



**Convention on the
Rights of the Child**

Distr.: General
27 April 2010
English
Original: French

Committee on the Rights of the Child

Fifty-fourth session

25 May–11 June 2010

**Written replies by the Government of Belgium to
the list of issues (CRC/C/BEL/Q/3-4) prepared by
the Committee on the Rights of the Child in
connection with the consideration of the third and
fourth periodic reports of Belgium
(CRC/C/BEL/3-4)**

[Received on 20 April 2010]

Part I

1. Reply to paragraph 1 of the list of issues (CRC/C/BEL/Q/3-4)

Government of the German-language Community

1. The German-language Community has no specific action plan for children. However, it has prepared a programme of general measures for the 2005–2009 legislature and is also preparing a new programme for the 2009–2014 legislature entitled “Plan of Regional Development for the German-language Community”. Both of these programmes include measures pertaining to children.
2. The Ministry provides a mechanism to monitor implementation of these two sets of measures.
3. See annex 1 for a catalogue in German of measures taken between 2004 and 2009. These include the following measures which have a direct bearing on the rights of the child: Nos. 1, 4, 5, 6, 11, 12, 16, 18, 21, 23, 27, 28, 31, 35, 60, 61, 62, 63, 70, 72, 82, 83, 84, 100, 101, 102, 110, 115, 116, 117, 118, 123, 124, 131, 132 and 147. This catalogue is also available online at: <http://www.dglive.be/desktopdefault.aspx/tabid-261/>.
4. The document entitled “Plan for Regional Development for the German-language Community” is in French and provides much information, including statistics, on the German-speaking Community. This document may be found on the German-language Community website at: http://www.dglive.be/PortalData/2/Resources/downloads/divers/rek_voralberg/Rek2F-AKfinal.pdf.
5. A document detailing specific measures for the period 2009–2014 will be published in autumn 2009.

2. Reply to paragraph 2 of the list of issues

Federal Government

6. At the federal level, under the Act of 4 September 2002 which stipulates that a report on the implementation of the Convention on the Rights of the Child is to be drawn up annually, the federal Government draws up annual federal reports on implementation which detail its policies on the rights of the child. Reports drafted under this Act are divided into two parts: the first sets out the measures adopted by each department regarding the rights of the child. The second sets out a federal action plan which includes goals to be achieved and projects to be carried out. These reports set out the Government’s strategic objectives for the relevant time period, both in terms of concrete results and in terms of future projects and initiatives.
7. The National Action Plan for Children, adopted by the Council of Ministers on 8 July 2005, sets out children’s rights projects and priorities for the years ahead.
8. When the National Action Plan for Children was submitted, it was felt that the submission of the third report on the implementation of the Convention on the Rights of the Child together with the various reports at the national level would function as an oversight mechanism.

Flemish Government

9. Please see the third periodic report of Belgium, paragraph 20, on the National Action Plan for Children and the Flemish Action Plan on the Rights of the Child (*Vlaams Actieplan Kinderrechten*) and paragraph 24 on the annual report.

10. Neither the National Action Plan nor the Flemish Action Plan on the Rights of the Child include budget data. The Flemish Authority is unaware of any follow-up to the National Action Plan. The Flemish Authority is responsible for monitoring the Flemish Action Plan in the context of the annual report. The annual report entitled “The Rights of Children and Young People, 2007”, adopted by the Flemish Government on 18 July 2008, details how each item in the Flemish Action Plan on the Rights of the Child was implemented. Reference may also be made to the implementation of the second Flemish Youth Policy Plan. Moreover, the 2007 annual report covers Flemish participation in the meeting in New York in December 2007.

Government of the French Community

11. Please refer to paragraph 14 of the third periodic report of Belgium (CRC/C/BEL/3-4) which provides information regarding this question.

12. Under the Decree of 28 January 2004, a report on the application of the principles of the Convention on the Rights of the Child is produced in the French Community (*Moniteur belge*, 17 February 2004). Pursuant to this Decree, every three years the Government compiles and submits a report to parliament on the policy applied in implementation of the principles of the Convention (*Moniteur belge*, 17 February 2004). This report is drafted by the Observatory on Children, Young People and Youth Welfare with contributions from the Standing Group on the Convention on the Rights of the Child and, in particular, the departments of the Ministry of French Community and the Births and Children Office. The report comprises three parts: part A reviews the measures taken over the previous three years; part B demonstrates how each minister envisages the application of the principles of the Convention in terms of political action; part C presents the Government’s global action plan for the coming three years. The first report was adopted in 2005 and the Government adopted the second in 2008. The action plan proposed in the 2008 report has yet to be implemented through budget allocations and measures and actions. Further details are to be found at: http://www.oejaj.cfwb.be/article.php?id_article=141.

3. Reply to paragraph 3 of the list of issues

Flemish Government

13. As mentioned in paragraph 180 of the third periodic report of Belgium, the Flemish Authority encourages participation in the area of education at both the central and the local levels.

Central participation mechanisms

14. Bodies operating at the central level include the Flemish Education Council (Vlaamse Onderwijsraad – VLOR), a strategic advisory council on education and training policy. Within the Council, representatives from across the education spectrum focus on education and training policy. The Council then formulates opinions for the Flemish Minister of Education and Training and the Flemish Parliament.

15. The Flemish Education Council consists of a general council and four sub-councils, one for each level of education. The Flemish pupils’ organization, Vlaamse Scholierenkoepel, represents children and young people on the Council.

Local participation mechanisms

16. For nursery, primary and secondary school levels in both Flemish Community education and subsidized education, the participation of all stakeholders in education is governed by a school council. This council has a general right to information and clearly defined advisory and consultative powers. Under the Decree of 2 April 2004 on participation, teachers' councils, parents' councils and students' councils in all nursery, primary and secondary schools in any education network, are subject to the same set of rules as follows.

17. A teachers' council must be established if at least 10 per cent of staff request one.

18. A parents' council must be established if at least 10 per cent of parents so request.

19. In primary education, a students' council must be established if at least 10 per cent of regular pupils from 11 to 13 years of age so request. In all secondary schools a students' council is, in principle, obligatory.

20. These three councils have broad advisory responsibilities and are elected bodies. It is also possible to delegate members of the teachers', parents' and students' councils to the school council. Moreover, the various stakeholders in the school often organize separate information committees.

Decrees

21. The grant to the Flemish pupils' organization, Vlaamse Scholierenkoepel, is governed by the Decree of 30 March 1999, which establishes sums allocated for student and pupil coordination associations (no web link can be provided as the Decree is too old). The Decree of 2 April 2004 on participation in school affairs and the Flemish Education Council may be accessed at: <http://www.ond.vlaanderen.be/edulex/database/document/document.asp?docid=13504>.¹

22. The 2004 decree on participation was reviewed in 2009 by means of a scientific educational study of overall policy and practice, a thematic review based on inspections, a survey conducted in Catholic schools by the Flemish Federation for Catholic Education and another survey by the Vlaamse Scholierenkoepel. Participation policy will be adjusted on the basis of these studies and evaluations, which should lead to a drastic streamlining of formalities. The authorities have also invested in a centralized campaign to raise awareness among parents, schools and teachers. Moreover, on-going support is being provided to students' participation forums so that they can oversee the application of children's rights in practice.

Government of the French Community and Government of the Walloon Region

23. Children participate in education policy development in several concrete ways both within and outside the school system.

Municipal councils for children and young people

24. In 2009, there were 133 municipal councils for children, 29 councils for young people and 2 provincial youth councils in the Walloon Region.

¹ Additional information in French on participation in education can be found at: <http://www.ond.vlaanderen.be/publicaties/eDocs/pdf/121.pdf>, starting from page 17. Additional information in English on participation in education can be found at: <http://www.ond.vlaanderen.be/publicaties/eDocs/pdf/120.pdf>, starting from page 17.

25. Municipal councils for children and young people aim to:
- Help educate future citizens
 - Introduce children and young people to the workings of a municipality
 - Involve young people in public life
 - Encourage young people to think about problems faced by municipalities
 - Provide young people with an opportunity to speak and be heard

26. The Walloon Government and the Government of the French Community also support Carrefour Régional et Communautaire de la Citoyenneté et de la Démocratie (Regional and Community Forum for Citizenship and Democracy – CRECCIDE). This is the umbrella organization for municipal councils for children and young people in Wallonia. It helps local authorities to develop, set-up and support municipal councils for children and young people and to train students in fifth and sixth grades of primary education who wish to take part.

Reform of the youth council

27. A new French Community Youth Council (CJCF) was established by the Decree of 14 November 2008. Membership of the CJCF is no longer restricted to youth organizations but is open to youth clubs, students' councils and Community students' organizations, the Youth Welfare Service, and young people with ideas for innovative group initiatives. The Decree also provides for the creation of new participatory structures such as agora groups, forums and caucuses, which will canvass the views of young people from the French Community and at the local level and feed them into the new CJCF. The statutory duties of CJCF are to:

- (1) Issue opinions in matters concerning young people, in accordance with articles 4 and 5;
- (2) Inform and educate its members as well as civil society and officials in the political, economic and social fields on all issues, analysis, studies and actions related to young people;
- (3) Encourage the participation of citizens and mobilize young people by establishing forums and meetings outside school time;
- (4) Relay messages and opinions from young people in the French Community to consultative bodies at the community, regional, federal and international levels;
- (5) Promote networks and partnerships with those working in the cultural, social and educational fields recognized by the French Community.

Students' role in participation councils

28. The Decree of 1997 on the missions of education defines the priority missions of nursery, primary and secondary education and establishes the structures needed to fulfil them, and stipulates that a participation council should be established in all educational institutions organized or supported by the French Community (art. 69).

29. The missions of a participation council are the following (art. 69, para. 1):

- (1) Debate the school plan based on proposals submitted by the representatives of the organizing authority;
- (2) Amend and supplement the school plan, according to the procedures set forth in article 11;

- (3) Submit the plan for approval by the ministry or the organizing authority in accordance with article 70;
- (4) Periodically evaluate the plan's implementation;
- (5) Propose amendments in accordance with article 68;
- (6) Give an opinion on the report on activities referred to in article 72 and, in this framework, make proposals for adjustment of the school plan;
- (7) Conduct an overall assessment of the costs incurred over the year, and in particular costs related to cultural and sporting activities under the school plan;
- (8) Study and propose the establishment of a mutual support arrangement between students to cover the costs referred to in point 7 above.

30. Under article 69, paragraphs 2 to 9, the participation council includes adults such as head teachers, teachers and parents. It also includes students' representatives, except in nursery and primary schools. In nursery and primary education, however, the organizing authority, on a proposal by at least two thirds of council members, may decide to expand the participation council to include student representatives on a permanent or ad hoc basis.

Community Policy Statement 2009–2014

31. Lastly, under the Community Policy Statement 2009–2014, the Government will ensure:

- The active participation of students in drawing up school rules in order to improve observance
- The clarification of the rights and obligations of all stakeholders within a contractual framework that students, parents and the school undertake to observe
- The organization in schools of participatory projects and activities to show students the links between learning and everyday life
- The Government is well aware that to motivate students it is also necessary to involve them in decisions that affect them, whether as individuals or as a group

32. It is dialogue that marks the distinction between authority and arbitrary decision-making. Those in the educational community must therefore be made aware of the importance of meaningful participation of students in the life of the school, for this is the best way to obtain students' commitment to their schooling and to school community life.

4. Reply to paragraph 4 of the list of issues

Federal Government

Children's participation and opportunities to be heard in proceedings

33. Minors may be heard in accordance with the provisions of article 931 of the Judicial Code, whereby in any proceeding concerning them, minors capable of due discernment may at their request or by decision of the court — without prejudice to the legal provisions governing minors' voluntary participation and consent — be heard by the judge or by a specially appointed person with none of the parties present. Any costs shall be shared by the parties.

34. This regime is not mandatory to the extent that, if it is the court that decides on a hearing, the minor may refuse to be heard. If the request comes from the minor, on the

other hand, the judge may dismiss it only by a specially reasoned decision based solely on the minor's lack of due discernment.

35. In civil law, there is, on the face of it, no technical means by which a minor may be involved in a proceeding without their identity being revealed to the parties. However, article 931 affords a degree of confidentiality with regard to a hearing involving the judge and the minor. A record of the hearing must be attached to the file of the proceedings but no copy is issued to the parties.

36. Article 931 also stipulates that minors under 15 years of age cannot be heard under oath. Their testimony may only be heard for information purposes.

37. In addition to article 931 of the Judicial Code, a regime is also provided in articles 51, 52 ter and 56 bis of the Act of 8 April 1965 on the protection of young persons, the treatment of minors who have committed an act constituting an offence, and reparation for damage caused thereby.

38. Articles 51, 52 ter and 56 bis of this Act stipulate that minors may be heard at any time by a juvenile court, that minors over the age of 12 must be heard before any action concerning them is taken, and in any dispute arising between those with parental authority over them, and that they have the right to legal counsel.

39. Article 1231, paragraph 11, of the Civil Code sets out modalities for a minor to be heard by the court and stipulates that when they appear before the juvenile court, the child may decline to be heard. The child is heard alone, with no one else present except the clerk and, where appropriate, an expert or interpreter. The minor's opinion is duly taken into account, in accordance with their age and maturity. A hearing does not make them a party to the proceedings. An account of the hearing is placed in the case file.

40. Belgian law also provides special rules for certain procedures, as follows.

Adoption

41. Both in Belgian judicial adoption proceedings and in administrative proceedings for the recognition of an international adoption, the interests of the child are fundamental. At all stages of these procedures, Belgian law provides that it is necessary to determine the child's best interests and observe their fundamental rights under international law (Civil Code, arts. 344, para. 1, and 357; see also arts. 353, para. 5; 361, para. 4; 362, paras. 2 and 3; 363, para. 4; 364, para. 1; 365, paras. 2 and 3; and Criminal Code, art. 1231, paras. 14 and 42).

42. Prior consent of a child aged 12 years or over is required for recognition of filiation (Civil Code, art. 329 bis).

43. The principle of the child's consent in the adoption procedure is established in several articles of the Civil Code and the Judicial Code:

- A child aged 12 may challenge a presumption of paternity in accordance with the conditions and reservations of article 318 of the Civil Code
- A child aged 12 may challenge maternal or paternal recognition of filiation in accordance with the conditions and reservations of article 330 of the Civil Code
- A child aged 12 may object to a test being carried out to determine their filiation, in accordance with the conditions and reservations of article 332 quinquies of the Civil Code

44. Without prejudice to articles 329 bis and 332 quinquies of the Civil Code, in filiation actions unemancipated minors are represented, as defendant or as plaintiff, by their legal representative and, if there is a conflict of interests, by a guardian ad litem appointed

by the president of the court of first instance at the request of any concerned person or the Crown prosecutor.

45. Article 348, paragraph 1, of the Civil Code establishes the principle that a child aged over 12 must consent to their own adoption. The article provides that the child's consent is not required when the person has been deprived of legal capacity or deemed incapable of attaining legal majority owing to mental disability, or when the court finds, on the basis of facts duly substantiated in writing, that the child is incapable of understanding. This article also applies in international adoption procedures, whatever the law may stipulate regarding the consent of the adopted minor (Civil Code, art. 358).

Guardianship of children

46. With regard to the guardianship of minors, if the minor is aged 12, the judge will hear them before appointing a guardian or approving the appointment of a guardian (Civil Code, art. 394).

47. In the case of serious disagreement between the minor and the guardian or, where applicable, the supervisory guardian, if the minor is aged 12 they may apply directly to the Crown prosecutor in matters relating to their person and, if the minor is aged 15, in matters relating to their property (Civil Code, art. 405).

48. The minor may apply to the Crown prosecutor for emancipation under article 479 of the Civil Code.

Guardianship of unaccompanied minors

49. Under title XIII, chapter 6, of the framework legislation of 24 December 2002, notably section 5, on identified unaccompanied foreign minors, the primary role of the guardian is to represent the unaccompanied minor in all administrative and judicial procedures and pursue remedies. Section 5 provides, inter alia, that the guardian shall ensure that the minor's political, philosophical and religious views are respected, and shall work with the minor, maintaining regular contact in order to develop a trusting relationship. According to article 458 of the Criminal Code, the guardian, as a necessary confidant, is bound to silence and must respect the confidentiality of the information that they receive from the minor. This also applies to anything else the guardian learns in the course of their duties. In 2008, guardians were given a five-day training course on their relationship with minors.

Divorce

50. In cases of divorce for irretrievable breakdown of the marriage, the presiding judge or their deputy, in issuing an urgent ruling on temporary measures, will, if appropriate, take account of the children's views, in accordance with article 931, paragraphs 3 to 7, of the Judicial Code.

51. In cases of divorce by mutual consent, the judge may decide *proprio motu* to hear children during the first or second appearance of the parties (Judicial Code, arts. 1290 and 1293), in accordance with article 931, paragraphs 3 to 7, of the Judicial Code.

International abduction by a parent

52. Children may participate in judicial proceedings for the return of an abducted child, in accordance with article 42, paragraph 2 (a), of the Act of 10 May 2007 on the implementation of the Hague Convention and the regulation known as "Brussels II bis".

Testimony by juvenile victims or witnesses

53. Following the adoption of the Act of 28 November 2000 on the protection of minors under the criminal law, chapter VII bis of the Code of Criminal Procedure, on testimony by minors who are victims of or witnesses to certain offences, has been heavily amended (Code of Criminal Procedure, arts. 91 bis–101).

54. Following adoption of this Act, a ministerial circular was issued on 16 July 2001 regarding audio-visual recordings of testimony by minors who are victims of or witness to offences. This circular aims to implement the principles contained in the new law and thus standardize the use of audio-visual recordings made of testimony by child witnesses and victims. It provides magistrates and the police with practical instructions regarding procedures to be followed and rules to be observed for this type of hearing.

55. The Act of 2 August 2002 on taking statements by means of audio-visual media stipulates that the Crown prosecutor or investigating judge may order the audio or audio-visual recording of a hearing, regardless of the status of the person being heard (e.g., minor or adult) (Code of Criminal Investigation, art. 112).

56. With regard to child witnesses, reference should also be made to article 190 bis of the Code of Criminal Procedure. For relevant articles of this Code, see annex 2.

Legal action brought by a minor

57. In principle, minors are competent in civil law but lack legal capacity. Thus, to exercise their rights, they must have legal representation. The rule that a minor may not initiate legal proceedings independently applies only where the minor brings legal proceedings before a judicial body (civil or criminal court). There is nothing to stop a minor appearing alone during the preparation of a criminal trial. Thus a minor may sue for damages in accordance with article 5 bis of the preliminary title of the Code of Criminal Procedure.

58. Minors' legal incapacity means they cannot themselves appear in proceedings which affect them, but must be represented by their parents or guardian. Since the Act of 13 February 2003, parents no longer need authorization from a juvenile court to bring a criminal action on behalf of their child or become plaintiffs in legal actions brought by the public prosecutor (see Civil Code, article 378, paragraph 1).

59. To seize a court as plaintiffs, the agreement of both parents is required if the parents exercise parental authority jointly (Civil Code, art. 376). If the parents cannot agree, the juvenile court may allow one parent to act as plaintiff in the minor's name (Civil Code, art. 378, para. 1). In the event of a conflict of interest between the parents and the child, the juvenile court may, at the request of each claimant, appoint an ad litem guardian (Civil Code, art. 378, para. 1). If neither parent wishes to act as plaintiff, the minor, the minor's counsel or the Crown prosecutor may appoint an ad litem guardian. A criminal court may also appoint an ad litem guardian, *proprio motu* or at the request of a claimant, to defend the minor's interests (Civil Code, art. 378, para. 2). This need arises primarily in cases where a parent or immediate family member has committed offences against the minor (e.g. immoral acts) and it is important not to let the civil action lapse.

60. If both parents are deceased or unable to exercise parental authority, the guardian must defend the child's interests. The guardian may sue for damages only if this is authorized by a juvenile court or must bring the defendant directly before a criminal judge (see article 401, paragraph 1 (7), of the Civil Code). If proceedings have already been started by the public prosecutor, the guardian may sue for compensation without obtaining the authorization of the juvenile judge (article 410, paragraph 1 (7), of the Civil Code).

61. It is important to note that the minor's lack of judicial capacity is not automatic. Thus a criminal court cannot object *proprio motu* to the absence of an authorization by a juvenile court. If the guardian has filed criminal action without prior authorization, the criminal court cannot then handle the case if the accused or the public prosecutor raises an objection to this irregularity. The lack of authorization is a procedural defect that can be corrected in the course of the proceedings.

Bill on the establishment of family courts

62. The bill on family courts which is currently being drafted, contains a chapter specifically on hearings of minors. The Judicial Code will include a new section in this regard.

63. The main points are as follows:

- The court will hear minors who have reached the age of 12.
- Minors who have not yet reached the age of 12 and are capable of forming their own views will be heard at their own request or by decision of the court. A hearing may be denied only by a specially reasoned decision, based on the fact that the minor is not capable of due discernment.
- A summons shall make it clear to the minor, in a manner a child can understand, that they have been summoned to appear in court, that they may consult a juvenile lawyer and that they may refuse to appear in court.
- The minor will be heard by the judge or a person appointed by the judge, including clerk or public prosecutor, wherever the judge deems appropriate. The interview will take place with no one else present, except, where appropriate, the minor's legal counsel.
- A hearing does not make a minor a party to the proceedings. The weight given to a minor's opinion depends on their age and maturity.

Flemish Government

64. With regard to sporting events and the observance of health obligations, it should be noted that the information in paragraph 641 of the second periodic report of Belgium (CRC/C/83/Add.2) has been amended (decree of 2008, part 2).

65. Minors are also subject to anti-doping regulations and must submit to dope tests when ordered to.

66. Dope tests on minors are carried out in the same way as the ones for adults (see in-competition and outside-competition dope tests) but with two important differences. Where a dope test must be done, a minor may ask to be accompanied by a representative (parent, guardian or adult of their choosing). While the medical officer or expert supervises the taking of a urine sample from the minor, the representative (parent, guardian or adult of their choosing) supervises the medical officer or expert and does not watch the taking of the urine sample. If it is established that a juvenile athlete is involved in doping (positive test result, fraud or attempted fraud, refusal to take a test, etc.), a disciplinary case is opened. It is dealt with by a disciplinary commission, which conducts a hearing. The minor may be assisted or represented by legal counsel and/or their parents or guardian(s). They may also be assisted, but not represented, by a doctor.

67. If the juvenile athlete has not yet reached 12 years of age, only the parents or guardian(s) are invited to the disciplinary commission hearing. In such cases, the athlete is informed of what occurred in the hearing and is entitled to be heard if he or she requests

this. If they are over 15 years of age, they are invited to the hearing with their parents or guardian(s).

68. If the athlete and/or their parents do not speak or understand Dutch, they can be assisted by an interpreter. If it is not possible for the athlete and their parents or guardian(s) to attend the hearing, they may ask the president of the disciplinary commission for the hearing to be postponed. If the athlete and their parents or guardian(s) do not attend the hearing without first informing the chairman of the disciplinary commission (postponement request), the disciplinary commission may examine the case in absentia.

69. No later than two weeks after the hearing, the disciplinary commission shall take a decision which is communicated to the athlete and their parents or guardian(s) by registered mail. Penalties include a ban on participation in sporting events and an administrative fine of up to €25,000 in addition to procedural and test costs. Penalties are imposed in accordance with the World Anti-Doping Code.

70. The athlete and their parents or guardian(s) may appeal a decision taken in absentia (i.e. when the athlete and their parents or guardian(s) did not attend the hearing). If an appeal is lodged (with the chairman of the disciplinary commission), the case will be re-examined by the disciplinary commission.

71. If a juvenile athlete and their parents or guardian(s) disagree with the decision of the disciplinary commission, they can appeal to the chair of the disciplinary council. Like the disciplinary committee, the disciplinary council consists of three members and a secretary. The council is subject to the same rules as the disciplinary commission (e.g., legal assistance or representation, the assistance of an interpreter or a doctor, and a decision no more than two weeks after the hearing).

72. An appeal for the disciplinary board's decision to be declared void and a request for its annulment may be filed with the Council of State.

73. With regard to the youth welfare services, see paragraphs 238 and 239 of the report (CRC/C/BEL/3-4), on the decree on the legal position of minors in relation to integrated youth welfare services (Decree on the Legal Position of Minors) and the lowering of the age of consent with regard to the provision of youth welfare services and special assistance to young people, as defined in the new Decree of 7 March 2008 on special assistance to young people.

74. In the summer of 2009, the internal regulations of community institutions and the school regulations for community institution campuses were ratified. Young people were involved in the drafting of both of these documents.

75. The rules of the Flemish Agency for Disabled Persons stipulate that disabled persons have the right to be heard. However, there is no formal procedure in this regard for minors. As part of an application for help or material assistance, a child can be heard if they so request.

76. In accordance with the Decree on the Legal Position of Minors, the right to be heard also applies to student counselling centres (CLB): if minors are aged 12 or over and a CLB determines that they are capable of understanding, pupils may decline the CLB offer. If minors are aged 12 or over and a CLB determines that they are not incapable of understanding, only the parents can decline this offer. There are only two situations in which CLB support cannot be refused, namely in cases of truancy and in respect of certain medical examinations or vaccinations.

Government of the French Community

77. The judicial and extrajudicial and administrative measures in force in the French Community explicitly provide for the minor to be heard.

(a) Education

78. As stipulated in the Decree of 24 July 1997 defining the priority missions of nursery, primary and secondary education and establishing the structures needed to accomplish them.

(b) Permanent expulsion of a pupil

79. Prior to permanent expulsion, the pupil, if an adult, or the pupil and their parents or the person exercising parental authority, if the pupil is a minor, are invited by a registered, recorded-delivery letter, to a meeting in which the head teacher presents them with the facts of the case and listens to their views. The invitation clearly states that this is a procedure that may lead to permanent expulsion and sets forth the facts under consideration.

80. Article 81, paragraph 2, states: "Prior to permanent expulsion ... the pupil and their parents or the person exercising parental authority are invited ... by the head teacher, who presents them with the facts of the case and listens to their views." There is as yet no provision for appealing class council decisions.

Training in student representation and peer mediation

81. Participatory mechanisms within an institution are not easy to develop. Establishing such mechanisms requires an assumption of responsibility by all stakeholders and the acquisition of social skills. Yet, when it works, participation greatly improves human relations in the social and educational sphere.

82. Accordingly, under the PAGAS plan of action to guarantee untroubled conditions for learning (see below), €200,000 (up to €3,000 per school) has been set aside to allow schools that so desire to call in one of the eight external trainers accredited by the French Community to train pupils in student representation and peer mediation.

83. This programme runs from March to November 2010. For more information, see circular No. 3038 of 24 February 2010, on proposals for training in student representation and peer mediation.

In-service training for teachers

84. See table in annex 3.

Youth welfare

85. For the relevant legislation, see annex 5.

Judicial proceedings

86. Title II of the Decree of 4 March 1991, on youth welfare provision, addresses the rights of young people. These rights include participation in decisions that concern them. Regardless of age, children and young people must be heard by a counsellor or the director and must also be involved in the decisions affecting them.

87. A young person aged 14 or older must agree to any assistance measures taken on their behalf by the youth welfare counsellor. Any assistance measure accepted may be deferred at the request of a minor over 14 years of age.

88. Regardless of age, a child or young person may view certain parts of their file.

89. A young person aged over 14 who has agreed to be placed in an institution may not be transferred to another institution without their consent (art. 15). They may appeal the counsellor's or director's decision before the juvenile court. If the director implements obligatory assistance measures imposed by the juvenile court, further measures may be taken with the agreement of the parties concerned, including the minor (art. 38, para. 4 (2)).

90. In the case of emergency mandatory placement in an institution, the counsellor and the child or young person and their family, reviews the implementation of the agreed assistance measures within 14 days (art. 39, para. 3).

Mechanisms for seeking the views of young people

91. Within each district, a district youth welfare council has been established, whose tasks include canvassing the needs and views of young people with regard to general prevention measures.

92. For legislation, see annex 5, article 21.

93. In a similar vein, the new Order of 24 May 2009, on public institutions for the protection of young persons (IPPJ) seeks to make young persons' participation in the educational committees of such institutions more realistic and thus more effective.

94. Surveys and discussion groups are some of the mechanisms by which members of IPPJ educational committees may hear and take note of young people's views. To ensure that the instruments whereby young people convey their views are effectively implemented and yield concrete results, article 6 of the draft order stipulates that the management of IPPJs should implement mechanisms to ensure that the opinions of young people with regard to their placements in institutions are heard. These mechanisms form part of the educational project and their implementation is part of the evaluation provided for under article 4, paragraph 2. The agenda of each educational committee shall include an item on ascertaining and monitoring the opinions of young people.

5. Reply to paragraph 5 of the list of issues

Federal Government

95. Based on the experience of the Patients' Ombudsman, the Patients' Rights Unit of Directorate-General 1 (DG1) is not aware of any individual cases where a child has refused treatment.

96. Under Belgian law, it is the representatives of the child (parents or legal guardian) who ultimately decide whether or not treatment or medical intervention is appropriate. "The patient's involvement in the exercise of their rights, depending on their age and maturity" — as stated in article 12 of the Act on Patients' Rights — is presumably a matter of dialogue among the medical practitioner, the child and the child's representatives, with explanations provided to the child on the proposed procedure and its benefits.

97. It should also be noted that the Act on Patients' Rights encourages the medical practitioner to consult with specialists from various fields when taking a medical decision: "In the patient's interest, the medical practitioner takes multidisciplinary advice if necessary." (art. 4).

98. According to the travaux préparatoires of the Act on Patients' Rights, the Patients' Ombudsman (provided for in article 11) may intervene if necessary to facilitate dialogue and to seek a solution in conflicts between children, parents and medical practitioners with regard to treatment.

99. If the medical practitioner deems the child to be capable of rationally evaluating their own interests (if this is the case, it is desirable for the medical practitioner to indicate in the child's file the reasons why they believe that the child can evaluate their own interests), then the practitioner may respect a minor's or adolescent's decision to refuse treatment, irrespective of the wishes of the parents or guardian(s) (see last sentence of article 12). However, the Patients' Rights Unit is not aware of any such cases.

Flemish Government

100. See above, the reply to paragraph 4 of the list of issues regarding student counselling centres (CLB).

101. The CLB conducts a medical examination of all the students under its supervision at predetermined ages. The goal of this examination is the early detection of illnesses or medical conditions among students. The youngsters are sometimes given vaccinations during these check-ups in order to prevent certain illnesses. The examination is compulsory. It is important for all Flemish children to undergo the examination, partly because important vaccinations are given free of charge. The CLB can also detect or prevent illnesses in a timely manner. The examinations are also used to gather important information on the general state of health of young people in Flanders. If, however, youngsters or their parents do not want a particular doctor from the CLB to conduct the examination, they may ask for it to be done by another doctor or another CLB. The examination may also be conducted by the family doctor, but that doctor must then do the same tests and send the results to the CLB. The same applies to vaccinations: the family doctor can administer a vaccine in place of the CLB doctor, in which case, a dated letter must be requested indicating that the doctor vaccinated the child, and the letter must be presented to the CLB.

102. It should also be pointed out that the Decree on the Legal Position of Minors covers mental health centres.

6. Reply to paragraph 6 of the list of issues

Flemish Government

103. Various initiatives have been taken in schools over the course of the reporting period to combat violence and all forms of antisocial behaviour in schools. These initiatives include awareness-raising, prevention and remedial action. In addition to these policy measures, schools also have at their disposal a whole range of useful publications and websites.

104. In terms of awareness-raising, there is a Flemish network called Kies kleur tegen pesten ("Take sides against bullying"), which comprises a number of organizations that are making common cause against bullying. Run on a voluntary basis, it receives an annual subsidy from the Education and Training Department. The network organizes Anti-Bullying Week, which takes place every school year in February. During that week, an anti-bullying prize is awarded to a number of Flemish schools and other institutions working with young people or in the area of special assistance to young people (for example, the community institution De Zande).

105. In terms of prevention, a publication entitled "Harassment and violence in schools: towards a dynamic school policy" was written by Gie Deboutte as part of the VISTA (Violence in Schools: Training Action) package; there is also a strategic plan for preventing and combating violence, bullying and sexual harassment at school, and the Scholen voor Jongeren, Jongeren voor Scholen project.

106. More attention is being given to the issue of extreme behaviour in schools. Some changes have been made to teacher training, focusing more attention and time on educating new teachers about the issue of extreme behaviour in schools. Prevention of extreme behaviour in schools is now one of the final objectives and the development objectives and is covered in retraining.

107. In terms of remedial action, the Minister of Education has mandated a non-profit association, Limits, to receive and handle cases of undesirable behaviour among adults and between adults and students. The Limits focal point and source of free and non-commercial information Steunpunt Ongewenst Gedrag op School, is the key dialogue partner on this issue. Limits has extensive experience in receiving and dealing with complaints of bullying and other forms of undesirable behaviour in the workplace.

108. Timeout and HERGO² in school: Timeout is intended for students who create problems at school or are completely unmotivated. It can also be used for students who have been involved in violent incidents or bullying. The student is taken out of school for a time and given individual support with a view to returning to school. Various methods are used to re-establish the relationship between student and school, one of them being HERGO, which is useful in situations where one party must obtain reparation from another, for example for acts of violence. HERGO is a form of mediation involving not only the perpetrator(s) and victim(s), but also their “clans” – members of their social networks who can support them during the process. The entire process is guided by a facilitator or mediator.

109. To deal with problems such as “steaming” (extortion through violence), the use and sale of narcotics, violence, truancy, etc., a joint project has been established with the Ministry of the Interior.

110. Schools may also receive support through subsidies at the local level. Some of the projects for which towns and municipalities request subsidies as part of a local education policy are ones that deal with the issue of extreme behaviour in schools.

Priorities for the future

111. Problematic behaviour such as violence, disturbance of the peace, drug abuse and bullying go hand in hand with low well-being. For this reason it is equally important to work on a comprehensive policy to promote the well-being of students in schools. This is one of the priorities set out in the policy note from the Minister of Education. The Minister has also announced a more robust policy on antisocial behaviour in schools, and a survey will be done to identify youngsters in Flanders who drop out of school due to behavioural problems or serious lack of motivation, in order to implement new initiatives and strengthen — or not — existing initiatives.

Information on student's status

112. Given that one of the goals of education is to nurture open-minded and multifaceted personalities with the ability and confidence to shoulder their responsibilities, close partnerships among students, parents and school staff are essential. The focus during this reporting period has been primarily on raising awareness. A school's rules and curriculum are more than just a list of rights and duties. In the next reporting period, efforts will focus on finding an appropriate balance between the two and sending a clear message in that regard.

² Group work aimed at restoration.

Government of the French Community

Front line and backup services

113. In situations of violence in schools, various services can intervene.

1. Psycho-medical-social centres (CPMS)

114. The psycho-medical-social centres (CPMS)³ are front line actors. They are attached to many schools at all levels and in all branches of the education system but are completely independent. They comprise psychologists, social workers and nurses who work as a team to offer a free public service to students and parents in strict confidentiality. The centres can take any individual or collective action (e.g. group events) they deem useful, whether for prevention or support.

115. Still on the subject of violence in school, the head teacher is urged to inform the CPMS as soon as possible in cases where a student's behaviour could require temporary or permanent exclusion measures. The CPMS can then meet with the head teacher before such measures are taken. This then enables them to advise the student and the student's parents or legal guardian and provide clarification where necessary in respect of the head teacher's decision. A formal opinion from the CPMS is, however, no longer required for expulsion.

2. Walloon Region Schools Ombudsman Service

116. The Walloon Region Schools Ombudsman Service⁴ is a free backup service not attached to any schools. Its purpose is to prevent violence and dropping out while encouraging, preserving and re-establishing confidence in the relationships between students, their parents or legal guardians in the case of minors, and the teaching staff. Depending on the specific nature of the problem, the Walloon Ombudsman can call in a specialist partner. The Ombudsman is bound to confidentiality.

117. In terms of prevention, the following is a (non-exhaustive) list of actions the Ombudsman can take: drawing up of contracts and charters, improving and monitoring of the atmosphere in schools, activities to encourage socially aware and participatory practices, organization of participation councils, mediating between students, setting up of cooperation councils, establishing (neutral) disciplinary or socio-educational support councils, or helping to set up an internal "drop-out prevention" service to ease the pressure.

3. Brussels Region Schools Ombudsman Service

118. The Brussels Region Schools Ombudsman Service⁵ is a free backup service located within the schools (i.e., the Ombudsman is present full-time). The purpose of this service is to prevent violence and dropping out while encouraging, preserving and re-establishing confidence in the relationships between students, their parents or legal guardians in the case of minors, and the teaching staff.

119. In order to achieve this, the Ombudsman offers mediation, which is an interpersonal process initiated by a third party who is independent and neutral and bound to confidentiality. A request for the service entails no obligation. Each person has the option

³ Information from the website www.enseignement.be.

⁴ Information from the circular for the 2009/10 school year on compulsory education, student enrolment, school attendance, disciplinary measures and free education in ordinary secondary schools.

⁵ Ibid.

to accept or withdraw from the mediation process at any time. Mediation can be individual or collective (an entire class).

120. The mediator may, inter alia, attempt to reconcile different points of view, help to seek alternative solutions to difficult situations or stalemates, facilitate joint efforts to re-establish relations if they have been broken, and provide support in surmounting difficulties arising directly or indirectly from situations in school.

4. Mobile teams

121. The mobile teams⁶ are a free backup service whose mission is to take action to help a student in crisis, to take preventive action to avoid foreseeable tensions, to facilitate the resumption of dialogue in establishments that have experienced a crisis situation, and to raise awareness about conflict management.

122. In terms of prevention, they can help to establish representative councils, participation councils, cooperation councils, negotiating councils or class councils.

123. For youngsters in crisis, the mobile teams can organize round tables, individual or group meetings, brief systemic therapy, or analysis and development of intrinsic motivation, and they often set up joint initiatives with various actors from within the school system and elsewhere.

Plan of Action to guarantee untroubled conditions for learning

124. PAGAS is a plan of action to guarantee untroubled conditions for learning that was approved by the Government on 26 March 2009. It addresses two main issues, violence and dropping out.

125. Seven people are responsible for implementing the following six measures throughout all school systems. For the most part, these will be in place by September 2010:

(1) An emergency plan for assistance to schools in the event of serious violence or emergency at a school, in order to provide organizational, psychological and administrative support;

(2) A free hotline to be contacted in the event of serious violence or emergency at a school, in order to provide the people involved with information on their rights regarding legal protection and the support they can receive (legal, medical, psychological, social, or administrative);

(3) A practical guide providing standardized information to head teachers and teaching staff on preventing and managing violence in schools;

(4) Training for students in school mediation or student representation (see below);

(5) An observatory responsible for drawing up a regular quantitative and qualitative assessment of violence in schools and dropping out;

(6) A web portal listing serious acts of violence in all ordinary and specialized secondary schools and the vicinity.

126. When an adult from the school commits an act of violence, disciplinary measures are required as follows:

⁶ Ibid.

(a) Who? In the French Community, designated personnel in the school system (head teachers, teachers, educational social workers, administrative and maintenance personnel) only, and PMS⁷ workers. The other school systems manage the situation at their own level. For temporary staff, the head teacher manages the procedure;

(b) How? When the Directorate-General of Compulsory Education receives a letter of complaint from a head teacher, parents or students:

(1) If the letter does not immediately warrant an investigation, then the correspondent is asked in writing to explain further. On the basis of their response, a decision is made to either conduct an investigation, appeal to the “*super préfet*” or close the case;

(2) If the facts are sufficiently clear, then a disciplinary procedure is initiated to consider the substance of the case. Following the hearing, a decision is made to close the case or to propose penalties. Penalties range from a warning to disciplinary transfer or even dismissal;

(3) If the facts are not sufficiently clear, the Inspectorate-General of Education is asked to conduct an investigation. A disciplinary procedure may or may not be initiated, depending on the conclusions of the Inspectorate-General’s report;

(4) If the facts are extremely serious, then preventive suspension for a period of three months, renewable, may be requested. This procedure does not consider the substance of the case, but seeks to determine whether or not the person should remain in school, in the interest of the service. In the most serious cases, an order for immediate exclusion can be signed by the Minister. A disciplinary procedure can be initiated at the same time. In the most serious cases, an order for immediate exclusion can be signed by the Minister before the hearing on preventive suspension.

Pilot project of the Directorate for Equal Opportunities and the Directorate of Education

127. Until the end of October 2009, the project is subsidized in the amount of €16,820, part paid by the Directorate of Education and part by the Directorate for Equal Opportunities.

128. The objective of the pilot project is to test, in a school, a model for intervention on, and collective, cross-disciplinary management of, peer violence in secondary schools, and to evaluate it and identify the conditions required for implementation.

129. In concrete terms, the following activities are planned:

- A half-day information session for all involved in education (directorate, teachers, educational social workers, CPMS, the Schools Ombudsman, etc.)
- Training for the school committee
- Support for the school committee
- Awareness-raising for six classes using seven videos featuring students (so that the children will identify more easily). The videos illustrate various themes to open up debate: extortion, bullying, violence among couples, rumours, harassment and online bullying, a row or conflict between a couple and a row or conflict between two sisters

⁷ Psycho-medical-social.

Training provided by the Institute for In-Service Training (IFC), 2007–2009

130. See table in annex 4.

Guide for dealing with homophobia

131. “Combating homophobia: opening schools to diversity” is an educational guide published in late 2006. It is a basic tool that provides teachers with the means to combat homophobia in primary and secondary schools. It fully adheres to the philosophy set forth in the Decree on the mission of education, notably articles 6, 8 and 12. It aims to help teachers confronted with the issue of minority sexual orientations and reactions to them, where many of those connected with the school system admit that they have experienced difficulties regarding action, interaction and reaction. The guide also attempts to offer to those responsible for education a range of methods for implementing the principles contained in Belgian anti-discrimination law and in the laws governing marriage and parenthood.

Government of the Walloon Region

132. The Walloon Government does not have a specific body to deal with violence in schools. However, it is working to combat homophobia by supporting associations that help young people in coming out (Tels Quels has six community centres in the Walloon Region).

7. Reply to paragraph 7 of the list of issues

Flemish Government

133. A limited number of schools offer education in migrant children’s language and culture of origin. The goal of this approach is to facilitate the integration of these children. For that purpose, aspects of their own language and culture are included in the curriculum for a limited number of lessons. Depending on whether the bicultural model or the support model is chosen, education in the student’s language and culture of origin represents 20 to 50 per cent of available lessons.

134. A school that wishes to organize education in the language and culture of origin must inform and consult the parents of every student in the group or groups of migrants involved. The parents must give written consent for their child to attend classes in their language and culture of origin. At least two thirds of the migrant parents involved must approve the measure. These regulations are established at the European level.

Government of the French Community

Linguistic immersion

135. Legal reference: Decree of 11 May 2007 on language immersion education.

136. Immersion is a teaching method that encourages mastery of the required skills by conducting some classes and subjects in a modern language other than French, to ensure the gradual acquisition of the other language.

137. The three languages offered in immersion education are Dutch, German and English.

138. The student begins immersion education:

- In the third year of nursery school (in nursery/primary schools) or in the first year of primary education (in primary schools) or

- In the third year of primary education (nursery/primary or primary schools)

139. Thus an organizing authority or school administration can enrol a new student into immersion education only in the first year of the programme (third year of nursery school/first year of primary school or third year of primary school).

140. As a transitional measure, for the 2009/10 school year, an organizing authority or school administration may enrol:

- A student from a school located in a region or country where the target language is spoken
- A student with at least one parent whose mother tongue is the target language
- A student from an international school where the language of instruction is the same as the target language
- A student from a European school

141. Enrolment in immersion education may also be authorized in the first year of primary school even in cases where a student has not attended school in the target language.

142. In all cases, prior to admission, the school must ascertain that the student has the level required to join the immersion project.

143. This transitional provision concerns students who wish to begin immersion education outside the permitted years.

144. In nursery/primary schools offering this method, immersion classes may be taken either during the third year of nursery education and the six years of primary education, or during the last four years of primary school. In primary schools, immersion classes may be taken either during the six years of primary education or during the last four years of primary education.

145. Immersion education has the following objectives:

- For the classes and subjects conducted in the target language, acquisition of the skills defined in the platforms of skills
- For the target language, acquisition of the skills related to oral and written communication in that language as defined in the platforms of skills

146. In 2009/10 in the French Community:

- 136 basic education schools offer language immersion education
- 78 secondary schools offer language immersion education

Language and culture of origin

147. As part of a partnership agreement between the French Community and seven countries (Greece, Italy, Morocco, Portugal, Romania, Spain, and Turkey), schools that wish to do so may offer students courses in their language and culture of origin in nursery, primary and secondary schools. Two types of language and culture of origin courses are offered.

148. A course in the language of origin: only for students whose parents have requested it. It is available to all students, regardless of origin, and comprises a minimum of two periods, which are added to the weekly timetable.

149. A course in cultural awareness: this is taught jointly by the language and culture of origin teacher and the regular teacher. The aim is to provide students with cultural diversity

education by using the personal experience of the language and culture of origin educator with regard to his or her culture of origin.

150. This programme is set forth in a charter that:

- Establishes an agreement between the French Community and the country of origin
- Specifies the principles and methods used in the educational activities
- Offers both schools and families the benefits of an agreed framework

151. For the schools that choose to participate in the programme, the partner countries provide one or two teachers to run the courses.

152. The language and culture of origin teachers are hired by the partner countries in accordance with those countries' own regulations. The teachers must have the necessary teaching skills and sufficient knowledge of the French language to be able to clearly communicate their thoughts and easily understand a message expressed in French.

153. The French Community provides support and in-service training for language and culture of origin teachers who are entitled to training programmes offered within the French Community.

154. The following changes have occurred in the programme since 2008: in 2008/09, Romania joined the language and culture of origin programme, while Spain joined in 2009/10.

155. Previously, the programme applied only in nursery/primary education and the first cycle of secondary education. Since 2009/10, the programme applies to nursery/primary education and all cycles of secondary education.

8. Reply to paragraph 8 of the list of issues

Federal Government

156. An intervention protocol between the medico-psycho-social sector and the justice sector of the French and German-speaking Communities was signed by the respective ministers on 26 April 2007. This protocol seeks to enable the most effective combined response between the medico-psycho-social sector and the justice sector, in the best interests of the child facing the situation in question. It is a framework for action rather than an exhaustive analysis of all the problems encountered or likely to be encountered, and solutions to those problems. The protocol reaffirms the principle of confidentiality, the role of each of the participants, how they should communicate among themselves and the coordination that is so vital within each judicial body.

157. A protocol on ill-treatment will be signed on 30 March 2010 between the Minister of Justice and the Minister for Welfare, Health and the Family of the Flemish Community. This protocol will establish structures for coordination in order to respond to the structural problems and needs that may arise in respect of intervention on ill-treatment by the medico-psycho-social and justice sectors. In this way greater importance can be given to handling complaints by means of existing structures. These structures must be able to answer queries and advise victims and their loved ones and inform them of the modalities available, depending on the remedies they choose, i.e. judicial procedures or agreed aid provided through the medico-psycho-social sector, keeping in mind the interests and safety of the child, which remains the paramount consideration. Once a complaint is lodged through the justice system, two cases may be opened – a criminal case against the perpetrator and a protection case to protect the child.

Flemish Government

158. Children can lodge their complaints with various youth welfare institutions.

159. The six confidential counselling centres for child abuse in Flanders are points of contact for anyone who suspects child abuse or who wishes to report abuse. Minors can get information on child abuse through the website and through various forms of information adapted for young people.

160. In terms of youth welfare, minors can also turn to the “JO-lijn” hotline to get information and to make complaints about the welfare services. Please also see the brochures entitled “*Jij en het Comité Bijzondere Jeugdzorg*” (You and the Committee on Special Assistance for Young People), “*Jij en de sociale dienst bij de jeugdrechtbank*” (You and the social service of the juvenile court), “*Jij en de bemiddelingscommissie*” (You and the Mediation Commission), a guide to youth welfare entitled “*Wegwijzer Jeugdhulp*” on the Jongerenwelzijn website, and an explanation of minors’ right to file a complaint, in a brochure on the Decree on the Legal Position of Minors, which can be downloaded at website www.rechtspositie.be.

161. When children and young people are confronted with extreme behaviour at school, they can turn to:

- The school, i.e., the school supervisory staff or the support system within the school. Every nursery/primary and secondary school is now equipped with its own support system or supervisory staff who can deal with all types of questions and problems. The student can also turn to a teacher, the coordinator of the specialist supervisory staff, the “green” educator, the group leader, the school secretariat or administration, any of whom will help the student or relay their questions to the appropriate person.
- The student supervision centre, which would also direct the student to the appropriate authority.

162. Children or young people who are victims of extreme behaviour by school staff can turn to the “Steunpunt Ongewenst Gedrag op school” of the non-profit association Limits.

163. All types of complaints regarding problems at school can be lodged with the school organizing authority or a student counselling centre (CLB). Depending on the issue, complaints may be lodged with the commissions established by the Flemish Ministry of Education and Training, such as the Commission on Good Administration, the Commission on Students’ Rights, etc. There are also enquiry desks for parents and students.

164. Finally, students can also appeal to the Ombudsman of the Office of the Commissioner for the Rights of the Child (Decree of 15 July 1997).

Government of the French Community*Criminal Code*

165. Article 458 bis of the Criminal Code states that anyone who by virtue of their status or profession is privy to confidential information and thereby learns of an offence committed against a minor (sexual abuse, rape, etc.) may inform the Crown prosecutor, provided that they have questioned the victim or received the confidential information from the victim, that there exists a serious and imminent threat to the victim’s physical and mental integrity, and that the person is not in a position to protect that integrity, either alone or with the help of a third party.

French Community legislation

166. In article 1, paragraph 4, of the French Community Decree of 12 May 2004, on aid for assistance to victims of child abuse, the French Community defines abuse as “any situation of physical violence, ill-treatment, sexual abuse, psychological violence, or of serious negligence that compromises the physical, psychological and emotional development of the child; abusive behaviour or an abusive attitude may or may not be intentional”.

167. Rather than just reporting the problem or passing it on, everyone has a role to play depending on their position: to sympathize, offer professional help or intervene as a representative of the law. Many different individuals or organizations can help, particularly those who already know the family. Depending on the situation, the appropriate instance might be:

- A general medical practitioner
- A mental health service
- A social service
- A psycho-medical-social centre (CPMS)
- A school health service
- A community youth service
- The Perinatal and Children’s Service (ONE)

168. This provision may be compared with article 3, paragraph 2, of the French Community Decree of 12 May 2004, on assistance to victims of child abuse, which states that anyone encountering a situation of abuse or risk of abuse may call on bodies such as a CPMS, school health promotion services, the SOS Children teams, the youth welfare counsellor or any other competent specialist, for support, guidance or referral of the request for aid.

169. Certain situations require action by more qualified French Community teams, namely SOS Children. These teams evaluate the abuse, its causes and its consequences, and seek to put stop to it. They support the child and their social circle in order to deal with the situation and rebuild a secure interpersonal environment conducive to the child’s development.

170. If the parents do not accept the help offered by SOS Children, the team can approach the youth welfare counsellor or, in cases of grave and imminent danger, inform the Crown prosecutor.

171. When a Crown prosecutor is informed of a situation of abuse, they can, if they deem it necessary for the protection of the child, ask the juvenile court to take coercive measures or emergency coercive measures. A prosecutor will do this only if they are satisfied that the youth welfare counsellor has not been able to set up any type of social intervention to help the child and the family. If the prosecutor refers the matter to the juvenile court, then the court may, where it establishes a need for coercive measures, impose an assistance measure – either support for the family or placement. These measures will then be implemented by the director of youth welfare, who will specify the modalities in consultation with the beneficiaries.

172. Since the Perinatal and Children’s Service (ONE) and the Youth Welfare Service often work together, two cooperation agreements have been drawn up, the first, signed in 2008 covering SOS-Children teams and youth welfare counsellors and directors, and the second, signed in late 2009, covers their relationship with ONE.

173. Lastly, cooperation with other bodies such as the Walloon Region, the Joint Community Commission and the Federal Government on assistance for victims has resulted in the signing of two agreements on 5 June 2009 (*Moniteur belge*, 15 July 2009). This cooperation is reflected in particular in the establishment of district committees bringing together all the relevant actors.

174. The French Community is involved in this process through its SOS Children services and the youth welfare services, both public and private. To ensure coordination, it has decided to designate a contact person to encourage ongoing dialogue and cooperation with the other bodies involved in assistance to victims at the federal, community and regional levels. A representative of the public or private youth welfare services and of SOS Children will also participate in the district councils established in the agreements.

175. Following a meeting to evaluate the agreement, the French-speaking working group decided not to change the contents of the agreement itself, but to circulate it more widely to the various actors involved (the justice system, the French and German-speaking Communities and the Walloon Region). The objectives for 2010 will therefore be to create a two-page guide summarizing the main points of the agreement, which will provide the necessary information in a practical way to those in the field; to distribute the agreement and the guide throughout all sectors via the services and entities responsible for the actors covered by the agreement; and to meet and consult with the coordinating commissions on abuse. On request, general or internal training could be provided by the members of the working group to answer the questions of those working in the field.

176. Lastly, the Delegate-General for Children's Rights is also involved in this effort. He can receive information and complaints of child abuse, direct the informants to front line services and call in specialist services.

177. The CPMS, the mental health services,⁸ the SOS Children teams and the services of the Delegate-General for Children's Rights, etc. may also refer to the prosecution service under article 458 bis of the Criminal Code.

9. Reply to paragraph 9 of the list of issues

Federal Government

178. As regards coverage of medical costs through the compulsory health insurance system,⁹ to our knowledge, no particular category of children is excluded from the system. Although children's rights to reimbursement of health costs is most often exercised through their parents (enrolment as a dependant), they can also be granted entitlement in their own right, if they are entered on the National Civil Register. Since the inclusion of minor risks in compulsory insurance for the self-employed, children of self-employed workers have also benefited. In addition, severely disabled children benefit from special protection, since they are automatically eligible for increased insurance benefits (reimbursement at a higher rate).

179. Foreigners not authorized to remain more than three months in Belgium have no entitlement on the basis of entry on the National Civil Register, however, and some children may thus find themselves excluded. Unaccompanied foreign minors, on the other hand, have enjoyed access to health care in their own right since 2009.

⁸ SSM.

⁹ Medical coverage may also be provided from some other source (Fedasil, CPAS).

Flemish Government

Unaccompanied foreign minors

180. This group typically encounters problems with access to welfare since strictly speaking their uncertain or irregular residence status places them outside the law. Flemish welfare policy focuses on very young unaccompanied foreign minors (under 14 years of age) and non-asylum-seekers. Both enjoy comparatively easy access to special assistance to young people. A cooperation agreement between the federal authorities and the Communities is currently under consideration for coordinating reception and assistance for this particularly vulnerable target group and ensuring that they meet the needs of unaccompanied foreign minors.

181. In 2009, residential and non-residential capacity was also expanded. In Limbourg, a new association, Fonto Nova, was set up to house unaccompanied foreign minors.

182. Consultations with the Federal Government and the French Community on reception and support for foreign minors were also resumed in 2009. In the context of these consultations, Jongerenwelzijn invited proposals under the European Refugee Fund (ERF). Those working in the field of special assistance to young people were invited to submit projects in support of ERF priority 2 aimed at organizing special support for women at risk and for unaccompanied or accompanied minors with integration problems or special difficulties. ERF will be co-funding this priority to a maximum of 75 per cent, with Jongerenwelzijn committed to funding the remaining 25 per cent.

183. The Flemish Authority has entrusted the internal affairs agency “Intégration” with coordination of issues affecting unaccompanied foreign minors, including coordination with other Communities.

184. The Department for Young People funds printing and distribution to federal agencies (such as the Guardianship Service), Flemish agencies, including the committees on special assistance to young people,¹⁰ and others, of “Zitemzo” leaflets (“*tZitemzo ... als je een minderjarige vreemdeling bent in België*”, published by the Kinderrechtswinkels not-for-profit association, with a print-run of 1,000 copies.

185. Health insurance now covers foreign minors (Act of 13 December 2006 on various health provisions, *Moniteur belge*¹¹ of 22 December 2006 = Health Act + Royal Decree¹² of 3 August 2007 amending Royal Decree of 3 July 1996 = Royal Decree regulating implementation of the Act on compulsory health insurance and benefits).¹³ To be eligible, they must fulfil the following criteria: have a guardian and be attending school. Foreign minors not attending school may still be granted access to health insurance on the basis of a family health-screening certificate, as issued by Kind en Gezin, inter alia.

Care for traffic accident victims

186. A circular of 26 October 2007 on “Care for traffic accident victims, care for victims who are minors and support for the voluntary sector in victim assistance” appeals for special attention to be paid to victims who are minors. Until very recently, child victims or witnesses of traumatic events were often overlooked.

¹⁰ Comités Assistance spéciale pour la Jeunesse (CBJ).

¹¹ *Official Gazette*.

¹² Arrêté royal.

¹³ ASSI Act.

Child poverty

187. Child poverty was addressed at the concluding ministerial debate of a symposium held on 19 November 2009 by the National Commission on the Rights of the Child to mark the twentieth anniversary of the Convention. The Flemish Minister responsible for coordinating Flemish policy on youth and on children's rights took an active part in the debate. Additionally, two studies of child poverty are under way. In the first, *Kind en Samenleving* is looking at children's experience of poverty and its emotional impact; the second concerns poor children's experience of free time during the summer holidays.

Children with disabilities

188. It should be noted that the Flemish Community has for several years been monitoring the structural shortfall in care places through its central register of applications. Partly as a result of this, the Flemish Government decided to continue its policy of extending care provision. Based on a multi-year statistical analysis conducted in March 2009, a multi-year policy for extending and revamping care for children and young people is being prepared for the period 2011–2014.

10. Reply to paragraph 10 of the list of issues**Federal Government**

189. The Act on the protection of young persons, amended in 2006, provides the prosecution service and juvenile court with a series of measures that must be considered before any minor is placed in an institution. Moreover, first preference should always be given to any reparative programme available. If reparation is not realistic, the next option should be a personalized plan for the young person, followed by measures such as supervision by a competent social service, educative community service or non-residential treatment. Placement is only to be considered if the above-mentioned measures are not practicable, and then only on certain conditions. Open regimes shall be favoured over closed regimes. The legislature wished placement in an institution to be considered only as a last resort.

Flemish Government

190. When it comes to assistance provided and organized by Jongerenwelzijn, the point of departure is always the principle of subsidiarity, i.e., priority should always be given to the form of assistance that has the least impact. It is only when all other avenues have been exhausted that children should be placed in an institution. Each decision to intervene is subject to an in-depth analysis of the case and of all aspects of the problem situation. Decisions are also always only taken on a consultative basis, by a necessarily multidisciplinary team. If placement in an institution is required, then maximum account must be taken of the child's personal circumstances (schools, visits, siblings, etc.) to ensure that the placement has the least possible negative impact.

191. In 2009, the following studies on alternative assistance provision were conducted and non-residential support was provided, as an alternative to residential assistance:

- Practical prevention on the right track
- "What Makes Them Special?" study to evaluate projects of former beneficiaries of special assistance to young people
- Reparatory mediation for young offenders
- Child placement and poverty

- Decision-making policy in youth prosecution services and juvenile courts
- Evaluation of “time-out” schemes in special assistance to young people

192. For further details of these studies see: <http://www.osbj.be/?action=onderdeel&onderdeel=227&titel=Lopend+Onderzoek#ijh>.

193. An informative survey on child placement and poverty was conducted in 2009. It focused on the key issue of whether, and in what context, there could be a link between a poor background and placement (and, by extension, the other measures), under special assistance to young people. The poverty indicators were established in consultation with persons living in poverty belonging to an “association in which poor people have a say”.

194. The survey proposal calls for an analysis of data from the various national databases and registers. The results of the survey will provide a baseline for the longitudinal survey into the link between poverty and placement (and other measures) in special assistance to young people, and its impact.

195. Foster care is an important placement option for special assistance to young people. Scientific research and practical experience have shown that a successful fostering placement has a positive impact, and is of particular importance in the case of young children placed with a foster family. In the context of special assistance to young people, fostering is considered the least radical form of assistance. This type of placement is thus indicated as the first form of assistance to be considered for children below 6 years of age who, owing to a problem situation, cannot stay or live with their own family.

196. Work is currently under way on an intersectorial decree on fostering.

197. For children with disabilities, a personal assistance budget is important for their autonomy and may make placement unnecessary. Over the past five years, the Flemish Government, based on data supplied by the Minister for Welfare, Health and the Family,¹⁴ has always given priority to children and young people most in need of assistance to ensure that they are first in line for a personal assistance budget. From 2006 to 2009, a fast-track procedure was also introduced for children and young people with a rapid degenerative disease. If they meet the relevant criteria, they may receive a personal assistance budget within a month, although there is an age restriction (they must be over 6 years of age). However, the new Flemish Government is drafting a multiyear policy to expand and prolong care for children and young people with disabilities for the period 2011 to 2014.

Government of the French Community

198. In responding to this issue, it is important to recall the legal framework regulating assistance for young people and youth protection in the French Community, and in particular certain basic principles informing youth welfare policies:

- Priority for assistance in the home environment
- Respect for the fundamental rights of young people and their families
- French Community services to meet recognized needs in the field of juvenile delinquency
- Priority for prevention efforts

¹⁴ WVG.

199. Thus, the French Community Decree of 4 March 1991, on youth welfare provision, aims primarily to establish measures for children at risk or in difficult circumstances that will allow them to remain in their own environment, as explained in the preamble to the Decree: “Without denying the need for and efficacy of residential arrangements in certain cases, in the view of the authors of the draft decree ..., keeping the young person in their own environment should be the rule and removal from that environment the exception. This principle should guide the counsellor ... It should also guide the juvenile court.” Removal of the young person from their environment and placement elsewhere must be justified and can be proposed only as a last resort when other special assistance measures are not appropriate. Removal of the young person from their family must also not be allowed to lead to a breaking of their ties with their home environment. Preservation of these ties can be justified both for psychological reasons, including emotional stability and development of the young person’s personality, and to facilitate reintegration once the reasons for removal no longer apply. Accordingly, article 9 of the Decree is designed to ensure that measures and decisions taken by the youth welfare counsellor or the director of youth welfare are aimed primarily at promoting the young person’s development within their own environment. The rationale for this provision is to prevent hasty placements.

200. Similarly, the legislature wishes this Decree to uphold the right of minors and their families to be assisted by the French Community, while at the same time guaranteeing basic rights recognized in principle to everyone as a human being. These principles are particularly applicable in the context of detention: to paraphrase, the Decree “pays particular attention to the situation of young people — including juvenile offenders — subject to residential measures and establishes a series of guarantees which are all the more stringent if they are to enter a closed regime”.

201. In addition, the preamble to the Decree states that private youth protection services have shown themselves capable of offering positive solutions to the problem of juvenile crime. It also notes, however, that some young people require more tailored support, notably through alternatives to placement, such as community, educative or charity work, or reparatory acts, as envisaged in the Act of 8 April 1965 on the protection of young persons. Lastly, it is expressly stipulated that public institutions for the protection of young persons (IPPJ) shall be reserved for juvenile offenders above 12 years of age, given that the primary mission of the IPPJs is the social rehabilitation of these youngsters and the formation of a positive self-image. Moreover, IPPJs with a closed educative regime, given their particularly restrictive nature, must not take minors under 14 years of age.

202. Over and above the legal framework and guiding principles for youth welfare in the French Community, various measures have been taken in recent years to strengthen preventive action and avoid recourse to institutional placement.

203. For example, the Government has adopted a plan which aims, inter alia, to strengthen the role of medical social workers of the Perinatal and Children’s Service (ONE) in the most vulnerable districts, given their closeness to the families, and to strengthen intensive non-residential support through six pilot projects on family-based services. This is a major plan for combating child abuse; it was adopted in 2008 and has four components:

- Detection of abuse
- Analysis by reinforced SOS Children teams
- Creation of intensive support teams to work with families in situations of serious neglect or abuse

- Residential care, in situations of abuse, with a strengthening of specialist early childhood care services (SASPE)¹⁵ (formerly “*pouponnières*”)

204. Through this plan, the Government has prioritized support within the young person’s own environment as opposed to placement in an institution, by providing appropriate family-based support through a non-residential service.

205. In 2009, an intermediate mechanism was inserted between the important work done by the medical social workers and placement with a SASPE or other youth welfare service, namely intensive family intervention teams. These will be sent in by the juvenile court, the youth welfare counsellor or the director of youth welfare but may also be called on in emergencies by an SOS Children team or an emergency paediatric centre when the child is discharged.

206. The SASPE dealt with children aged 0 to 7 in crisis situations — albeit for the shortest possible time in order to make it easier for them to settle back into their home environment — and since they are increasingly called on to intervene in very difficult situations their funding has been upgraded (by more than €500,000 a year, to support more than 35 additional FTE¹⁶ posts).

207. As to youth welfare, a youth welfare plan, including the creation of 330 jobs, was launched in 2006.

208. A major strengthening of the youth welfare services and judicial protection services has enabled faster and more complete treatment of young people at risk or in difficult circumstances.

209. Stakeholders in the field of prevention, be they community youth services (AMO) or dropout prevention services have also been strengthened: prevention is better than cure.

210. Emphasis has also been placed on ensuring that minors at risk are taken in charge as swiftly as possible, with the establishment of crisis services tasked with round-the-clock care, for a maximum of 20 working days, for groups of up to six young people who find themselves in situations of severe crisis, where the services usually called upon have failed or are finding it difficult to resolve the situation and the youngsters require immediate assistance either in the form of shelter away from their family environment, or of educative support in their family environment, or of help finding a home of their own.

211. As regards minors who have committed an act constituting an offence, measures alternative to placement, as provided for in the Act of 8 April 1965,¹⁷ have been gradually introduced, such as reparatory mediation.

212. Lastly, for the current legislative period, the Government of the French Community has an ambitious programme on child placement, in particular placement of children requiring an assistance or protection measure, whether voluntary or compulsory.

213 The Government has instructed the Minister for Youth Welfare to organize a round table to devise recommendations for the implementation of the measures envisaged in the Act of 8 April 1965, and to inform the Government of the number of closed-regime places

¹⁵ Service d’accueil spécialisé de la petite enfance.

¹⁶ Full-time equivalent.

¹⁷ <http://www.aidealajeunesse.cfwb.be/ajss-pro/legislationnbsprspanle-decret-du-4-mars-1991brla-loi-du-8-avril-1965-span/iii-la-loi-du-8-avril-1965-relative-a-la-protection-de-la-jeunesse-suite-a-la-communautarisation/>.

required in the French Community.¹⁸ The round table will begin its work in late April/early May 2010 and will submit its conclusions in September 2010.

214. Another study, to be conducted from June 2010 to September 2011, will focus on effective utilization of places available as at 1 May 2010 and on the impact of alternative measures already implemented and of those recommended by the round table. The Minister for Youth Welfare will invite the Minister for Justice to participate in the study.

215. As part of its implementation of the Community measures envisaged in the Act of 8 April 1965, the Government also decided on the same date that intensive educative support would be introduced as rapidly as possible.

216. In addition, a new cooperation agreement should be negotiated with the federal authorities in order to liberate funds for measures for avoiding placement to be applied in the French Community. Such a cooperation agreement could include an evaluation of existing measures, as well as co-financing of measures yet to be implemented, such as intensive educative support and the personalized plan mentioned above.

217. The Minister for Youth Welfare also wishes to strengthen the organizations that administer educative community service, mediation, and restorative conferencing in order to enable them to offer a wider range of measures and restorative services for young people.

218. Lastly, the Minister wishes to strengthen post-institutional support services to facilitate earlier release of young people from IPPJs.

11. Reply to paragraph 11 of the list of issues

Federal Government

219. On 18 November 2009, the *Moniteur belge* published two royal decrees and a ministerial order concerning the establishment of a closed federal centre for minors who have committed an act constituting an offence, namely the Royal Decree prescribing the date of entry into force of article 606 of the Code of Criminal Procedure, the Royal Decree establishing a closed federal centre for minors who have committed an act constituting an offence, and the Ministerial Order concerning the organization of the Tongres closed federal centre for minors who have committed an act constituting an offence. All are dated 12 November 2009 and entered into force on 20 November 2009.

220. This centre was needed to ensure the proper administration of justice. On the one hand, it is important that minors who have committed an act constituting an offence cannot be placed in a closed facility because of a shortage of care places; on the other hand, the Belgian State is required to make every effort to ensure that juveniles no longer under the jurisdiction of the juvenile court and currently detained in prison can be accommodated separately from adult prisoners. There was thus an urgent need for an additional centre for minors who had committed an act constituting an offence.

221. The fifth federal report provided for in the Act of 4 September 2002 stipulating preparation of an annual report on the implementation of the Convention on the Rights of the Child includes an evaluation of the measures implemented between 2007 and 2009, and a plan of action detailing ongoing and future projects relating to children and a very large number of the problems they could encounter in daily life, which aims to:

¹⁸ Government of 18 March 2010.

- Accord priority to children and family welfare by establishing family courts and paying special attention to child abduction
- Eliminate discrimination (between children) arising from the existence of different regimes for salaried and self-employed workers or from the parents' family situation
- Protect child asylum-seekers, unaccompanied foreign minors and abused children
- Protect children from all forms of violence and exploitation (including trafficking, illegal employment and sex crimes)
- Protect children against armed conflict and its consequences
- Promote education
- Protect children's health and environment

Protect unaccompanied foreign minors

222. A resolution on the protection of unaccompanied foreign minors adopted by the Senate on 21 January 2010 requests, inter alia, the federal Government to establish a central database for automatic registration of unaccompanied foreign minors, provide them with better guidance and professional support, take all possible measures to permit the reunification of children with their parents, evaluate the Guardianship Act, and ease the administrative procedures for obtaining a residence permit.

Protection of children abroad

223. On 19 December 2008, the Council of Ministers approved preparations to make an electronic identity document for children under the age of 12 years available nationwide. The launch of the "Kids-ID" in all municipalities was set for 19 March 2009. The card is valid for up to three years and is issued at the request of the child's parent or guardian at a cost of €3.

224. The Kids-ID is considerably more secure than a paper document; it is less easily forged and thus reduces opportunities for fraud. It contains the following security features:

- The child's photograph is scanned and forms an integral part of the card and is repeated on the integrated chip
- Standardized numbering system
- Embossed images and text permit tactile verification of the card
- Printed ultraviolet features invisible to the naked eye are only detectable with ultraviolet light
- "Pseudo micro letters" are printed in the texture of the card and invisible to the naked eye

225. It was decided that the cards would be manufactured centrally in order to minimize the risk of theft of blank cards and of subsequent fraud.

Flemish Government

226. As a federated entity of the Belgian State, the Flemish Authority has long attached great importance to proper coordination of the implementation of the Convention in Belgium. To that end, Flanders has since 1997 appointed a coordinating minister for the rights of the child who receives administrative support from a coordinator and focal points in the various departments and agencies of the Flemish Authority. Since 2004, the Minister for Youth has served as coordinating minister; since 2006, the same government

department — the Youth Section/Social and cultural activities for young people and adults agency — has been responsible both for youth policy (children and young people up to 30) and for coordinating policy on the rights of the child. The challenge is to align this coordinated Flemish policy with other competent bodies in Belgium, for example the National Commission on the Rights of the Child.

227. In addition, the Belgian European Union “Youth” presidency, in which the Flemish Community takes the lead, has decided to harmonize policy agendas on children, young people and the rights of the child. The importance of this issue is reflected in the recent entry into force (1 December 2009) of new provisions on children’s rights in the Treaty on European Union (art. 3, para. 3 (2) and (5)) and a specific provision on the rights of the child in the Charter of Fundamental Rights of the European Union (art. 24). This incorporation into the legal order of the European Union is significant in that it has been ratified by all EU member States parties to the Convention.

228. At the domestic level, the Flemish Authority has mapped out eight areas of work for implementation of the third Flemish Youth Policy Plan. Taking the Convention as a reference framework, it is working to establish an extensive youth policy covering all children from birth:

- Mobilize and involve: widen opportunities (varied types of work), voluntary work and new forms of involvement; the role of work for young people in society.
- Health, identity, well-being and sexuality: prevention (health) and sport, violence and security (including youth welfare), mental health, self-image and moral strength. In this connection it will, for example, be important to examine the high suicide figures in Flanders (50 minors per year) and evaluate the Flemish plan of action for suicide prevention.
- Education and training: skills recognition, a skills-based approach as part of lifelong learning (informal learning, professional training, training for youth workers, training for young people of working age), wide-ranging support at school and during academic career.
- Develop work-related skills and initiative (cf. link to education), youth unemployment and employment challenges (e.g. in the social economy), status of young workers, working students.
- Culture, creativity and the media: cultural education and encouragement of (non-professional) artistic pursuits, media studies, new technologies and cultural facilities for young people, youth culture, creation of a youth image (i.e., the world of children and young people).
- Physical environment and concern for the planet: public areas (including young people who hang about on the street, outdoor games, green spaces, play areas, mobility), youth residences, association infrastructure, sustainable development and housing.
- Involvement and information: involvement (in politics), citizenship in different political domains (including the status and participation of school pupils), interactive government, mechanisms allowing children’s and young people’s voices to be heard, youth awareness policies and better awareness of children and young people.
- Diversity and social inclusion: poverty, accessibility and equal opportunities, multiculturalism, integration. In this connection, it is worth noting the Convention on the Rights of Persons with Disabilities, which has been ratified by Belgium, education costs (mandatory funding for studies, increased school allowances), and the need for a coordinated approach in respect of unaccompanied foreign minors.

Government of the French Community

229. On 12 December 2008, the Government of the French Community adopted a plan of action setting out the strategic objectives informing the five priorities identified by the Government in the area of the rights of the child:

- Meet the challenge of the right to education for all
- Promote equality and non-discrimination
- Make progress in children's rights education, children's involvement and emancipation
- Promote youth welfare and protection
- Improve administration of the rights of the child in the French Community

230. The Government has formulated a cross-cutting objective, identified as a priority in the National Plan on Social Inclusion 2009–2011, namely firm action to combat social exclusion and poverty and to address both in political decision-making, which has been incorporated in each of the priorities of the plan of action.

231. The plan of action comprises general and operational objectives that are put into effect through programmes or concrete actions aimed at tackling major problems in the area of children's rights. (The plan of action is available at: http://www.oejaj.cfwb.be/article.php?id_article=289.)

232. More specifically, the priorities of the Government of the French Community in the area of youth welfare and protection are:

- To implement preventive policies
- To redefine the mandate and operations of the district youth welfare councils (CAAJ), primarily with a view to adjusting and broadening their mandate to coordinate general prevention measures developed by the youth welfare sector at the district level
- Redefine with youth welfare actors and other front-line sectors (teaching, children, youth, culture, sport, etc.) cooperation modalities in partnership with the various sectors. In practical terms, this means establishing cooperation protocols with three key partners in the first instance: public welfare centres (CPAS), the Perinatal and Children's Service (ONE) and schools.
- Guarantee the fundamental right of young people and their families to general or specialist assistance. Work in this sector will now be better recorded and a new computer application will be developed in the next few years. This information will provide indicators for evaluating the policies implemented in this sector, making it possible, for example, to assess whether the availability of care places is sufficient in quantitative and qualitative terms to meet the changing needs of young people and thus develop these services to deal with the problems – problems that will moreover have been better defined.
- Ensure educative treatment for minors who have committed an act constituting an offence.

233. Of all the recourses at the disposition of the juvenile court, placement in a closed regime should be an extreme measure used as a last resort. Juvenile court judges must now be given the wherewithal to apply the full range of measures under the Act of 8 April 1965 on the protection of young persons, not only the most punitive ones, which are not always appropriate to the young person's personality, to their situation or to their offence.

234. To this end, several avenues will be pursued, notably:

- Implementation of the wider range of measures provided for in the amended 1965 Act, first and foremost intensive educative support and the personalized plan, and development of the use of mediation, restorative conferencing and educative community service. All these measures are intended as alternatives to placement and are aimed at making young people take responsibility for the consequences of their acts, in particular the consequences for victims – while giving them back their self-esteem.
- Support for closer cooperation between private youth welfare services and public institutions for the protection of young persons (IPPJ) with a view to increasing the availability of care places and improve post-placement follow-up.
- Improvement in the conditions of post-placement reintegration of young people in their family environment.

235. Lastly, the previous Government had decided to establish new residential places in centres with closed regimes, but such an increase in capacity was never evaluated – juvenile court judges, for example, were not consulted. Under the Community Policy Statement, therefore, an evaluation of unmet needs will be conducted taking account of numbers of places after the opening of the Centre fédéral de Saint Hubert. This should not only be an academic study but will also be based on consultations with the youth welfare sector as well as the judicial authorities.

Government of the Walloon Region

236. The Walloon Government also prioritizes childcare. In the “Marshall Plan 2 Vert”, the Government decided to take firm action on work-life balance. One of the aims is to generate economic activity by strengthening local services such as childcare. The plan is to meet childcare needs by:

1. Increasing childcare places for 0–3-year olds through job creation.
2. Developing more flexible childcare facilities outside office hours.
3. Helping individuals find childcare places, for example through the “Accueil de l’enfance” childcare portal.
4. Developing an after-school childcare policy for children aged 3 to 12, taking into account the situation of children with disabilities.
5. Evaluating childcare needs based on subregional socio-economic indicators.

237. Goal: 500 new jobs (employment promotion grant/professional transition programme).

238. Another objective is to boost investment in childcare infrastructure (crèches) in order to improve children’s quality of life and increase the number of places, including by providing crèches near railway stations and industrial estates as well as playgroups near training centres.

239. Budget: €56 million.

Part II

Federal Government

Legislation

240. The Act of 1 July 2006 amending the provisions of the Civil Code relating to the establishment of filiation and its effects entered into force on 1 July 2007. The Act was supplemented by an explanatory circular issued on 7 May 2007 (*Moniteur belge*, 30 May 2007).

241. The Act of 1 July 2006 was supplemented by the Act of 30 December 2009 setting forth various provisions on matters of justice and the circular of 18 January 2010 (*Moniteur belge*, 22 January 2010). The purpose of the supplementing texts was to resolve certain problems that emerged after the entry into force of the Act of 1 July 2006, owing to the absence of transitional measures to accompany the abolition of the formal approval procedure for a married man's recognition of a child conceived by a woman other than his wife.

242. The Act of 27 April 2007 reforming the divorce law (*Moniteur belge*, 7 June 2007) entered into force on 1 September 2007. Divorce law in Belgium has undergone far-reaching reform with the aim of modifying proceedings so as to limit, as far as possible, their negative effects on relationships between the parties and, in particular, to abolish fault-based divorce.

243. The legal provisions relating to parental authority and custody have not been altered by the Act reforming divorce law. Parents continue to exercise joint parental authority in respect of their children unless the competent court rules otherwise. If the parents are unable to reach agreement on the custody of their children, joint custody is the option first considered by the judge. After a marriage is dissolved, parental authority in respect of the children and the administration of their property is exercised jointly by the mother and father or by the person to whom custody is awarded, either by formal agreement between the parties (in accordance with article 1256 of the Judicial Code) or by decision of the judge ruling on the case (in accordance with article 1280 of the Judicial Code), without prejudice to article 387 bis of the Civil Code, by virtue of which the juvenile court may, in all cases, on the request of one or both of the parents or of the Crown prosecutor, impose or modify, in the best interests of the child, any provision relating to parental authority (Civil Code, art. 302).

244. The Act of 9 May 2007 amended certain provisions of the Civil Code to facilitate the procedure for proving personal status in the absence of vital records.

245. The Act of 5 June 2007 amending the Act of 14 June 1991 on commercial practices and consumer information and protection (*Moniteur belge*, 21 June 2007) establishes a number of specific measures designed to protect young people against dishonest practices. Commercial practices must take account of the susceptibility of the target group – namely young people. Aggressive commercial practices which “incite young people, by means of advertising, to buy the projects advertised or to ask their parents or other adults to buy those products for them” are explicitly prohibited under article 94/11, paragraph 5, of the Act.

246. The Act of 28 October 2008 amends articles 1231-31, 1231-41 and 1231-42 of the Judicial Code and article 24 bis of the Act of 24 April 2003 reforming adoption law in order to extend the period of validity of applicants' suitability assessments and certificates.

247. The Act of 31 July 2009, setting forth various provisions concerning criminal records (*Moniteur belge*, 27 August 2009), adds certain items to the list of information that may be contained in a criminal record under the Code of Criminal Procedure. In each case

the record contains various pieces of information and, under the Act of 31 July 2009, “the measures prescribed [...] for the custody of minors who have committed a serious offence and for the reparation of the harm caused by the offence” have been added to the information held on record (Code of Criminal Procedure, art. 590).

248. The Act of 31 July 2009 setting forth various provisions concerning judicial records (*Moniteur belge*, 27 August 2009) amends the Act of 20 July 1990 on pretrial detention to empower investigating judges to bar a person from occupations that would bring them in contact with minors (art. 35).

249. The Act of 30 December 2009 sets forth various judicial provisions (II); articles 58 ff. establish a procedure for assessing the suitability of applicants for adoption.

250. The Act of 31 July 2009 amending article 119 of the Judicial Code and article 57 bis of the Act of 8 April 1965 on the protection of young persons, the treatment of minors who have committed an act constituting an offence, and reparation for the damage caused thereby, was adopted after a Constitutional Court decision of 13 May 2008. Under this Act, if a minor is referred to the assize court for trial after a juvenile court has relinquished jurisdiction, in order for the court to be validly constituted two of the judges must have completed the training required to serve as a judge in the juvenile court.

251. The Act of 8 March 2009 amends article 12 bis of the Act of 15 December 1980, on access to Belgian territory, and the residence, settlement and removal of foreigners (*Moniteur belge*, 2 July 2009, and erratum, 13 July 2009) to make the procedure for proving a family or partner relationship less rigid. Henceforth, where it is established that a foreigner is unable to provide official documents proving the claimed family or partner relationship, in accordance with article 30 of the Act of 16 July 2004 on the Code of Private International Law and international conventions concerning private international law, the Minister or their representative may accept other valid proofs of the relationship. Otherwise, the Minister or their representative may question, or have others question, both the foreign national and the foreign national they are joining, or carry out any other inquiries deemed necessary and, if appropriate, propose further investigation.

Draft legislation

252. In addition to the bill establishing a family court already referred to, the legal provisions concerning stillborn children, the issue of registration of stillborn children and the infant viability threshold are currently under consideration.

253. With regard to unaccompanied foreign minors, based on five years' experience, a draft amendment to title XIII, chapter 6, of the framework legislation of 24 December 2002 has been submitted to the Minister of Justice. The main areas covered are:

- Confidentiality for persons handling information on unaccompanied foreign minors in the exercise of their professional duties
- The status of guardians
- The availability of the Guardianship Service
- Stowaways

254. As part of its work with authorities and bodies in this sector, the Guardianship Service is in the process of drafting cooperation agreements covering custody and accommodation arrangements, in particular for certain categories of minor, including minors in transit who are attempting to reach other countries, such as the United Kingdom.

255. A task force for unaccompanied minors is currently working to agree recommendations for raising awareness and to map out the respective roles of the different departments and bodies dealing with unaccompanied minors in risk situations.

256. This process entails information-sharing between all departments dealing with unaccompanied minors at risk of exploitation.

257. On 25 September 2009, the Minister of Defence sent the Minister of the Interior a draft amendment to the consolidated Acts of 30 April 1962. Under the draft amendment, conscripts shall form part of the reserve from the date they reach the age of 18 until such time as they are called up or their military obligations are extinguished. Since the Federal Department of the Interior and the Ministry of Defence share competence for this area of law, the Minister sought the Minister of the Interior's agreement to the draft amendment in relation to:

- New institutions and their functions
- Recently introduced policies
- Recently launched action plans and programmes and their scope, including:
 - The Federal Action Plan for Children set out in the fifth annual federal report on the rights of the child, and which encompasses Federal Government projects in progress and those planned for coming years and is structured by theme
 - The Federal Poverty-Reduction Plan, coordinated by the Secretary of State for Social Integration and Poverty Reduction, and which was approved by the Council of Ministers on 4 July 2008

258. The Federal Poverty-Reduction Plan contains 59 specific measures relating to income, employment, health, housing, and access to energy and public services.

259. In the lead-up to the European Year for Combating Poverty and Social Exclusion, more than 140 experts discussed how to enhance the utility of the National Action Plan on Inclusion as a planning instrument in the framework of a European strategy to be developed in 2010 under the Belgian Presidency of the European Union. Four working groups led by recognized experts approached the issue from various angles:

- Housing and homelessness: working towards decent, long-term, accessible housing for all
- Economic activation and diversity: working towards equal employment and inclusion opportunities for all
- Child poverty: working towards a prevention policy that gives every child an equal chance of success
- Good governance: working towards European, federal and regional policies built on a shared methodology based on citizen participation

260. For more information, see the document on future challenges and objectives.

261. In implementation of the 2008–2009 National Action Plan to combat domestic violence, the Minister of Health has continued her efforts to raise awareness of child abuse among health-care professionals by organizing one-day training workshops in hospitals.

Newly ratified human rights instruments

262. On 30 March 2007, Belgium signed the Convention on the Rights of Persons with Disabilities and its Protocol. Article 7 of this new Convention supplements the specific

provisions of the Convention on the Rights of the Child (in particular article 23) without in any way diminishing their scope or comprehensiveness.

263. The Convention was ratified by Belgium on 2 July 2009 and entered into force on 1 August 2009.

Flemish Government

264. Decree of 30 April 2009 ratifying the Flemish Government Order of 13 February 2009 relating to final objectives and development goals in elementary and secondary education; new interdisciplinary final objectives will apply in secondary education from 1 September 2010.

265. Decree amending the Decree of 13 July 2007 relating to sporting events and the observance of health obligations and Decree of 24 July 1996 establishing the status of amateur sportspersons.

266. Decree of 18 July 2008 concerning the implementation of a Flemish policy on the rights of children and young people; extension of child impact statements to include impacts on adolescents as well as children, and inclusion of the impact of regulation in the impact assessment; creation of the Vlaams informatiepunt Jeugd (Flemish youth information points) and allocation of subsidies; legal foundation for children's rights subsidies within a broader umbrella project; and structural subsidies for participation and information.

267. Decree of 10 July 2008 establishing the legal framework for equal opportunities and treatment and prohibiting age-based discrimination.

268. Establishment of a parenting support centre, EXPOO, by the Jongerenwelzijn (youth welfare) and Kind en Gezin (child and family) agencies. The centre has been operational since September 2009 and the main focus of its work is providing practical parenting support. However, the majority of the information that the centre disseminates relates to the rights of the child. For more information, please consult the link: <http://www.expoo.be/expoo-een-expertisecentrum-opvoedingsondersteuning>.

269. Decree of 7 March 2008 concerning special assistance to young people; see part I, reply to the paragraph of the list of issues (paragraph 73 above). The Decree was implemented on 2 March 2009 by a new implementing order relating to the operation of the relevant committees, the mediation commission, the social services and the juvenile court. Most of the provisions of the new Decree are identical to those contained in previous decrees concerning special assistance to young people. The new Decree was prompted by changes in the organization of the Flemish authorities and the need for harmonization with the Act of 8 December 1992 on the protection of privacy in the processing of personal data. This Act established the legal framework for Domino, the electronic case management system used by the social services, the committees and the juvenile courts. The provisions of the new Decree were also harmonized with those of the decrees on public access to administration, integrated youth welfare services and the legal position of minors.

270. Flemish team at the Federal Detention Centre in Tongres. On 3 November 2009 a team of six Flemish specialists joined the staff of the detention centre in Tongres. The team comprises a supervisor, a psychologist, a social worker and three teachers, and will be responsible for the education and instruction of convicted minors housed in the centre over whom jurisdiction has been relinquished.

271. Flemish Government Order of 19 June 2009 establishing the conditions for the granting of subsidies and the methods of selection, duration of and evaluation procedures for short- and long-term time-out programmes: three-year subsidies are granted for short- and long-term time-out support programmes, and any association able to offer eight time-

out support programmes to all school systems in the region may submit an application to the Education and Training Department and the Jongerenwelzijn agency.

272. Ratification of the Convention on the Rights of Persons with Disabilities on 2 July 2009.

Government of the French Community

273. Decree establishing the terms and conditions of accreditation and grants for youth organizations (26 March 2009). Youth organizations will henceforth benefit from a flat-rate grant that they are free to use at their discretion provided they adhere to certain clearly defined principles. The grants will be awarded on the basis of a four-year plan setting out the goals pursued and the actions to be implemented. The Decree provides that additional funding may be available to youth organizations carrying out specific activities targeting specific sectors – for example, lobbying activities and action to combat the extreme right, activities to raise awareness of citizen participation and democracy, action to educate young people about the media, and events organized in conjunction with schools. Lastly, it should be noted that this new draft decree is backed by financial resources – an additional €3,000,000 on top of the 2008 budget allocation of €12,435,000,000.

274. Decree establishing the Youth Council of the French Community (CJCF) (14 November 2008). The Decree provides, inter alia, for a change in the composition of the CJCF, such that membership is no longer restricted to youth organizations but is open to youth clubs, students' councils and students' Community organizations, the Youth Welfare Service, and young people with ideas for innovative group initiatives. The CJCF will be appointed following a call for candidatures open to all young people, to ensure plurality as established in the Decree. The draft provides that, as is the case in other Communities, the CJCF shall be constituted as a non-profit organization, the objective being to ensure its autonomy and allow for its direct representation on international youth advisory bodies. Lastly, the Decree provides for the creation of new participatory structures, such as agora groups, forums and caucuses, which will canvass the views of young people from the French Community and at the local level and to feed them into the new CJCF.

275. Decree regulating the implementation of the Decree of 20 July 2000 on the conditions for the accreditation and funding of youth clubs, community centres, hostels, and youth information centres, and youth federations. This Decree puts an end to the incongruence whereby an accredited association did not necessarily receive a subsidy. The notion of "recognition" has thus been eliminated, leaving only the notion of accreditation. It should be noted that since 2004, 13 youth clubs have been recognized but not subsidized owing to a lack of precision in the former decree. As a result, although required to comply with certain legal obligations, those organizations received no funding for the services they provided. The authorities could not allow this situation to continue. Accreditation is dependent on the implementation of a four-year action plan and continued accreditation is now subject to general and specific terms and conditions. Youth clubs' opening hours will be revised, in consultation with the sector, to bring them closer into line with the realities on the ground and educational objectives will be better defined to facilitate the work of youth workers. Other useful provisions contained in the text include measures forging closer ties between information centres and youth clubs, measures to enhance the sector's educational role, and measures to increase the transparency of accreditation decisions by establishing educational criteria.

276. Order of the Government of the French Community regulating the implementation of the Decree of 20 July 2000 setting out the terms and conditions for the accreditation and funding of youth clubs and community centres (5 December 2008). The Order develops the provisions of the Decree of 6 May 2008, defining the evaluation matrices to be used to verify that accredited youth clubs in fact discharge their missions under the Decree both

quantitatively and qualitatively (opening hours, number of activities, etc.). At present, 188 youth clubs are recognized and subsidized, more than 500 full-time equivalent staff work in them and thousands of young people regularly use their services.

277. Order of the Government of the French Community approving the first addendum to the management contract of the Perinatal and Children's Service (ONE). The addendum provides for the implementation of the Government decision of August 2008 to reduce parental contributions to day care by introducing two means-tested benefits, determined in accordance with the scales used by ONE to calculate parental contributions. Firstly, all families with a net monthly income of less than €2,200 will receive an annual rebate equivalent to one month's crèche fees, based on the ONE scale, i.e., between €45 and €265 depending on circumstances. The allowance payable to families with a net monthly income of between €2,200 and €3,000 will receive a maximum of €200. Secondly, all families with two or more children (twins, children under 3, etc.) in day care at the same time will receive an additional rebate. Families with a net monthly income of less than €3,000 will receive twice the amount of the first rebate, while all other families will receive a flat-rate allowance of €125 per child. Nearly two thirds of families with children in day care, crèches or nurseries, or who use a childminder, will benefit from these measures.

278. Parents of children in day care as of October 2008 will immediately benefit from these measures. The various amounts will be deducted from the bills issued by care providers in May 2009. The cost of this measure for the Government of the French Community is €4,808,684.

279. Order of the Government of the French Community establishing the terms and conditions for the accreditation and funding of community youth services (AMO). The Order reiterates the special nature of AMOs: the assistance is not court-ordered, young people and their families participate voluntarily and their anonymity is respected, pursuant to the code of ethics and article 458 of the Belgian Criminal Code. The recitals recall the core principles that underpin their work (preventive focus, need to work with young people at their level, fostering their emancipation and citizenship, and developing a sense of community spirit). The text reaffirms the importance, equivalence and interdependence of the two components of their work, establishing a basis for impartial analysis and evaluation of the services they provide, with due account taken of social analysis in defining their educational content. The Order further stipulates that, where a young person requests assistance as a result of guidance from a third party, the AMO must notify the "principal".

280. For other legislation in the French Community, see annex 6.

Government of the German-speaking Community

281. Decree on youth welfare: implementation of youth protection measures (19 May 2008: *Moniteur belge*, 1 October 2008; entry into force 1 January 2009).

282. Decree relating to the centre for educational support and specialist teaching, aimed at improving specialist educational support in ordinary and special schools and encouraging support for pupils with special needs or with adjustment or learning difficulties in ordinary and special schools (11 May 2009: *Moniteur belge*, 4 August 2009).

283. Decree establishing the position of Ombudsman for the German-speaking Community (26 May 2009: *Moniteur belge*, 7 October 2009).

"Justice at School" project

284. As part of an initiative of the Higher Council of Justice, the Minister of Education for the German-speaking Community has set up a "Justice at School" working group, co-chaired by a professor of the Autonomous University of the German-speaking Community

and a lawyer, to develop an educational toolkit for primary and lower secondary schools, with teaching material on issues of justice (in the broad sense).

285. The working group includes lawyers from the Eupen bar association, the Autonomous University, the Cabinet of the Minister of Education and the Education Office.

286. The toolkit presented to head teachers in May 2009, which has been made available to every secondary and primary school, contains teaching materials covering the following subject areas: human rights, the rights of the child, moral courage, violence, bullying, divorce, truancy, the police, theft, lawyers, pocket money, the civil liability of parents and teachers, and copyright.

287. The accompanying manual asks teachers to provide feedback by completing a questionnaire on each of the subject areas, for the purposes of evaluation of content and methodology and further development of the toolkit.

288. Information and training workshops have been organized for teachers since September 2009. The working group will continue its work throughout the 2009/10 academic year.

Part III

Statistical data, where available:

1. Reply to paragraph 1 of Part III of the list of issues

Federal Government

Minors convicted in court as adults

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Total	746	773	771	727	614	745	643	551	800	467	606	334	294	207
Police courts	716	747	743	694	578	684	573	504	739	407	567	288	252	181

Flemish Government

289. In recent years, the youth welfare agency, Jongerenwelzijn, has been receiving an average of one or two complaints from young people in community care institutions through the JO-lijn telephone helpline.

290. The complaints have related to three aspects of the institutions:

(1) Community vision, code of conduct and procedures for managing supervision and solitary confinement;

(2) The decision, within the framework of the security plan, to routinely train personnel in the verbal management of conflict and aggression using the Life Space Crisis Intervention (LSCI) programme;

(3) The introduction of community service in community care institutions (cf. HERGO method in schools).

2. Reply to paragraph 2 of the list of issues

Flemish Government

Youth protection

291. Trends in budget allocations to the youth welfare agency, Jongerenwelzijn, and to the integrated youth welfare service are shown in the table below (in thousands of euros).

<i>Jongerenwelzijn youth welfare agency</i>			<i>Integrated youth welfare service</i>		
<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>
312 812	340 084	361 226	1 804	679	616

292. The decline in the budget is a consequence of the transfer of the staff costs of the Department of Welfare, Health and the Family, which is also responsible for front-line services for children and adults, which are no longer included in this budget. For further details, see under Data collection, section on youth protection: budget, item (a).

Education

Flemish budget for nursery/primary and secondary education

<i>2007</i>	<i>2008</i>	<i>2009</i>
6 399 352	7 147 282	6 581 750

For further details, see under Data collection, section on optional questions: budgets, items (a) and (b).

Health

293. Within the Flemish Authority, the competent agencies in Flemish health-care policy are Kind en Gezin (Child and Family) and Zorg en Gezondheid (Care and Health).

<i>Zorg en Gezondheid</i>			<i>Kind en Gezin</i>		
<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>
625 184	662 897	701 468	437 295	469 963	543 645

For further details, see under Data collection, section on health: budget.

Government of the French Community

294. Budget allocations refer only to allocations actually applied (i.e. not scheduled allocations but executed allocations) in implementing formal education, youth welfare and protection, and child and health policies.

295. The total amounts allocated to education in 2007, 2008 and 2009 were €4,516,276,736.77, €4,953,387,845.54 and €4,901,516,269.77, equivalent to 59.17 per cent, 59.37 per cent and 58.97 per cent, respectively, of the total budget of the French Community. Scholarships are not included in these calculations.

296. The total amounts allocated to youth welfare and protection in 2007, 2008 and 2009 were €219,731,875.72, €238,155,680.75 and €239,187,681.86, equivalent to 2.88 per cent, 2.85 per cent and 2.88 per cent, respectively, of the total budget of the French Community.

297. In the case of health care, it was not possible to disaggregate the amount allocated to minors from the total amount applied in this policy area. We have therefore added together the amounts allocated to the implementation of health policies exclusively benefiting minors, i.e. vaccination and school health programmes, and the budget allocated to the Perinatal and Children's Service (ONE). The total amounts for 2007, 2008 and 2009 were €204,789,425.36, €226,114,051.83 and €238,598,632.29, equivalent to 2.68 per cent, 2.71 per cent and 2.87 per cent, respectively, of the total budget of the French Community. This budget includes all allocations to children, childcare (crèches) and support, which are assigned to the Perinatal and Children's Service (ONE), a public interest agency. ONE has a specific budget allocation, which in 2007, 2008 and 2009 totalled €178,404,300, €186,458,000 and €203,641,000, equivalent to 2.34 per cent, 2.23 per cent and 2.45 per cent, respectively, of the overall budget of the French Community.

Government of the German-speaking Community

Budget allocations (absolute figures)

	<i>Education</i>	<i>Health</i>	<i>Social services</i>	<i>Youth welfare</i>	<i>Overall Community budget</i>
2007	83 164 000	865 000	2 207 000	2 904 000	€159 172 000
	52.25%	0.54 %	1.39 %	1.82 %	100 %
2008	87 040 000	784 000	2 271 000	3 159 000	€166 162 000
	52.38 %	0.47 %	1.37 %	1.90 %	100 %
2009	100 383 000	816 000	3 384 000	3 529 000	€198 100 000
	50.67 %	0.41 %	1.71 %	1.81 %	100 %

298. Expenditures on infrastructure are not included in the individual budgets for the different areas but are included in the overall Community budget.

299. Expenditures in the area of persons with disabilities (apart from education) are not included in the above data, since this budget area is managed by a para-Community agency whose primary focus is adults with disabilities.

Annexes

Annex 1

Implementation of the catalogue of measures contained in the Government statement of 13 September 2004

ABSCHLUSSBERICHT FÜR DIE LEGISLATURPERIODE 2004–2009

Preamble

A key area of the Government statement of 13 September 2004, which also covered the four strategic challenges in Community policy, finance and infrastructure targets and the organization and strengthening of autonomy, was a catalogue of measures setting out the guidelines for Government work during the current legislative period. The 155 measures have been put into effect through a large number of projects (448), further divided into 2,290 phases. During the 2004–2009 legislative period, 91.8 per cent (2,102) of the phases have been carried out. The remaining 188 phases have had to be deferred until the next legislative period for reasons of content, organization or time.

The Government implemented the catalogue of measures taking into account the results of a strategic workshop held in the first half of 2004. The allocation of measures to the strategic objectives of the workshop was documented in the Government statement on the state of the Community in 2005. The Government sought to use elements of the balanced scorecard approach when putting the catalogue of measures into effect. In addition, particular focus has been placed on sustainable development. The 58-page report “Die DG nachhaltig gestalten” (The sustainable organization of the German-speaking Community) deals in considerable depth with the importance of sustainable development and discusses it at length in connection with 39 of the 155 measures.

Many of the completed projects relate to a range of activities that can now be continued. These are identified (*) in the current version of the catalogue of measures. Some projects identified as already completed are still under discussion and will probably be finished by the end of June of this year. In each case these are noted separately.

Many projects relate to areas that are part of the concept of regional development that is based on the Government statement “Wege in die Zukunft” (Pathways for the Future) of 18 September 2007, presented on 26 March 2009.

The Government hopes that this standardized description of its legislative agenda has helped improve the quality and transparency of its work.

The Government of the German-speaking Community

Karl-Heinz Lambertz	Bernd Gentges
Ministerpräsident,	Vize-Ministerpräsident,
Minister für lokale Behörden	Minister für Ausbildung und Beschäftigung, Soziales und Tourismus
Oliver Paasch	Isabelle Weykmans
Minister für Unterricht und wissenschaftliche Forschung	Ministerin für Kultur und Medien, Denkmalschutz, Jugend und Sport

Contents

Education

- 1. Develop initial and in-service teacher training**
 - 1.1 Improving initial training at the Autonomous University
 - 1.2 Streamlining the in-service training programme of the Department of Education of the Ministry of the German-speaking Community
 - 1.3 Providing new in-service training opportunities at the Autonomous University
- 4. Rethink the advancement of students**
 - 4.1 Audit and needs analysis
 - 4.2 Preparation and adoption of a decree
- 5. Merge the three psycho-medical-social centres and the two health centres**
 - 5.1 Audit and needs analysis
 - 5.2 Negotiations with the organizing authorities
 - 5.3 Preparation of a regulatory framework
- 6. Improve vocational consultation and guidance on the basis of the document prepared by the Labour Office of the German-speaking Community in cooperation with schools and psycho-medical-social centres**
 - 6.1 Provision of information on careers, training and studies
 - 6.2 Development of common themes for schools to guide students into making better career choice decisions
- 11. Reorganize part-time education**
 - 11.1 Development of a concept for reforming part-time education
 - 11.2 Cooperation with social enterprises
 - 11.3 Creation of new legal frameworks
- 12. Promote homework classes**
 - 12.1 Review of the principles underlying homework allocation in schools
 - 12.2 Review and evaluation of current models of homework classes
 - 12.3 Assessing the feasibility of establishing homework classes in the German-speaking Community in consultation with school representatives
- 16. Ease the transition from primary to secondary school**
 - 16.1 Awareness-raising campaign and establishment of an interface between primary and secondary school teachers
- 18. Introduce civics and citizenship studies**
 - 18.1 Interdisciplinary introduction of civics and citizenship studies in school curricula
 - 18.2 Initial and in-service training in civics and citizenship studies
 - 18.3 Educational and teaching resources

21. Promote and improve multilingualism

- 21.1 Development of a master plan for the teaching of French as a foreign language
- 21.2 Promotion of initial and in-service training for nursery and primary schoolteachers
- 21.3 Participation in language projects
- 21.4 Further training in French at the Autonomous University of the German-speaking Community
- 21.5 Implementation of the language decree on the basis of the report of the special commission on the use of languages in education
- 21.6 Native speakers – teacher exchanges
- 21.7 Establishment of the post of specialist French teacher in primary schools

23. Continue the development of multimedia libraries

- 23.1 Development of multimedia libraries in secondary education
- 23.2 Development of the Autonomous University multimedia library
- 23.3 Development of media services in primary schools
- 23.4 Establishment of curricula for teaching media skills in German-speaking Community schools
- 23.5 Initial and in-service media skills training for teachers: training of school multimedia librarians
- 23.6 Developing standards and guidelines for the establishment and operation of school multimedia libraries
- 23.7 Incorporation of German-speaking Community schools into the EDMOND project (electronic dissemination of educational media on demand)

27. Increase assistance to pupils experiencing difficulty

- 27.1 Greater focus on developing diagnostic ability and skills in initial teacher training programmes
- 27.2 Provision of new in-service training courses
- 27.3 Adapting basic material conditions

28. Amend the Decree on special schools

- 28.1 Lifting the freeze on allocation of teaching hours
- 28.2 Establishing the post of occupational therapist in special education
- 28.3 Implementation of detailed needs analysis
- 28.4 Adoption of the Decree on special schools

31. Review the system of study grants and scholarships

- 31.1 Impact assessment of the legal basis for awarding study grants in place since 1986
- 31.2 Review of the legal basis

Vocational training

35. Introduce differentiated instruction for trainees in the first year of studies

- 35.1 Insitutionalization and assessment of socio-pedagogical support

35.2 Organization of remedial classes and training workshops (allocation of teaching hours)

35.3 Continuing the modular teaching approach

Youth

60. Develop open access youth training schemes

60.1 Performance mandates for municipalities in the south of the German-speaking Community

60.2 Creating synergies within open access youth training in the town of Eupen

61. Implement a comprehensive youth training concept

61.1 Consultations to prepare a youth concept

61.2 Developing a youth concept at the level of the German-speaking Community

61.3 New decree on the advancement of youth

62. Support in-service training for youth leaders

62.1 Definition of quality requirements for volunteer youth leaders with a view to upgrading the German-speaking Community youth leaders certificate

62.2 Evaluation of mandatory ongoing training for official subsidized youth leaders

63. Promote international and inter-community exchanges

63.1 Benelux seminar: "Non-formal Training"

63.2 Active participation in the new Youth in Action Programme (2007–2013)

63.3 Development and use of the treaty (nationally and internationally)

Culture

70. Improve access to culture and, in particular, involve young people more actively in cultural activities

70.1 Establishment of a cultural coordination centre and creation of a culture portal

70.2 Loan of works of art

70.3 Permanent exhibition

Media

72. Prepare a new decree on the media

72.1 Implementation of a new decree on the media

Sport and leisure

82. Improve the quality of training for coaches and physical trainers

82.1 Continuing coordination of the training programme by the sports commission

82.2 Extending cooperation with training providers in Belgium and abroad

83. Promote team sports, including publicity for lesser-known sports

83.1 Measures at the level of the Ministry of the German-speaking Community

- 83.2 Measures at the level of the German-speaking Community in cooperation with municipalities
- 83.3 Measures at the local level between municipalities and the “Sport for All” association
- 83.4 Measures in organized sport
- 84. Facilitate access to sports activities for young people, seniors and persons with disabilities**
- 84.1 Raising awareness of the opening up of sports facilities to young people, seniors and persons with disabilities without club membership and the opening up of sports clubs to these target groups

Family and seniors

100. Comprehensive concept to strengthen families and enhance parenting skills

- 100.1 Strengthening families
- 100.2 Courses for parents “Starke Eltern – Starke Kinder”®
- 100.3 Dienst für Kind und Familie (DKF): point of contact for child-rearing issues

101. Improve out-of-school childcare

- 101.1 Out-of-school childcare in the town of Eupen
- 101.2 Out-of-school childcare in the municipality of Bullange
- 101.3 Out-of-school childcare in the municipality of Burg-Reuland
- 101.4 Out-of-school childcare in the municipality of Amblève
- 101.5 Establishment of a Consultation Commission in the municipality of Lontzen

102. Increase childcare places

- 102.1 Building childminder capacity and introducing more flexible schedules
- 102.2 Use of the concept with a view to recognizing, and providing support for, independent childminders, and an awareness-raising campaign
- 102.3 Encourage private businesses to set up workplace crèches

Policy on persons with disabilities

110. Expand the current supply of housing for persons with disabilities

- 110.1 Habitat 2000
- 110.2 Exemption for families looking after a child, young person or adult with a disability
- 110.3 Integration of children, young persons and adults with disabilities into existing leisure and holiday schemes

Youth welfare

115. Harmonize measures for integrating young people at risk

- 115.1 Establishment of a working group
- 115.2 Implementation of the working group’s proposals for improvement and its conclusions

116. Establish reception facilities for young people in the south of the German-speaking Community

- 116.1 Establishment of a working group
- 116.2 Implementation of proposals and conclusions

117. Enable collaboration between current specialist institutions and youth psychiatrists

- 117.1 Contractual agreement to allow ad hoc collaboration with child and youth psychiatrists
- 117.2 Federally supported project to establish a day clinic for young people aged 15–20

118. Increase the scope for committal of, and therapy for, young people at risk

- 118.1 Agreement with “Courage”
- 118.2 Accommodation for “difficult” young people
- 118.3 Implementation of the new federal youth protection Act
- 118.4 Measures based on educational experiences

Social welfare**123. Develop the provision of services to integrate foreign fellow citizens**

- 123.1 Intervention in the attribution of unaccompanied minors
- 123.2 Asylum-seekers’ office
- 123.3 Homework classes
- 123.4 Literacy measures and language courses

124. Promote tolerance and the ability to establish social contacts with foreigners

- 124.1 Publication of a calendar and organization of an exhibition
- 124.2 Raising public awareness through ongoing public relations work

Health**131. Implement the decree on health promotion**

- 131.1 Establishment of a health council
- 131.2 Adoption of the concept of health promotion
- 131.3 Identifying key priority issues in the area of health promotion work

132. Promote initiatives to improve health awareness

- 132.1 Heart attack and stroke campaign
- 132.2 Skin cancer campaign
- 132.3 AIDS prevention and sex education
- 132.4 Early detection of breast cancer
- 132.5 Youth risk behaviour
- 132.6 Towards tobacco-free schools
- 132.7 Food and health plan consistent with the national plan

132.8 Health month in the municipalities

132.9 Preventive health care at school

132.10 “Fit & Gesund”, joint initiative with the Belgian radio and television centre

132.11 Vaccination campaign for seniors (influenza and pneumococcus)

132.12 Antibiotics campaign

133. Organize and plan training for paramedics

133.1 Management of further decentralization of paramedic courses (EPAMU)

133.2 Decree regulating the transport of non-urgent patients

133.3 Specification of the mandatory qualifications for persons accompanying the transport of non-urgent patients

Communication and public relations

147. Improve communication with citizens in the German-speaking Community

147.1 Provision of appropriate communication channels (institutions-citizen)

147.2 Provision of appropriate communication channels (citizen-institutions)

147.3 Development of info points. For example, development of e-government applications.

Annex 2

Chapter VII bis of the Code of Criminal Procedure – On testimony by minors who are victims of or witnesses to certain offences

Article 91 bis. Any minor who is a victim of or witness to acts under articles 347 bis, 372–377, 379, 380, 380 bis, 380 ter, 383, 383 bis, 385, 386, 387, 398–405 ter, 409, 410, 422 bis, 422 ter, 423, 425, 426 and 428 of the Criminal Code has the right to be accompanied by an adult of his choice at all hearings conducted by the judicial authority, unless there is a substantiated decision to the contrary taken by the public prosecutor's office or the investigating judge in the interest of the minor or of establishing the truth.

Article 92. 1. The Crown prosecutor or the investigating judge may order the audio-visual recording of hearings of minors who are victims of or witnesses to offences under article 91 bis, with their consent. If the minor is under 12 years of age, it is sufficient to inform them of the decision.

2. The audio-visual recording of hearings of minors who are victims of or witnesses to offences other than those referred to in section 1 may be ordered, with their consent, where there are serious and exceptional circumstances. If the minor is under 12 years of age, it is sufficient to inform them of the decision.

Article 93. Depending on the stage of the proceedings, the recorded hearing shall be conducted by the public prosecutor, the investigating judge or a police officer specifically designated by either of them.

Article 94. The recorded hearing of a minor shall take place in a specially prepared room. The persons who may be authorized to attend are the person carrying out the questioning, the person referred to in article 91 bis, one or more staff members of the technical department and an expert psychiatrist or psychologist.

Article 95. The person carrying out the questioning shall explain to the minor why they wish to record the hearing and shall inform the minor that they may at any time ask for the recording to be stopped. This shall be noted in the report. At any time during the recorded hearing, the minor may ask for the recording to be stopped. The request shall be acted upon immediately and noted in the report.

Article 96. A report on the recorded hearing shall be established within 48 hours or immediately if the suspect is deprived of his liberty. The report shall include, in addition to the information set out in article 47 bis, the main points of the interview and, if necessary, a transcription of the most significant passages. A literal, verbatim transcription shall be drawn up at the request of the investigating judge, the Crown prosecutor or on application by the person heard or the parties to the proceedings. The transcription shall record the minor's attitude and expressions. It shall be added to the file as soon as possible.

Article 97. Two copies of the recording shall be made. Both cassettes shall be deemed originals and shall be deposited in the court registry as evidence. If necessary, notably for the purposes of transcription or an expert appraisal, one of the cassettes may be made available to the police or the designated expert. No copy of the cassettes may be made.

Article 98. If it is absolutely necessary to resume or supplement the questioning of the minor or to conduct a confrontation, the Crown prosecutor, the investigating judge, the investigating court or the trial court shall order by a reasoned decision that a new hearing or a confrontation be conducted under the conditions provided for by articles 91 bis to 97.

Article 99. The cassette may be viewed only by those persons involved professionally in the preliminary inquiry, judicial investigation or trial, or by the parties to the proceedings. Defendants who are not in detention and the civil party may apply to the investigating judge to view the cassette in accordance with article 61 ter. All parties have the right to view the cassette after the Crown prosecutor has made his closing arguments with a view to settling the procedure, in accordance with article 127.

Article 100. The records of the hearing and the cassettes of the recording shall be produced before the investigating court and the trial court instead of the minor appearing in person. Nevertheless, when it considers the appearance of the minor necessary to establish the truth, the trial court may so order by a reasoned decision.

Article 101. The cassettes may be destroyed by decision of the trial court. Otherwise, they shall be kept in the court registry and destroyed after expiry of the limitation period for criminal prosecution or for civil action, whichever is later, and, in the event of conviction, after complete enforcement of the sentence or the expiry of the limitation period.

Article 190 bis of the Code of Criminal Procedure

With respect to minors who are witnesses, the court shall, if necessary, apply articles 92 to 101, on recorded hearings.

When the appearance of the minor is deemed necessary in order to establish the truth, the minor shall appear by videoconference unless they express the wish to testify in court.

In the event of a hearing by videoconference, the minor shall be heard in a separate room, in the presence, where appropriate, of the person referred to in article 91 bis, his lawyer, one or more technical staff and an expert psychiatrist or psychologist.

If the court deems it necessary, to avoid disturbing the witness, it may, in all cases, restrict or prevent visual contact between the minor and the defendant.

This article is applicable to minors whose testimony has been recorded under article 92 and who have reached the age of majority at the time of the court hearing.