been the international policy instrument used by the French Community, the Walloon Region and the French Community Commission of the Brussels-Capital Region. Its action fits into the framework of bilateral relations designed, inter alia, to support the creative workers (cultural workers, entrepreneurs) of Wallonia and Brussels. WBI multilateral action allows the federate entities concerned to be represented in various bodies and to take part in specific European, French-speaking or international projects and programmes. WBI has also set up a network abroad, composed of delegates, economic and commercial attachés and coordinators and supported by the 17 Wallonia-Brussels delegations.

409. Specialized subsidiaries, for their part, are active in such areas as audiovisual production, music, theatre and youth exchanges:

(a) “*Wallonie-Bruxelles Images*”: the official agency for the promotion of audiovisual exports;

(b) “*Wallonie-Bruxelles Musiques*”: an agency created to help French Community performers, producers and publishers export their work and integrate in sectors of the musical culture industry internationally;

(c) “*Wallonie-Bruxelles Théâtre Danse*”: a performing arts information and promotion agency designed to help raise international awareness of the French Community’s creative output in theatre and choreography;

(d) “*Wallonie-Bruxelles Design Mode*”: an agency designed to promote and foreground the skills and expertise of French Community designers and stylists by organizing international activities and advising on and supporting their efforts to export their creations;

(e) “*Bureau International de la Jeunesse*”: the service responsible for managing and implementing youth exchange programmes.