



**Convention on the Rights
of Persons with Disabilities**

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**Implementation of the Convention on the Rights
of Persons with Disabilities**

**Initial reports submitted by States parties under article 35 of
the Convention**

Belgium*

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Contents

	<i>Paragraphs</i>	<i>Page</i>
Introduction.....	1–3	3
Articles 1 to 4: General principles of the Convention.....	4–11	3
Article 5: Equality and non-discrimination.....	12–22	5
Article 6: Women with disabilities	23–25	8
Article 7: Children with disabilities	26–32	9
Article 8: Awareness-raising.....	33–40	10
Article 9: Accessibility.....	41–53	12
Article 10: Right to life	54–57	16
Article 11: Situations of risk and humanitarian emergencies.....	58–60	17
Article 12: Equal recognition before the law	61–66	18
Article 13: Access to justice.....	67–69	20
Article 14: Liberty and security of person	70–77	21
Article 15: Freedom from torture or cruel, inhuman or degrading treatment or punishment.....	78–79	22
Article 16: Freedom from exploitation, violence and abuse	80–83	23
Article 17: Protecting the integrity of the person	84–86	25
Article 18: Liberty of movement and nationality.....	87–88	27
Article 19: Living independently and being included in the community	89–92	27
Article 20: Personal mobility	93	30
Article 21: Freedom of expression and opinion, and access to information	94–97	32
Article 22: Respect for privacy	98–100	35
Article 23: Respect for home and the family	101–104	35
Article 24: Education	105–126	36
Article 25: Health.....	127–133	42
Article 26: Habilitation and rehabilitation	134–138	45
Article 27: Work and employment.....	139–155	47
Article 28: Adequate standard of living and social protection.....	156–162	54
Article 29: Participation in political and public life	163–168	57
Article 30: Participation in cultural life, recreation, leisure and sport	169–175	58
Article 31: Statistics and data collection.....	176–180	61
Article 32: International cooperation	181–184	62
Article 33: National implementation and monitoring	185–189	63

Introduction

Division of competences in relation to disability policy in the federal State of Belgium

1. Belgium has been a federal State with communities and regions since 1993. Each level of government has competence in certain areas. Disability policy falls under the remit of a number of bodies.
2. The federal authority has residual powers (for example, in the area of disability: payment of income-replacement and integration allowances), while the communities and regions exercise powers that have been devolved to them. The communities are responsible for person-related, linguistic and cultural matters, such as education, health care and culture, while the regions are responsible for territorial matters, such as agriculture, the economy, public works and housing.
3. Overview of the various bodies involved:
 - Federal level: Federal Public Service for Social Security;
 - Flanders: Equal Opportunities in Flanders unit and the Flemish Agency for Persons with Disabilities (VAPH);
 - Walloon Region: Walloon Agency for the Integration of Persons with Disabilities (AWIPH);
 - Brussels-Capital Region: Ministry of the Brussels-Capital Region;
 - French Community: Ministry of the French Community;
 - German-speaking Community: Agency for Persons with Disabilities (DPB);
 - Bilingual Brussels-Capital Region (community matters):
 - French Community Commission (COCOF): Brussels French-speaking Service for Persons with Disabilities;
 - Flemish Community Commission (VGC): administration of the Flemish Community Commission;
 - Common Community Commission (COCOM): administration of the Common Community Commission.

Articles 1 to 4 General principles of the Convention

4. Belgium does not have a single definition of disability; rather, there are several that differ according to the criteria they apply. The Act of 27 February 1987 on disability allowances establishes a distinction on the basis of the allowance granted:
 - An income-replacement allowance is granted to persons with disabilities who are aged 21 years or over and under 65 at the time of submission of the application. The person's physical or mental condition must reduce their earning capacity to one third or less of that of a non-disabled person;

- An integration allowance is granted to persons with disabilities who are aged 21 years or over and under 65 at the time of submission of the application. A lack of autonomy or reduced autonomy must be established.

5. The provision on reasonable accommodation is based on article 5 of European Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation: “In order to guarantee compliance with the principle of equal treatment in relation to persons with disabilities, reasonable accommodation shall be provided.” The concept of reasonable accommodation is defined in most anti-discrimination legislation (on the basis of article 5 of European Directive 2000/78/EC) as “appropriate measures, where needed in a particular case, to enable a person with a disability to have access to, participate or advance in areas to which this law applies, unless such measures would impose a disproportionate burden on the person taking them”.

6. Flemish disability policy is implemented by the Flemish Agency for Persons with Disabilities (insofar as it concerns assistance to persons with disabilities) but, since 2010, has also formed part of equal opportunities policy (which takes a vertical and cross-cutting approach to disability and accessibility). Under the Flemish Decree of 7 May 2004 establishing the Flemish Agency for Persons with Disabilities and the Decree of 10 July 2008 on the Flemish policy framework for equal opportunities and treatment, disability is defined as “any significant, long-term participation problem experienced by a person that is attributable to the interaction between functional disorders of a mental, psychological or sensory nature, limitations in the performance of activities, and personal and external factors”.

7. The Walloon Region Decree of 6 April 1995 on the integration of persons with disabilities contains the following definition: “... a person with a disability is any person, whether a minor or of age, whose capacity for social or professional integration is significantly limited owing to a mental, sensory or physical impairment, necessitating intervention by society”.

8. Under the Decree of 19 June 1990 establishing the Agency of the German-speaking Community for Persons with Disabilities, disabilities are defined as “long-term physical, psychological, mental or sensory disorders that, in the light of various barriers, prevent full, effective and equal participation in society”.

9. Article 1 (6) of the French Community Commission Decree of 22 October 2009 defines disability as “social disadvantage resulting from a deficiency or incapacity that limits or prevents the fulfilment of a role usual for a person’s age and sex, as well as in relation to social and cultural factors”.

10. The involvement and representation of persons with disabilities and their representative organizations in disability policy development has been institutionalized through the following advisory bodies:

- Federal level: the National Higher Council for Persons with Disabilities;
- Flanders: there is no advisory body covering all the different policy areas, but there are a number of sectoral bodies (such as the advisory committee of the Flemish Agency for Persons with Disabilities and the working group on comprehensive youth support, as well as user consultation in the area of work and disability);
- Walloon Region: the Walloon Commission for Persons with Disabilities;

- French Community: the Sign Language Advisory Commission, which has as its mission to issue to the government of the French Community, on its own initiative or by request, opinions and proposals on problems concerning the use of sign language;
- German-speaking Community: persons with disabilities and their representatives are represented on the board of the Agency for Persons with Disabilities.

11. Civil society is also involved and participates fully in monitoring the implementation of the Convention at federal, regional, community and local level (for instance, involvement of the Ligue belge des droits de l'homme (Belgian Human Rights League) and the Ligue belge des droits de l'enfant (Belgian Children's Rights League), and this role is recognized in general policy. In Flanders, under equal opportunities policy, ad hoc consultations are organized with associations in the field (through the open method of coordination, for example). Discussions are currently under way with civil society to determine whether a formal consultative structure would be appropriate in Flanders, and, if so, what form it should take.

Article 5

Equality and non-discrimination

12. The equality of persons with disabilities and the principle of their protection from discrimination are established in the Belgian Constitution (arts. 10 and 11) and in the legislation of the various levels of government.¹ At the federal level, the anti-discrimination provision is given effect by the three anti-discrimination acts of 10 May 2007:

- General Anti-Discrimination Act;
- Anti-Racism Act;
- Gender Act.

13. Persons with disabilities have the same right as everyone else to invoke the law. In order to ensure the full legal protection of persons with disabilities, measures such as the provision of interpreters, including sign language interpreters, have been adopted.

14. In accordance with the Act of 15 February 1993 establishing the Centre for Equal Opportunities and Action to Combat Racism (as amended by the acts of 25 February 2003 and 10 May 2007), the Centre is responsible for dealing with cases of discrimination, including discrimination on the grounds of disability.

15. The Act of 10 May 2007 on combating certain forms of discrimination (hereinafter referred to as the "Anti-Discrimination Act") prohibits all forms of direct or indirect discrimination and incitement to discriminate or intimidate on the grounds of disability or current or future health status, among other factors. In addition, it requires reasonable accommodation to be provided to persons with disabilities. Denial of reasonable accommodation may also be considered a discriminatory act. The Anti-Discrimination Act is applicable to many areas of public life: employment, the goods and services sector, all economic, social, cultural or political activity, social security and social protection, and references, in official documents or records. It allows victims of discrimination to claim their rights and take their cases to a civil court: a labour court, commercial court or court of first instance. During civil proceedings, victims are entitled to the reversal of the burden of

¹ In particular, the provisions adopted at the European level, such as Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation.

proof, that is, when the victim invokes facts from which it may be inferred that discrimination occurred, it is for the defendant to prove that there was no discrimination. If the judge recognizes that the victim was discriminated against, he may grant lump-sum compensation.

16. Alongside a proactive and cross-cutting equal opportunities policy,² Equal Opportunities in Flanders pursues a non-discrimination policy in application of four European directives³ and the Decree of 10 July 2008 on the Flemish policy framework for equal opportunities and treatment. This Decree prohibits all discrimination on the grounds of disability or health status, among other factors, in both the public and private sectors, in the context of employment, vocational training, placement services, health care, education, the provision of goods and services, and participation in activities outside the private sphere. Denial of reasonable accommodations (art. 2) is considered a form of discrimination. The Decree includes penalties and procedures designed to enforce compliance with these provisions. It also provides for the reversal of the burden of proof in civil proceedings. The entity accused of direct or indirect discrimination must thus prove that there was no discrimination. Pursuant to the Decree, “anti-discrimination contact points” have been set up in the 13 cities in Flanders. These contact points provide support to victims of discrimination and take action to put a stop to discriminatory conduct. If mediation does not result in a solution, the parties are referred to bodies that can provide them with legal assistance or guidance, such as the Centre for Equal Opportunities and Action to Combat Racism. In addition to pursuing the non-judicial settlement of disputes, the contact points take preventive action as part of the local network of associations and organizations. Disability is one of the grounds for discrimination on which the contact points focus their activities. Complaints are registered via the centralized METIS database (see under article 31 below). Cooperation between the contact points and the Centre for Equal Opportunities and Action to Combat Racism is regulated by an agreement concluded through Equal Opportunities in Flanders.

17. The non-discrimination policy also includes the following elements:

- Flemish employment policy must comply with the principles of proportionate participation and equal treatment; the legal basis for this requirement is the Flemish Decree of 8 May 2002 on proportionate participation in the labour market;
- Pupils who are oriented towards special education on the basis of an assessment report have, as a matter of principle, the right to enrol in the school or establishment

² The cross-cutting equal opportunities policy aims to mainstream equal opportunities in the various Flemish areas of competence and associated sectors through the open method of coordination (OMC). The method encourages political decision makers to undertake initiatives to promote the equal opportunities of persons with disabilities in various areas of social life. All members of the Flemish Government are legally obliged to participate (Decree on the Flemish policy for equal opportunities and treatment, art. 5).

³ The directives in question are:

- (1) Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin;
- (2) Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation;
- (3) Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions;
- (4) Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services.

of their choice. This right is established in the Decree of 28 June 2002 on equal opportunities in education. The authorities of a mainstream primary or secondary school may, however, enrol a pupil with an assessment report recommending special education for disability types 1 to 7 (see under article 24 below) on the condition that the arrangement may be terminated if it becomes clear that the school does not have sufficient means to provide for the pupil's specific needs in terms of teaching, therapy and care. A decision by school authorities to refuse enrolment must be made following consultation with the parents and the pupil guidance centre (CLB). The Decree also includes a legal protection procedure;

- Discrimination on the grounds of ethnic origin, nationality, gender, sexual orientation, social origin, ideological, philosophical or religious belief or financial insolvency is prohibited by the Flemish Government Order of 15 December 2000 on quality management in social integration facilities for persons with disabilities.

18. All forms of direct or indirect discrimination on the basis of disability are prohibited by the Walloon Government Decree of 6 November 2008 on combating certain forms of discrimination, which was supplemented subsequently by the Decree of 19 March 2009.⁴ The measures apply to all persons, in both the public and private sectors, including public bodies, in respect of: social protection, including health care; social benefits; vocational guidance; social and professional integration; job placement; the granting of aid for the promotion of employment; the granting of employment aid and allowances as well as financial incentives to companies, as part of economic policy, including in the social economy; vocational training, including skills accreditation; the supply of goods and services that are available to the public, irrespective of the person concerned, and that are provided outside the area of private and family life, and the transactions carried out in this context, including in the area of housing; and access to, participation in and any other exercise of an economic, social, cultural or political activity accessible to the public. The Decree stipulates that all forms of direct or indirect discrimination on the basis of disability are prohibited. It also contains criminal provisions. Furthermore, article 15, paragraph 6, provides that denial of reasonable accommodation to persons with disabilities constitutes a form of discrimination.

19. On 12 December 2008, the French Community adopted a decree on combating certain forms of discrimination (including discrimination on the basis of disability). This decree incorporates a number of European directives⁵ and applies to all matters within the

⁴ This Decree is based on the principles established in European Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation.

⁵ The directives in question are:

- (1) Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin;
- (2) Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation;
- (3) Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions, amended by Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions;
- (4) Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services;
- (5) Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the

remit of the French Community. Pursuant to article 13 of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, the French Community has designated two independent bodies: the Institute for Gender Equality (IEFH) deals with gender-based discrimination, and the Centre for Equal Opportunities and Action to Combat Racism deals with discrimination on the grounds of race, age, sexual orientation, religion, disability, marital status, birth, wealth, political opinion, health status or social origin.

20. Cooperation agreements have been signed between the French Community and the Walloon Region and these two independent bodies in order to confer competence on them to:

- Take up individual cases of discrimination on the basis of the various protected criteria;
- Issue opinions and recommendations to the Community authorities;
- Conduct studies on issues related to combating discrimination;
- Organize information and awareness-raising activities for the public and the staff of French Community government services and the services attached to them on legal provisions and practical measures to combat discrimination.

21. Discrimination on the grounds of disability or current or future health status, among other factors, is prohibited in the Brussels-Capital Region in both the public and private sectors in relation to employment, vocational training, and placement and housing services, pursuant to four European anti-discrimination directives that have been incorporated in law via three orders:

- The Order of 4 September 2008 on promoting diversity and combating discrimination in the Brussels regional civil service;
- The Order of 4 September 2008 on combating discrimination and on equal treatment in employment;
- The Order of 19 March 2009 amending the Order of 17 July 2003 on the Brussels Housing Code.

22. With regard to the situation of foreign minors with disabilities, the Flemish authorities and the French Community Commission have announced that assistance for persons with disabilities will be accessible to all minors by early 2012 at the latest. The residence condition that currently applies will be withdrawn, as has already been done in the Walloon Region.

Article 6

Women with disabilities

23. The Belgian Constitution has explicitly guaranteed the principle of equality between women and men since February 2002 (art. 10). The various authorities legislate and develop policies on equality between women and men within the terms of their respective mandates. At the federal level, in addition to the Act of 10 May 2007 on combating gender-based discrimination, the Act of 12 January 2007 is intended to incorporate the gender dimension into all federal policy with a view to avoiding or rectifying any inequalities

implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.

between women and men (Gender Mainstreaming Act). The Institute for Gender Equality provides legal assistance to victims of gender-based discrimination and plays an important role in supporting and monitoring implementation of the Gender Mainstreaming Act.

24. The legislation of the various communities and regions considers gender, like disability, as a ground for discrimination. Ad hoc channels can therefore be used to file complaints in cases of gender- (and/or disability-) based discrimination.

25. A comprehensive, harmonized framework to combat discrimination on the grounds of gender and disability has been created on the basis of the Decree on combating certain forms of discrimination adopted by the French Community on 12 December 2008.

Article 7

Children with disabilities

26. The interests of the child (without any distinction) are considered paramount in all decisions affecting children (Belgian Constitution, art. 22 bis, para. 4). No distinction is made between children with or without disabilities (Act of 8 April 1965 on the protection of minors). Disability however, is always taken into account, in judgements of the juvenile court. Thus, children with mental disorders who commit a crime are placed in psychiatric institutions for children (cf. Act of 26 June 1990 on the protection of persons with mental illness and article 43 of the Act of 6 April 1965). All children have the opportunity to speak or make their case before the court, unless they are deemed incapable of attaining legal majority owing to a mental disability.

27. As regards appropriate forms of assistance, up to the age of 21, children with a medical condition or disability are entitled to additional family allowance. The child's disability or medical condition is assessed on the basis of three pillars:

- The physical and mental consequences of the disability or medical condition;
- The consequences in terms of the child's participation in daily life (mobility, learning ability, personal hygiene, etc.);
- The consequences for the household (medical treatment, necessary travel, adaptation of the home, etc.).

28. Article 7 of the Convention, like article 23 of the Convention on the Rights of the Child, notes the applicability to children with disabilities of the latter instrument's four guiding principles, namely non-discrimination, the best interests of the child, the right to life, survival and development, and the right to participation. All of these principles are at least implicitly included in the relevant legislation at the federal level and the level of the federated entities. In application of the principle of participation and following on from the right to freedom of expression and the right to be heard, as provided for in article 7, paragraph 3, of the Convention, the Belgian authorities also emphasize the importance of accessible information and complaint mechanisms.

29. When drafting their policies, the Flemish municipalities and provinces and the Flemish Community Commission are encouraged to evaluate accessibility of youth organizations and to pay particular attention to specific target groups (Flemish Decree of 14 February 2003 on local youth policies and activities for young people). In 2006, the Flemish authorities, specifically the youth section, introduced the guiding theme "Diversity in municipal youth policy", further to which the five Flemish provinces were to earmark 20 per cent of the amount of the subsidy set aside to support the regional youth organization for children and young people with disabilities. The legal position of minors in relation to comprehensive youth support is governed by the Decree of 7 May 2004. Pursuant to this

Decree, the text of leaflets was reworded to take account of very young children, children with mental disabilities and children who speak another language. The provisions of the Decree apply without restriction to facilities for minors.

30. In order to promote the inclusion of children with disabilities, in 2010 the Walloon Agency for the Integration of Persons with Disabilities signed a cooperation agreement with the Birth and Childhood Office (ONE) and another with the Directorate-General for Assistance to Young People (DGAJ).⁶

31. No distinction is made between children and adults in the Brussels-Capital Region (see the Order of the Common Community Commission of the Brussels-Capital Region of 7 November 2002 on welfare assistance centres and services, and its implementing regulations, which apply to all persons with disabilities).

32. The Decree of the French Community Commission of the Brussels-Capital Region of 4 March 1999 on the social and professional integration of persons with disabilities applies to all persons with disabilities, regardless of age.

Article 8

Awareness-raising

33. The Centre for Equal Opportunities and Action to Combat Racism has been organizing information sessions since 2003 to foster awareness among persons with disabilities of their rights under anti-discrimination legislation and educate the various social actors (employers, trade unions, mutual benefit societies, judges, the police, etc.) about this legislation. Particularly since Belgium ratified the Convention, the Centre has been informing these target groups of the Convention's legal provisions, and it included a good deal of information on the matter in its 2009 annual report. In parallel, the Centre published in 2009 about a dozen information leaflets for various sectors (hotels, restaurants and cafés, public services, businesses, transport, accommodation, etc.) on the concept of reasonable accommodation, and a leaflet for persons with disabilities called "Discrimination against persons with disabilities – Information and practical advice".

34. The relatively small number of persons with disabilities in the employment, education and leisure sectors reduces the visibility of this group in society, which can give rise to stereotypes and prejudice. The media play an important role in this regard, as their output influences the development of these ways of thinking. Persons with functional limitations are less visible in the media than one might expect given the demographic statistics in Belgium. Furthermore, the way in which they are given a voice often confirms stereotypes. For this reason, Equal Opportunities in Flanders has developed an expert database⁷ containing the contact details of experts from the various at-risk groups, which include persons with disabilities. The objective is to ensure that persons with disabilities appear in the media more often in non-stereotypical ways, with an emphasis on their expertise rather than their functional limitations. The database is accessible to journalists and journalism students. In early 2011, the not-for-profit organization GRIP launched an

⁶ The agreement with ONE, signed on 10 June 2010, is intended to encourage all types of care facility recognized by ONE to admit children with disabilities and to create a partnership between the two bodies on all matters related to children with disabilities and their families. The objectives of the agreement with DGAJ, signed on 29 October 2010, are to promote complementarity between the two sectors in the interests of young people and their families and to create a partnership on all matters related to children with disabilities and their families with a view to ensuring that the needs of young people covered by the two sectors are addressed as effectively as possible.

⁷ <http://www.expertendatabank.be>.

awareness-raising campaign on the rights of persons with disabilities under the Convention⁸ with the support of Equal Opportunities in Flanders. The Flemish Agency for Persons with Disabilities carries out awareness-raising work to promote the inclusion of persons with disabilities in society through, among other initiatives, a quarterly magazine for persons with disabilities, *Handblad*, information leaflets on particular topics and information sessions in universities and other bodies.

35. The Walloon Agency for the Integration of Persons with Disabilities runs information sessions and awareness-raising campaigns on disability aimed at both young people and adults (pursuant to the Walloon Government Decree of 6 April 1995 on the integration of persons with disabilities).

36. In 2009, a cooperation agreement was concluded between the French Community, the Institute for Gender Equality and the Centre for Equal Opportunities and Action to Combat Racism within the framework of the implementation of the Decree of 12 December 2008 on combating certain forms of discrimination, with the objective of providing information. A number of information campaigns have been organized, such as “Discrimination stops here!” (February 2010) and “Discrimination yourself” (October 2010). Furthermore, the Belgian francophone public broadcaster RTBF organizes a major annual awareness-raising campaign on the situation of persons with disabilities, called “Cap 48”, and broadcasts every month a programme (*Ça bouge*) that gives the general public an insight into the many aspects of the work carried out by associations to promote the inclusion of persons with disabilities and make their daily lives easier.

37. The Agency of the German-speaking Community for Persons with Disabilities works to heighten awareness of the position of persons with disabilities in society. Among other things, it publishes a free quarterly magazine, *Infoblatt*, on the daily lives of persons with disabilities, with a print run of 4,000 copies. It also publishes information leaflets, the most recent of which contains a simplified version of the Convention on the Rights of Persons with Disabilities. In addition, the Agency regularly organizes conferences on particular themes.

38. Every year, the Brussels-Capital Region organizes the Equal Opportunities and Diversity Fortnight, which has four objectives:

- To increase the visibility of the equal opportunities and diversity policy in the Brussels-Capital Region;
- To raise awareness among the people of Brussels of the role of the Brussels Region in general and in the context of equal opportunities and diversity in particular;
- To inform the general public about the activities of the equal opportunities organizations working in the Brussels-Capital Region and encourage them to actively participate;
- To promote the establishment of networks and the exchange of experience among Brussels-based equal opportunities organizations.

39. Projects subsidized as part of the 2011 Fortnight have to be in line with the regional equal opportunities policy, the main objectives of which include emancipation and equal participation for persons with disabilities, among other groups. The Equal Opportunities and Diversity Unit of the Ministry of the Brussels-Capital Region supports various associations through the allocation of grants for projects related to equal opportunities and diversity. In 2010, the following awareness-raising projects received grants:

⁸ <http://gelijkerechten.be>.

- A community centre project entitled “Cultural Week”, allowing persons with mental disabilities to express themselves artistically in public spaces;
- A symposium of the Institut royal pour sourds et aveugles (Royal Institute for Deaf and Blind Persons) on the theme of sensoriality, entitled “Path of the senses ... path of knowledge”.

40. The French Community Commission, specifically the Brussels French-speaking Service for Persons with Disabilities, is responsible for providing information to persons with disabilities and building public awareness (pursuant to article 3 of the Decree of the French Community Commission of the Brussels-Capital Region of 4 March 1999 on the social and professional integration of persons with disabilities). Within this framework, a number of initiatives have been undertaken, such as the conduct of an awareness-raising campaign, “Getting help shouldn’t be a handicap”, and the publication of the newspaper *PHARE* (*Personne handicapée autonomie recherchée* (Persons with disabilities seeking autonomy)), which has a print run of more than 10,000 copies twice a year and aims to inform persons with disabilities and persons in the disability sector about issues such as young people and disability, individual assistance and educational integration.

Article 9

Accessibility

41. At all levels of government, the various stakeholders are aware of the importance of accessibility to ensure that persons with disabilities are able to live independently and participate fully in all aspects of life, on an equal footing with others. While there is still considerable room for improvement in this area in the future, many measures have already been taken to improve access to the physical environment, transport, information and communication, and other facilities and services intended for the public.

42. As part of the Urban Policy programme, the federal State has concluded “sustainable city” contracts with 17 cities and municipalities⁹ in Flanders, Wallonia and Brussels to carry out local projects. These local programmes must fulfil three objectives: promotion of social cohesion, reduction of the environmental footprint and contribution to the growth of cities. A large proportion of the funds for the Urban Policy programme are allocated to the creation of social housing and facilities (social services, public spaces, community centres, etc.). As part of its efforts in the area of diversity and multiculturalism, the Public Planning Service for Social Integration ensures that accessibility for persons with reduced mobility and persons with disabilities is taken into account as far as possible in the planning of projects.

43. In Flanders, Equal Opportunities in Flanders undertakes many initiatives with stakeholders, provides support to the other services of the Flemish Government, and raises awareness among and provides information to a broad public, in particular the construction sector. These initiatives are regulated by the Decree of 10 July 2008, which defines the Flemish policy framework for equal opportunities and treatment. It regulates structural cooperation with a number of civil society actors.¹⁰ The following initiatives in particular should be highlighted:

⁹ The cities and municipalities involved are: Anderlecht, Antwerp, Brussels, Charleroi, Forest, Ghent, La Louvière, Liège, Mechelen, Molenbeek-Saint-Jean, Mons, Ostend, Saint-Gilles, Saint-Josse-ten-Noode, Saint-Nicolas, Schaerbeek, Seraing.

¹⁰ For example :

- Various assistance measures have been taken to promote the implementation of the order¹¹ on accessibility, in cooperation with actors working on the ground and a number of bodies representing architects;
- A website (www.toegankelijkgebouw.be) and a manual have been created to provide information on the standards, regulations and recommendations on accessibility of buildings;
- The Accessible Flanders database (available at www.toevla.be) is an inventory of the accessibility of cultural centres, leisure facilities, green spaces, official buildings, youth centres, heritage sites, etc.

44. The Walloon government provides for the implementation of programmes to “make establishments and facilities intended for the public, education and training establishments and workplaces, and roads accessible to persons with disabilities” (Decree of 6 April 1995 on the integration of persons with disabilities, art. 8). The Walloon Agency for the Integration of Persons with Disabilities has thus introduced a programme of specific initiatives to finance projects developed by services with expertise in the area of accessibility and mobility. The objective of this programme is to provide information, generate awareness and promote accessibility and mobility among the general public, architects, civil society, companies, tradespeople and public authorities.

45. In the French Community, a general framework has been established to combat discrimination based on disability (governed by the Decree of 12 December 2008 on combating certain forms of discrimination). The Decree defines the concept of reasonable accommodation¹² and the sectors concerned by this type of discrimination.¹³

46. The Brussels-Capital Region has appointed a regional coordinator on accessibility to the Equal Opportunities and Diversity Unit of the Ministry of the Brussels-Capital Region. The coordinator advises the Brussels government and is to draw up an action plan on overall accessibility (with a budget of €50,000). The coordinator works in cooperation with a platform that brings together many stakeholders (public authorities, associations, etc.) and is responsible for relaying information on this issue and coordinating the necessary action. The Brussels-Capital Region also supports associations working on the ground through

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- ASBL Enter, the Flemish centre of expertise for accessibility, which provides advice and technical support for the development of policy in this area;
 - ASBL Intro, which promotes accessibility of sporting and cultural events to persons with disabilities, and provides advice and material support for the organization of such events;
 - The four provincial advisory offices on accessibility, the main duties of which are to map the accessibility of public infrastructure, give advice as part of urban planning projects and ensure proper training of actors on the ground;
 - The five provincial support points on accessibility, which are incorporated in the Provincial Council. They are tasked with coordinating and promoting provincial and local policies and identifying areas for policy action on accessibility;
 - Toegankelijkheidsoverleg Vlaanderen (Flemish Platform on Accessibility), which brings together users’ organizations that wish to work in the area of accessibility, mobility and disability.

¹¹ Order of the Flemish Government of 5 June 2009 establishing Flemish town planning regulations on accessibility.

¹² “Appropriate measures, where needed in a particular case, to enable a person with a disability to have access to, participate or advance in various areas” (art. 3, para. 9).

¹³ The sectors in question are employment relations, education, health policy, social welfare, membership of and involvement in any professional organization governed by private law and subsidized by the French Community, and access to and supply of goods and services available to the public (art. 4).

discretionary subsidies for projects related to equal opportunities and diversity. In 2010, the “Participation and Mobility” project was funded.¹⁴

47. The basic principles for the accessibility of buildings in the territory of the German-speaking Community are determined by the Order of the Government of the German-speaking Community of 12 July 2007 on provisions for the accessibility of subsidized infrastructure to persons with disabilities. In this context, the Agency of the German-speaking Community for Persons with Disabilities offers the services of an architect free of charge to all contracting authorities constructing infrastructure that is accessible to the public. In addition, the Agency subsidizes the adaptation of housing to meet the needs of residents with disabilities. Specific equipment is also available to rent. In the area of social housing, one in four apartments must meet accessibility requirements. However, refurbishment work in existing buildings is often postponed because of anticipated changes to the site. That is the case with the infrastructure at the boarding school for children with disabilities in Eupen.

48. In Brussels, particular attention is paid to accessibility for persons with reduced mobility (it is incorporated in all regulations issued by the Common Community Commission). The Common Community Commission also supports and funds various associations to improve the accessibility of public places.¹⁵ Accessibility of public buildings to persons with disabilities and their service dogs is governed by the aforementioned Order of 18 December 2008 on access for service dogs to public places and its implementing regulations.

49. The concept of reasonable accommodation is defined in the French Community Commission Decree of 9 July 2010 on combating certain forms of discrimination and implementing the principle of equal treatment.¹⁶ This Decree also stipulates the scope of reasonable accommodation.¹⁷ In addition, the Order of 28 May 2009 on the accreditation of specialist services for accessibility of social spaces to persons with disabilities authorizes certain services to certify the accessibility of social spaces to those persons in terms of the technical, architectural, functional and behavioural aspects.

Public transport

50. Concerning **rail travel**:

- Several legislative measures have been taken in respect of train station infrastructure (platforms, access areas, accommodating the needs of persons with disabilities and

¹⁴ This is a comprehensive project to enhance the inclusion of persons with disabilities in society, which is divided into three areas: (1) accessibility of the city; (2) participation in leisure activities; and (3) participation in the activities of the De Lork centre.

¹⁵ With support and funding from the Common Community Commission, the not-for-profit design office Plain-Pied has also published a practical guide on improved accessibility for persons with reduced mobility to nursing homes and care centres in the Brussels-Capital Region.

¹⁶ Reasonable accommodation is defined as appropriate measures, where needed in a particular case, to enable a person with a disability to have access to, participate or advance in areas to which the Decree of 9 July 2010 applies, unless such measures would impose a disproportionate burden on the person taking them. This burden is not disproportionate if it is sufficiently compensated for by existing measures within the framework of disability policy that are implemented by the Brussels French-speaking Service for Persons with Disabilities.

¹⁷ This covers access to goods and services and the supply of goods and services that are available to the public, irrespective of the person concerned, and that are provided outside the area of private and family life, and the transactions carried out in this context, and access to, participation in and any other exercise of an economic, social, cultural or political activity accessible to the public.

persons with reduced mobility)¹⁸ and the penalties applicable for violations of rail passengers' rights and obligations;¹⁹

- The management contracts between the federal State and the three companies of the Société nationale des Chemins de fer belge (SNCB) incorporate accessibility measures relating to the right to personal mobility of persons with disabilities. The companies have undertaken to provide equitable and non-discriminatory access to rail travel and to ensure optimal use of the rail network. The measures include access to train stations via lifts, ramps or similar devices. Furthermore, SNCB is improving access to train stations on the basis of plans and decisions arrived at in consultation with the rail companies and in partnership with the National Higher Council for Persons with Disabilities. It has committed to providing special facilities for persons with reduced mobility as well as for persons with visual and hearing impairments when purchasing new rolling stock. SNCB offers special concessionary tariffs, through either the "Free Accompanying Adult" card or the national public transport discount card. It also works with taxi companies able to transport wheelchair users from the 17 train stations that do not provide assistance to those that do.

51. Regarding **air travel**, Regulation (EC) No. 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air has been incorporated in Belgian law and establishes regulations on protecting and assisting persons with disabilities and persons with reduced mobility. The laws on **sea and river transport** provide that persons with disabilities and persons with reduced mobility are entitled to receive non-discriminatory treatment and free, special assistance, both in port terminals and on board passenger vessels as well as financial compensation in case of loss of or damage to their mobility equipment. These laws also stipulate minimum standards in respect of information provided to all passengers before and during their journeys as well as general information about passenger rights in port terminals and on board vessels.

52. Regional transport companies also ensure accessibility for persons with disabilities:

- The Flemish Government has incorporated in its management contract with the regional transport company De Lijn commitments to making regular public transport more accessible through improvements to physical (universal design, visual and auditory warnings, information in Braille, etc.) and psychological (cognitive, informational, etc.) accessibility. The Flemish Government also funds individual transport services for persons who, owing to their disability, cannot use regular public transport;
- The management contract for 2005–2010 between the Walloon Region, Société régionale wallonne du transport (SRWT) and Société de transport en commun (TEC) contains specific targets for the gradual introduction of low-floor buses and platforms suitable for persons with reduced mobility. The TEC Group, in particular, has undertaken to implement a plan, adopted by the SRWT board of directors on 7 October 2004, to update its rolling stock by systematically acquiring buses that meet the standards for optimum accessibility. Such measures would improve the mobility of persons with disabilities still further as, at present, low-floor buses only run at certain times and are sometimes replaced without notice by older vehicles. In addition, bus drivers need to be made aware of disability-related issues (for example, appropriate positioning at bus stops) and the particular problems in rural,

¹⁸ See the Act of 26 January 2010 on the interoperability of the rail system in the European Community.

¹⁹ See Royal Decree of 14 February 2011.

underserved areas, especially at weekends, when the public “door-to-door” transport service is not available;

- The management contract of the Société des transports intercommunaux de Bruxelles (STIB) contains a comprehensive accessibility strategy for the company’s network to benefit persons with reduced mobility. The strategic plan for 2008–2012 includes specific objectives and aims to enhance coordination of initiatives and centralize information. The measures envisaged include adding more lifts in metro stations, installing audio information points for blind persons and persons with visual impairments, and improving the accessibility of new bus and tram lines for wheelchair users. STIB also provides a special minibus service to transport persons with visual or physical impairments from door to door. Twenty metro stations are accessible to persons with reduced mobility and the station renovation programme takes account of accessibility issues. Assistance can be requested one hour in advance during the day. All STIB buses are equipped with low floors, and new buses and trams are fitted with a retractable ramp making them accessible to wheelchair users.

53. Various measures have been taken in relation to technical accessibility standards and guidelines:

- In Flanders, the Government Order of 5 June 2009 establishes regional planning regulations regarding accessibility. These regulations form part of the Framework Decree on regional planning and aim to improve access to public buildings (covering new buildings, reconstruction, renovation or construction of public buildings or public areas of buildings, mandatory reporting, mandatory consultation, etc.);
- In the Walloon Region, article 414 of the Walloon Code of Town and Country Planning, Heritage and Energy lists buildings and spaces, both public and private, either intended for collective use or open to the public, which must be accessible for persons with reduced mobility, and article 415 establishes the technical and architectural criteria to which designated categories of buildings and spaces must adhere;
- In the Brussels-Capital Region, the regulations regarding the adaptation of public spaces to facilitate access by persons with disabilities have been incorporated in the Regional Planning Regulations (Title VII). In addition, more specific infrastructure, such as intersections with traffic lights equipped with audio devices, touch screens and floor guidance systems, makes public spaces more manageable for persons with visual impairments. The Brussels-Capital Region, in partnership with relevant companies, has also developed a handbook on “persons with reduced mobility in public spaces”, which details the technical solutions available for accommodating different types of disability when public spaces are designed or redesigned.

Article 10

Right to life

54. The Belgian Constitution does not contain any specific provisions protecting the right to life. Article 23 emphasizes only the right to lead a life consistent with human dignity. However, article 2 of the European Convention on Human Rights, guaranteeing the

right to life,²⁰ has direct effect in Belgian law. The legal protection afforded by the Convention applies without discrimination to persons with disabilities.

55. The death penalty has been abolished in Belgium (Constitution, former art. 14 bis). No one may be arbitrarily deprived of his or her life. This rule applies without discrimination to persons with disabilities.

56. Belgian law permits euthanasia (Act of 28 May 2002) under very strict conditions. No distinction is made on the basis of disability and the help with decision-making is also available to persons with disabilities. Euthanasia is not, however, permitted for minors or adults who are incapable.²¹

57. Abortion (Criminal Code, art. 348 et seq.) is only permitted in Belgium when a pregnant woman who is in a situation of distress owing to her condition, requests a termination from a doctor, after all the required information has been provided to her and the necessary period of reflection has passed. The Criminal Code does not make any distinction on the basis of disability of the pregnant woman. In principle, abortion is only permitted before the twelfth week of pregnancy. However, when the continuation of a pregnancy poses a serious threat to a woman's health, or when it is clear that the child will be born with a particularly severe and incurable condition, an abortion may be performed with the consent of a second doctor, whose opinion must be recorded in the patient's medical file. Help with decision-making is also available to persons with disabilities.

Article 11

Situations of risk and humanitarian emergencies

58. The fire and civil defence services do not conduct any special awareness-raising activities relating to persons with disabilities. They do, however, give special attention to the safety of those persons. The civil defence service, for example, transports persons with disabilities and persons with severely reduced mobility who cannot use conventional means of transport. In addition, in the course of its operations, notably during floods, the civil defence service takes particular care of persons with disabilities, organizing specific assistance.

59. When emergencies occur in Belgium (nuclear or chemical incidents, severe storms, earthquakes, power failures, etc.), the national, provincial and municipal authorities in charge of public safety alert the population using a variety of methods, including announcements in the media, sirens placed around nuclear sites and the Seveso plant or, in some instances, announcements via police car loud hailers. In order also to be able to provide warnings to deaf persons and persons with hearing impairments, the Federal Public Service for Home Affairs has been working for over a year with the Fédération

²⁰ Article 2 – Right to life:

1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:

- In defence of any person from unlawful violence;
- In order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- In action lawfully taken for the purpose of quelling a riot or insurrection.

²¹ See www.health.fgov.be/bioeth: Opinion No. 9 of 22 February 1999 on the active termination of the lives of persons incapable of expressing their wishes.

francophone des sourds de Belgique (French-speaking Federation for Deaf Persons in Belgium) (FFSB), the Federatie van Vlaamse Dovenorganisaties (Federation of Flemish Organizations for Deaf Persons) (FEVLADO) and the Télécontact Association to set up the “SMS Crisis Alert” project. The scheme involves a SMS being sent to deaf persons and persons with hearing impairments in the event of a major industrial disaster, calamity or any other emergency situation. Whenever sirens are sounded in Belgium, those signed up to this new service on the Télécontact website will automatically receive a message in their native language detailing the incident and what action to take. This new procedure designed for deaf persons and persons with hearing impairments will be gradually rolled out during the last quarter of 2011.

60. The Belgian military does not differentiate between persons when providing assistance and, in particular, makes no distinction that would place persons with disabilities at a disadvantage compared with other civilians. During field operations, the Belgian military acts humanely and in accordance with the rule of law. Although soldiers are neither specifically trained nor provided with specialized equipment, they assist persons with disabilities using a common-sense approach based on respect. The general military policy on diversity also covers issues relating to persons with disabilities. Internal regulations on the subject are being drawn up and, aside from sections on persons with disabilities working in defence, contain additional information on arrangements for persons with disabilities in the Belgian military’s areas of operation.²²

Article 12

Equal recognition before the law

61. Under Belgian law, every adult is presumed capable of all civil acts (Civil Code, art. 488). Capacity to acquire and exercise personal rights is the norm unless an individual is declared legally incapable (Civil Code, art. 1123). Adults may only be declared legally incapable on the basis of a court order, issued under a specific procedure, establishing that the requisite legal conditions have been met.

62. Persons who are incapable on account of their mental state but who have not been subject to any legal proceeding to limit or remove their legal capacity thus retain full capacity to exercise their rights. They manage their own property and no one may invoke their mental state in order to act on their behalf as it does not exist in the eyes of the law.

63. The law establishes several legal incapacity regimes. They differ according to the conditions for their application, the type of incapacity to which they give rise and the protection measures that are put in place:

- *Deprivation of legal capacity* (Civil Code, art. 489 et seq.) – applies to persons who are in a habitual state of imbecility or mental disorder. The individual concerned is deprived of the right to manage his or her property and person and may not validly perform certain legal acts. The individual is placed under the guardianship of a person who acts as his or her representative;
- *Extended minority* (Civil Code, art. 487 bis et seq.) – applies to persons suffering from severe mental retardation and deemed incapable of attaining legal majority. The individual concerned is treated, in terms of his or her person and property, as a minor of less than 15 years old. A representative is appointed to act on his or her behalf;

²² See also article 32 on external relations and disability.

- *Appointment of a judicial adviser* – applies to persons who are feeble-minded (Civil Code, art. 1247) or profligate (Civil Code, art. 513 et seq.). The legal capacity of the individual concerned is limited. He or she may no longer carry out independently the acts enumerated by law and is subject to an assistance regime;
- *Temporary administration of property* (Civil Code, art. 488 bis, subparas. (a) to (k)) – applies to any adult incapable of managing his or her property owing to his or her state of health, regardless of the medical diagnosis. Legal incapacity is limited to the management of property so that, subject to discretion, the individual concerned retains full capacity to exercise strictly personal rights. Temporary administration involves both representation and assistance.

64. These legal incapacity regimes are laid down by law for protection purposes. The limits placed on legal capacity are justified by the protection afforded the individual concerned or those close to him or her and in no way punish disability.

65. Likewise, persons placed under observation or receiving medical treatment pursuant to the Act of 26 June 1990 on the protection of persons with mental illness retain full capacity in principle, although a temporary administrator may — but need not — be appointed for their property. Those persons retain full legal capacity, being fully subjects at law. Furthermore, the Act of 22 August 2002 on patients' rights contains specific provisions on the exercise of the rights it establishes for minor or adult patients who are deemed incapable of attaining legal majority owing to a mental disability or deprived of legal capacity.²³

66. Other mechanisms exist to support persons with disabilities in exercising their rights within the framework of, or separate from, the aforementioned legal incapacity regimes:

- *Representation*: individuals who are incapable are represented by a person who carries out on their behalf legal acts that they may not validly perform. Persons deemed incapable of attaining legal majority owing to a mental disability are represented by their father and mother or by a guardian (Civil Code, art. 487 quater). *Persons deprived of legal capacity* are represented by a guardian (Civil Code, art. 509). Representation allows the exercise of certain personal rights of the individual concerned. Thus, persons deprived of legal capacity and persons unable to express their wishes are represented in filiation proceedings by their legal representative and, in the event of a conflict, by an ad hoc guardian (Civil Code, art. 331 sexies). Regarding divorce, if one spouse is suffering from a mental disorder or serious mental symptoms, he or she is represented as respondent by his or her guardian or temporary administrator or, failing that, by an ad hoc administrator designated at the start of the proceedings by the presiding judge at the request of the plaintiff, pursuant to article 1255, paragraph 7, of the Judicial Code. Where an application has been made for a person to be declared incapable of attaining legal majority owing to a mental disability, he or she must always be assisted by a lawyer (Civil Code, art. 475 quater). The mandatory appointment of a lawyer for persons with mental retardation acts as a guarantee, ensuring, inter alia, the effective exercise of the remedies available to the individual concerned;
- *Assistance* allows a person who is incapable to perform all the legal acts necessary to manage his or her property, support from a third party being required in order for

²³ Article 5 of the Act of 22 August 2002 on patients' rights states that patients are entitled to receive from health-care practitioners quality services that meet their needs, delivered with respect for their human dignity and autonomy and without distinctions of any kind. The Act thus implicitly provides for equal treatment of all patients.

some of those acts to be legally valid. Appointment of a judicial adviser (Civil Code, arts. 513 to 515) is considered an assistance regime. Persons subject to a temporary administration order receive both representation and assistance, as the court decides;

- A *trusted person* acting as intermediary between the individual concerned, the administrator and the judge can better determine the wishes of a person subject to a temporary administration order, particularly in the exercise of his or her non-pecuniary personal rights. “The aim is for the protection measures to be grounded as far as possible in a relationship of trust between the person requiring protection and the administrator in order to achieve a personalized approach”²⁴ (Act of 26 June 1990, art. 488 bis, para. 4, and art. 7, para. 2).

Article 13

Access to justice

67. Various measures and legal provisions ensure the effective access of vulnerable persons, including persons with disabilities, to justice:

- Persons with disabilities enjoy non-discriminatory access to free first-line legal assistance in legal advice centres (practical information, advice or initial legal opinions). Furthermore, persons with disabilities who receive income-replacement allowance are included in the category of persons entitled to receive second-line legal assistance (i.e. the services of a lawyer) entirely free of charge. Lastly, persons with disabilities may, under the same conditions as for second-line legal assistance, seek legal aid, which exempts them from all legal costs;
- During detention proceedings, the assistance of a lawyer is mandatory, in accordance with the Act of 1 July 1964 on social protection of the mentally handicapped and repeat offenders (art. 28 et seq.) and the Act of 21 April 2007 on the detention of persons with mental disorders (art. 118 et seq.). Pursuant to these texts, expert advice and observation reports may be requested to assess the mental state of the individual concerned. The results of these evaluations are added to the file consulted by the judge when reaching his or her decision;
- The regulations on sworn interpreters and translators in court proceedings provide for the use of sign language and Braille translations. Other rules provide for coverage, for example, of the travel expenses of a person accompanying an individual with a disability;
- Special arrangements are made for minors, pursuant to chapter VII bis of the Code of Criminal Procedure (on interviewing minors who are victims or witnesses of certain crimes) and the ministerial circular of 16 July on the audiovisual recording of interviews of child victims or witnesses of crimes;
- Different initiatives have been taken by the federated entities, such as the General Social Welfare Support Unit (for Flanders) and the Victim Services Unit (for the Walloon Region and French-speaking Community), to provide assistance to victims;
- In the Walloon Region, the Regulations of 11 October 2010 conferring force of law on the memorandum on legal assistance state specifically in chapter 3, section 5.3, that “recipients of income-replacement allowance for persons with disabilities” are entitled to free legal assistance. Furthermore, individual decisions taken by the Walloon Agency for the Integration of Persons with Disabilities on requests for

²⁴ Chamber, parliamentary papers, special sessions, 1999, No. 50-0107/001, p. 2.

assistance from persons with disabilities are subject to appeal. In addition to traditional remedies (the Labour Court), appeals against decisions on early intervention, care and housing, foster placement, support with daily activities and assistance may be heard by an appeals commission (administrative tribunal established in 1997).²⁵

68. With regard to **accessibility**, the Federal Public Service for Justice does not currently have an accurate inventory detailing the accessibility of its buildings. The Buildings Authority is the body responsible for “housing” the public services. Any complaints relating to the accessibility of buildings are systematically addressed to this body. Legal obligations concerning accessibility are in place for new buildings and also apply to the public services. In-house studies have shown that several prisons and legal advice centres are fully accessible to persons with reduced mobility. Several accessibility audits have been completed and others are scheduled during 2011.

69. Regarding **training of judicial personnel**, there is no specific training for prison staff on the rights of persons with disabilities. However, basic training for prison officers and security officials includes modules on diversity in general. The Judicial Training Institute has organized legal training for judges and for staff of the registries and prosecution services since 2009. At present, no specific training exists on the rights of persons with disabilities, but a general training module on discrimination is provided.

Article 14

Liberty and security of person

70. Under Belgian law, no one may be penalized by deprivation of liberty simply on account of a disability or functional problem. Indeed, a person may only be deprived of liberty if he or she has committed a crime or offence. These principles are set out in the following texts:

- Article 12 of the Constitution, which guarantees individual liberty. No one may be prosecuted except in the cases provided for by law and in the manner prescribed by law. Other than in the case of flagrante delicto, no one may be arrested except by virtue of a reasoned court order, which must be served at the time of arrest, or at the latest, within 24 hours;
- Article 16, paragraph 1, of the Act of 20 July 1990 on preventive detention;
- Sections of the Criminal Code relating to infringements of individual liberty and of the inviolability of the home (Criminal Code, art. 434 et seq.).

71. The Act of 20 July 1990 on preventive detention provides for arrest following the commission of a crime or offence. In the case of problem behaviour linked to “mental or intellectual impairments”, as referred to in article 1 of the Convention, Belgian criminal law may be applied.

72. Under article 71 of the Criminal Code, an offence committed by a suspect or accused person of unsound mind is not considered a crime. Insanity constitutes automatic grounds for such exception. The Act defines unsoundness of mind as any mental disorder

²⁵ This administrative tribunal is based at the headquarters of the Walloon Agency for the Integration of Persons with Disabilities (AWIPH). It is composed of three members with at least three years of relevant experience in providing assistance to persons with disabilities, and two members appointed from nominees submitted by the Walloon Commission for Persons with Disabilities (CWPH). It is chaired by a judge, who is assisted by an official of the Agency.

that causes complete loss of control of actions, regardless of the origin and nature of this state and regardless of whether it is innate or the result of illness. This disorder must have been determined at the time of the facts. As unsoundness of mind is grounds for exemption from liability, it must be taken into account at trial or during investigations and results in acquittal.

73. Article 1 of the Act of 1 July 1964 on social protection of the mentally handicapped and repeat offenders, which supplements article 71 of the Criminal Code, establishes the categories of person receiving exemption from liability. Besides persons who are of unsound mind, the Act also makes provision for persons suffering from a serious mental disorder or mental disability that prevents them from controlling their actions. With regard to deprivation of liberty of minors, various specific measures have been taken in young offender institutions pursuant to the Act of 8 April 1965 on the protection of minors.

74. For these categories of person, the investigating judge and the court of first instance may request **detention**. Disability or mental impairment are not in themselves sufficient grounds for detention. The following conditions must also be met: (a) the unlawful act committed is defined by law as a crime or serious offence (of the Act of 1964, art. 7); (b) at the time of the decision, the person remains in the same state; and (c) the person still poses a danger to society. The danger the person poses to society is the main consideration in accordance with the Act of 21 April 2007 on the detention of persons with mental disorders.²⁶ Pursuant to article 71 of the Criminal Code, the opinion of an expert should generally be sought, but the decision as to whether to detain a person falls ultimately to the court of first instance.

75. Concerning **reasonable accommodation**, no specific provision is made for persons with disabilities in prison regulations. The legislation relating to persons with disabilities also applies in prisons, as for both human rights and access to support and services from the communities (federated competence) are concerned. However, detention can in itself result in the restriction of rights (for example, reduction of an allowance).

76. On a practical level, the Directorate-General of Prisons provides wheelchairs and other such devices and tries to accommodate inmates with disabilities by taking account of the difficulties they may face in daily prison life. Prison hospital units are fitted with equipment adapted to physical impairments (special bathtubs, lowered furniture, etc.).

77. As to training, staff of psychosocial services address these issues through courses on social security while medical service personnel receive training on mental disability.

Article 15

Freedom from torture or cruel, inhuman or degrading treatment or punishment

78. Special provisions in the Belgian Act of May 2004 on human experimentation, more specifically the Act's article 8,²⁷ provide protection for adults who are incapable of

²⁶ This Act will not enter into force until 1 January 2012.

²⁷ *Article 8*: Without prejudice to the conditions established in articles 5 and 6, human experiments, may only be conducted on an adult who is unable to provide consent if the following conditions are met:

1. The informed consent of the legal representative has been obtained; [...]
2. The experiment has a direct link to a clinical condition posing a threat to the life or health of the adult participant who is unable to provide consent and is essential for the validation of data obtained from experiments conducted on individuals capable of providing consent or from the use of other methods of experimentation;

consenting to participate in experiments. Specific provisions protecting minors and adults who are incapable are also contained in the Act of 13 June 1986 on organ removals and transplants and the Act of 19 December 2008 on the acquisition and use of human biological material for human medical applications or for scientific research.

79. In the context of protecting persons with disabilities, special penalties apply for acts of torture or cruel, inhuman or degrading treatment. Articles 417 ter and 417 quater of the Criminal Code define the commission of such acts against persons with disabilities as an aggravating circumstance.²⁸

Article 16

Freedom from exploitation, violence and abuse

80. With regard to legislative measures to protect persons with disabilities against any form of exploitation, violence or abuse, Belgian criminal law contains several provisions designed to protect the entire population (including children), which apply equally to persons with disabilities.²⁹ Furthermore, aggravating circumstances are expressly provided for when certain crimes are committed against persons with disabilities.

3. The experiment has been designed to minimize pain, discomfort, fear and any other foreseeable risk in the light of the participant's illness and level of development; the level of risk and degree of discomfort should be expressly defined and reviewed periodically;

4. The risks foreseeable for the participant on the basis of present-day scientific knowledge do not outweigh the expected benefits for that person;

5. The protocol has been approved by an ethics committee that contains an expert on the illness and the population in question or that has consulted with the appropriate persons on the clinical, ethical and psychosocial aspects of the illness and the population in question;

6. No inducements have been used or financial incentives given, apart from the reimbursement of expenses;

7. If the participant's ability to provide consent changes, the person conducting the experiment immediately fulfils his obligations under article 6.

²⁸ Article 417 ter. Subjecting a person to torture shall be punishable by 10 to 15 years' imprisonment. The offence shall be punishable by 15 to 20 years' imprisonment:

1. If committed:

(a) [...];

(b) Against a person who is particularly vulnerable owing to pregnancy, illness, infirmity or physical or mental impairment or because of difficult circumstances;

(c) [...];

The offence shall be punishable by 20 to 30 years' imprisonment:

1. If committed against a minor or a person who, owing to his or her physical or mental condition, has not been able to live independently, by the person's father, mother or any other person holding authority over him or her or by any adult who regularly or occasionally lives with the victim; [...]

(The same aggravating circumstances are set out in article 417 quater of the Criminal Code on inhuman treatment).

²⁹ Rape (Criminal Code, arts. 375 to 377 bis); indecent assault (Criminal Code, arts. 372 and 373); corruption of minors and prostitution (Criminal Code, arts. 379, 380 and 380 ter); public indecency (Criminal Code, arts. 383, 385, 386 and 387); desertion of family (Criminal Code, arts. 391 bis and 391 ter); intentional homicide without aggravating circumstances, murder and intentional bodily injury (Criminal Code, arts. 398 to 405 quater); genital mutilation (Criminal Code, art. 409); family or relational violence (Criminal Code, art. 410); criminal failure to act (Criminal Code, arts. 422 bis and 422 quater); crimes against minors, persons who are incapable and family members (Criminal

81. A national action plan for 2010–2014 has been adopted by the various levels of government to combat violence between partners and other forms of family violence (forced marriage, genital mutilation, honour crimes). Following on from the national action plan, the Walloon Region is presently developing a plan to promote appropriate treatment and combat abuse.

82. In addition, the communities have taken steps to help and support persons with disabilities, their families and carers, and to ensure that cases of exploitation, violence and abuse are prevented, identified and reported:

- In Flanders, the Flemish Agency for Persons with Disabilities developed a CD-ROM in 2006 to provide practical support to the work of the youth support services in preventing and proposing appropriate solutions for unacceptable behaviour (such as abuse — including sexual abuse — and violence). Furthermore, since 2009, the Agency has been working with the Leuven Confidential Centre for Child Abuse, focusing in particular on assistance to children who have suffered abuse. This partnership also involves helping children with disabilities and supporting staff working in establishments that care for such children;
- In the French Community, several tools have been developed to protect children. These tools are accessible to all minors, including children with disabilities, and include a helpline created specifically for minors and general mechanisms to monitor the implementation of the Convention on the Rights of the Child, the application of rights and the coverage of specific issues (such as violence and problems linked to dropping out of school). With a view to improving care for at-risk or vulnerable children with disabilities, a cooperation agreement between the regional agencies responsible for disability policy and the community authorities in charge of the policy on support to at-risk or vulnerable young persons is being finalized. The agreement aims to promote cooperation between the two sectors and create a durable partnership in all matters relating to children with disabilities and their families, so that their needs are taken into account as far as possible under both policies. Furthermore, the French Community has established three general bodies to monitor the implementation of the Convention on the Rights of the Child: the Delegate-General for Children’s Rights (established in 1991), the Observatory on Children, Young People and Youth Welfare (established in 1997) and the SOS Children teams;
- In the German-speaking Community, the organization handling complaints of exploitation, violence and abuse also deals with complaints from persons discriminated against on the basis of disability, working in partnership with the Centre for Equal Opportunities and Action to Combat Racism.

83. Several federated entities have taken steps to monitor services and programmes for persons with disabilities:

Code, arts. 423 to 427); abduction and concealment of a minor (Criminal Code, arts. 428 to 430); failure to hand over a child to the person entitled to its custody (Criminal Code, arts. 431 and 432); use of minors for criminal or tortious purposes (Criminal Code, art. 433); exploitation of begging (Criminal Code, arts. 433 ter and 433 quarter); trafficking in human beings (Criminal Code, arts. 433 quinquies to 433 novies); abuse of the vulnerability of others by selling, renting or making available property for the purpose of making an undue profit (Criminal Code, arts. 433 decies to 433 quinquiesdecies); harassment (Criminal Code, arts. 442 bis and 442 ter, particularly the latter, which refers to persons with disabilities); damage to a person’s honour and reputation (Criminal Code, arts. 443 to 453 bis).

- The Flemish Government Decree of 15 December 2000 on quality management in social integration facilities for persons with disabilities includes special provisions to ensure the integrity of the person of users and prevent abuse or violence against them. Since 2001, the Flemish Agency for Persons with Disabilities has also been responsible for accrediting facilities and services for persons with disabilities. This task involves preventing and combating any form of abuse against persons with disabilities;
- The Walloon Region Decree of 6 April 1995 on the integration of persons with disabilities contains regulations on monitoring services and structures accredited or funded by the Walloon Agency for the Integration of Persons with Disabilities. Pursuant to the Decree, the Agency has set up an auditing service to verify compliance with the conditions and standards for accreditation. The auditing service periodically reviews the implementation of service-delivery projects. It assesses methods of work, quality of services, service provision and implementation of support projects, in partnership with the educational services and teams. They confirm that schemes exist and check that they are up to date;
- The Board of the French Community Commission in its Decree of 4 March 1999 provided that officials of the Brussels French-speaking Service for Persons with Disabilities may, in performing their duties, carry out any checks or investigations and gather any information they deem necessary and prepare reports thereon; their findings are considered authoritative in the absence of evidence to the contrary.

Article 17

Protecting the integrity of the person

84. The Act of 22 August 2002 on patients' rights provides for the representation of patients who are incapable of exercising their rights, including the right of prior informed consent to any intervention.³⁰ The Act ensures that patients are involved to the greatest extent possible in the exercise of their rights given their level of comprehension. The Act of

³⁰ *Article 12. § 1.* In the case of a patient who is a minor, the rights laid down in this Act shall be exercised by the parents who exercise authority over the minor or by the minor's guardian.

Article 13. § 1. In the case of an adult patient who is deemed incapable of attaining legal majority owing to a mental disability or who has been legally incapacitated, the rights laid down in this Act shall be exercised by his or her parents or guardian.

Article 14. (1) In the case of an adult patient who does not fall within one of the categories referred to in article 13, the rights laid down in this Act shall be exercised by the person designated by the patient beforehand to act as his or her representative if, and for as long as, the patient is not capable of exercising these rights personally. The designation of this person, hereinafter referred to as "the representative designated by the patient", is effected by means of a specific written power of attorney dated and signed by this person and by the patient, whereby the former indicates his or her consent to the arrangement. This power of attorney can be revoked by the patient or by the representative designated by him or her by means of a dated and signed document.

(2) If the patient has not designated a representative or if the representative designated by the patient does not act, then the rights laid down in this Act shall be exercised by the cohabiting spouse, legal cohabiting partner or de facto cohabiting partner. If this person does not wish to act in this capacity, or in the absence of such person, the rights shall be exercised, in descending order, by an adult child, a parent, or an adult brother or sister of the patient. If no such person wishes to act in this capacity, or in the absence of such person, the health-care practitioner in question shall see to the patient's best interests, if necessary, holding multidisciplinary consultations. This shall also apply in the case of a conflict between two or more of the persons mentioned in this paragraph.

26 June 1990 also provides for the protection of persons with mental illness and sets out the guidelines, procedures, methods and types of measure available for restoring the status of persons with mental illness as subjects at law.^{31, 32}

85. In addition, the Federal Public Service for Health has established a Federal Patients' Rights Commission (see article 16 of the Act of 22 August 2002 on patients' rights). It is composed of patient representatives, health-care practitioners, hospital representatives and insurers (officials from the ministerial departments or public services concerned may also participate in an advisory capacity). Its responsibilities include:

- Gathering and processing national and international data on matters relating to patients' rights;
- Providing advice on request, or at its own initiative, to the minister with responsibility for health on the rights and obligations of patients and health-care practitioners;³³
- Assessing the application of the rights set out in the Act;
- Evaluating the performance of the ombudsman service;
- Handling complaints regarding the performance of the ombudsman service.

86. The federated entities have implemented various initiatives in respect of independent bodies responsible for ensuring the protection of the integrity of the person:

- The Flemish Government adopted an order on quality management in social integration facilities for persons with disabilities, including children, in 2000. The order contains in its annex a list of quality requirements to which facilities for persons with disabilities must adhere (including respect for users' right to privacy and their right to adequate information, and safeguarding of their right to participation). In addition to this particular regulation, pursuant to the decree governing the legal position of minors in relation to comprehensive youth support, respect for the principle of informed consent is guaranteed in the provision of non-judicial assistance, and corporal punishment is prohibited in all institutions;
- In the Walloon Region, the audit and monitoring service of the Walloon Agency for the Integration of Persons with Disabilities ensures that accredited and funded services for persons with disabilities apply the appropriate legal measures.³⁴ These measures guarantee the involvement of persons with disabilities and the participation of their families in managing their health and safety. Furthermore, as part of efforts to streamline Walloon advisory services pursuant to a framework decree of November 2008, any interested person may submit a complaint regarding

³¹ The Act establishes the principle that any restriction of individual liberty in the diagnosis and treatment of psychiatric disorders is illegal. For a protection measure to be put in place, the following factors must be present: mental illness, serious risk to the health and safety of the person concerned or a serious threat to the lives or inviolability of others, and absence of any other appropriate treatment.

³² See also www.health.fgov.be/bioeth: Opinion No. 8 of 14 September 1998 on the issue of sterilization of persons with mental disabilities and the annex thereto, and Opinion No. 44 of 23 June 2008 on attenuation of the growth of children with very severe mental disabilities.

³³ The opinions and annual reports of the Federal Patients' Rights Commission are available online: <http://www.health.belgium.be/eportal/Healthcare/Consultativebodies/Commissions/Patientsrights/index.htm>.

³⁴ See the Walloon Government Order of 4 July 1996 implementing the Decree of 6 April 1995 on the integration of persons with disabilities and the Decree of 9 October 1997 on the conditions for accredited and subsidized residential, day-care and foster-care services for persons with disabilities.

the functioning of a social welfare or health service or institution to the Walloon government or to any competent Walloon authority. The Walloon government sends the records of these complaints on an annual basis to the Walloon Council for Social Welfare and Health;³⁵

- In the German-speaking Community, patients have access to an advice and exchange association. However, persons with disabilities, as in the case of other patients, often lack information about the treatment they are due to receive. This is especially true for women with mental disabilities, in relation to reproduction among other matters.

Article 18

Liberty of movement and nationality

87. The Belgian Nationality Code draws no distinction between persons in respect of nationality; disability is therefore not a factor. However, articles 6 and 7 of the Code provide additional legal tools to ensure that persons with disabilities can exercise their rights in relation to nationality:

- Article 6 provides for persons with physical disabilities to appoint a person as their power of attorney to perform on their behalf legal acts relating to nationality;
- Article 7 provides for the legal representative of persons who are incapable on account of a mental impairment to perform on their behalf legal acts relating to nationality.

88. Regarding the freedom to choose one's residence, there are no specific legal provisions in relation to persons with disabilities (Act of 19 July 1991 on population registers, identity cards, foreign identity cards and residency documents amending the Act of 8 August 1983 establishing a National Register). Those persons thus have the right freely to choose their residence.

Article 19

Living independently and being included in the community

89. The federated entities are aware of the importance that persons with disabilities attach to living independently and participating fully in all aspects of life on an equal basis with others. Further improvements in this area are planned for the future, especially in relation to waiting lists for access to the different services, but numerous measures have already been adopted.

90. The communities have taken various measures related to independent living schemes:

- In Flanders, the Flemish Agency for Persons with Disabilities awards personal assistance budgets to enable persons with disabilities to continue living independently at home, notably with the support of assistants who help in their day-to-day living activities. As at 1 January 2011, 1,808 people were receiving such payments. The Agency also offers various allowances for persons with disabilities who would like to upgrade their equipment or adapt their homes. These

³⁵ Article 76 of the Framework Decree on the streamlining of advisory services for matters governed by article 138 of the Constitution (*Moniteur belge*, 19 December 2008).

allowances vary according to the nature and degree of the person's disability. Lastly, in the longer term the Agency is looking to develop different forms of care to increase the independence of persons with disabilities. The Horizon 2020 Plan, adopted in 2011, was designed with this goal in mind. A particular aim of the Plan is to give greater consideration to the rights of carers and the decision-making abilities of persons with disabilities;

- The Walloon Region accredits and funds living assistance services provided by teams of professionals who are there to provide educational, social and psychological support for persons with disabilities of any age. It also awards personal assistance budgets to enable persons with disabilities to continue living in their normal home environment and organize their day-to-day lives and to facilitate their inclusion in family, social and/or working life. These payments cover the cost of certain services provided by personal assistants. The eligibility conditions are established in the Walloon Government Order of 14 May 2009, which, in addition to establishing conditions and service delivery arrangements for personal assistance to facilitate the inclusion of persons with disabilities, provides for financial contributions towards the cost of home adaptations, assistive products and certain services that help persons with disabilities to live as independently as possible. In 2009, more than 7,400 people received financial contributions of this kind.³⁶ The Walloon Region also funds the training programme for "handicontacts",³⁷ whose main task is to provide persons with disabilities and their families and carers with information and guidance about the services best suited to their needs;
- In the German-speaking Community, the housing, family and leisure support service helps persons with disabilities to be included, and participate, in the community and lead an autonomous and self-determining life. To increase their autonomy, persons with disabilities have access to a range of personalized assistance, including specific in-kind assistance, grants for special purchases and other support services. Standard assistance and support services, that is those provided through public social welfare centres, family and senior assistance services, home-care services, outreach services, meals at home services and independent care services, among others, can be provided in all forms of accommodation. In general, use of the standard services is preferred;
- In Brussels, the Common Community Commission is funding a pilot project under which personal assistance budgets will be introduced for certain persons with disabilities. The aim is to provide these persons with aid and assistance in their day-to-day activities and with social, educational, pedagogical and orthopedagogical support;
- For the French-speaking community of Brussels, the French Community Commission expressly specifies in its definition of support services that the remit of the service providers is to help persons with disabilities to maintain or gain their independence through personalized support for day-to-day living activities (in the Decree of 4 March 1999 on the social and professional integration of persons with disabilities). The service providers guide persons with disabilities towards assistance that might be useful to them and help them with the required formalities. Some

³⁶ The conditions and service delivery arrangements set out in the Order are based on the International Classification of Functioning, Disability and Health (ICF) developed by the World Health Organization (WHO) in 2001.

³⁷ "Handicontacts", or community liaison officers, have been appointed in most cities and municipalities in the Walloon Region.

support service providers can also arrange for persons with disabilities to be placed in foster families. Others are able to provide individualized accommodation and to support persons with disabilities in different areas of day-to-day life. Some residential facilities are organized into small living units within the community.

91. A number of home assistance services that enable persons with disabilities to live in the community have been established:

- In 2009, the Government of Belgium began piloting the “Dual Diagnosis” project (mental disability, plus mental illness with behavioural problems) in four regions of the country. Under this pilot, a mobile team has been established to provide mental health care in the community, wherever a person with a mental disability and mental illness with behavioural problems might be living. The team’s main goal is to eliminate (or reduce) the behavioural problems, which might include self-harm, violence or uncontrolled crying;
- In the Walloon Region, 51 facilities helping families and persons with disabilities in their daily lives have been accredited and receive funding. The support may consist of family assistance or more medicalized services provided in the home, such as integrated home-care services, service coordination and in-home care. The aim is to help persons with either a degree of dependence or a permanent or temporary loss of autonomy to remain in their homes without necessarily having to resort to outside care. The Walloon Agency for the Integration of Persons with Disabilities also funds respite services through its “special initiatives” budget. These services provide respite solutions that are indispensable for persons with disabilities and their families. They provide carers with a break that gives them time to breathe and gain perspective. Many forms are available, including in-home respite care, temporary in-facility care and emergency respite care;
- In Brussels, the Common Community Commission accredits and funds assistance services for daily living activities that provide in-home help to facilitate day-to-day activities for adults with a severe physical disability, at their request, but do not offer social, medical or therapeutic assistance.

92. With regard to residential-type services, the various entities have taken steps to ensure that persons with disabilities live in appropriate accommodation:

- The Flemish Government funds housing for persons with disabilities, including social housing, which is adapted for their day-to-day living needs. The aim is to give them more autonomy and make it easier for them to perform daily living activities. Within the framework of these adapted housing projects, the Flemish Social Housing Association builds homes tailored to individual requirements while the Flemish Agency for Persons with Disabilities accredits and funds the assistance and advisory services³⁸ available to tenants. The Flemish Social Housing Association has a set of technical guidelines for housing accessibility that includes a chapter dealing specifically with adapted and adaptable housing and accessibility for persons with disabilities. In addition, the Flemish Housing Code gives individual municipalities the option of defining one or more priority target groups, such as persons with disabilities, in their social housing allocation regulations. Sheltered or integrated housing and social inclusion support services are some of the other forms of independent living arrangement available;

³⁸ The Flemish Agency for Persons with Disabilities may contribute financially to the cost of any home adaptation work required to give persons with disabilities a living environment better suited to their physical needs and abilities.

- In the Walloon Region, social housing units of various types (both single-family houses and apartments) have been adapted to accommodate persons with physical disabilities wishing to live alone or with their families. The eligibility conditions for these homes are set by the housing associations that own them. Day-to-day living assistance service providers that are available 24 hours a day, seven days a week, to help persons with disabilities, at their request, to carry out daily activities such as personal care, bathing and feeding themselves are often to be found within a 500-metre radius of these homes. The Walloon Agency for the Integration of Persons with Disabilities has accredited and is currently funding nine providers of day-to-day living assistance services in the Walloon Region. The Walloon Region also provides residential transition services, designed mainly for young adults with a mental disability. The intended beneficiaries are mostly, but not exclusively, people living in institutions that provide residential care for adults and also a residential transition service. After agreeing a personal plan with the educational team, the young people leave the residential service for the transition service, where they are able to acquire greater autonomy. Living on their own or in small groups, the beneficiaries enjoy genuine independence, although the residential transition service monitors their physical, psychological and social well-being on an ongoing basis and may sometimes offer assistance with money management, bathing and feeding, among other things;
- In the German-speaking Community, most persons with disabilities live either with their families or in open market housing; only a small number live in supported accommodation of some form on an ongoing basis. As open market housing is often difficult to access, physically as well as financially, most persons with a severe physical disability live independently in social housing. Persons with disabilities may contact the Agency of the German-speaking Community for Persons with Disabilities for help and advice. The housing options open to persons with disabilities thus vary according to their individual assistance needs;
- The Common Community Commission accredits and funds supervised housing services for persons with disabilities who are living alone, or would like to, in order to maintain or acquire as much independence as possible and maximize the extent to which they are involved in family and community life.

Article 20

Personal mobility

93. In addition to the accessibility measures detailed under article 9 above, a number of measures have been adopted at various levels to facilitate the personal mobility of persons with disabilities:

- The current regulations on mobility aids cover a number of areas. Among other things, they provide for a single window system, a larger budget to allow wider reimbursement and an extension of the target group for certain mobility aids, and reimbursement based on a holistic assessment of user needs. This new approach means that users can be advised to acquire a more appropriate mobility aid;³⁹

³⁹ See the new list of mobility aids included in the Royal Decree of 12 January 2005, published in the *Moniteur belge* on 21 January 2005.

- At the federal level, legislation provides for the establishment of designated parking places and the issue of special parking permits for persons with disabilities.⁴⁰ These parking permits are issued to applicants who meet certain criteria⁴¹ and give them the right to park in certain locations without limits on length of stay. In many Belgian municipalities, they also exempt holders from having to pay parking charges when leaving a vehicle in a public pay space;
- The aspects of personal mobility related to road use are covered in article 7.1 of the Highway Code, which provides that all road users must ensure they do not endanger more vulnerable users, including persons with disabilities. All drivers are required to exercise heightened caution in the presence of vulnerable road users. Persons with disabilities who use manually or electronically powered buggies are covered by the regulations applicable to users of non-motorized means of personal locomotion. Thus, the more protective regulations applicable to pedestrians and cyclists also apply to the mobility vehicles used by persons with disabilities;
- In addition to these legislative measures, the services of third-party experts, such as the Ligue Braille pour les malvoyants (Braille League for Visually Impaired Persons), the Rehabilitation Centre for Children and the Belgian Centre for Fitness to Drive Assessments and Vehicle Adaptation (CARA), are supported at the national level;
- In Flanders, the Flemish Agency for Persons with Disabilities provides financial assistance for persons with disabilities to help to cover equipment purchase costs and the cost of any mobility adjustments necessary. The equipment and personalized assistance available are set out in a reference document. The Agency also contributes towards equipment maintenance and repair costs;
- In the Walloon Region, the Walloon Agency for the Integration of Persons with Disabilities may make a financial contribution towards the cost of assistive products

⁴⁰ See the provisions of the Highway Code, the Royal Decree of 1 December 1975 (and the various amendments thereto) and the ministerial circulars of 3 April 2001 and 25 April 2003 on parking spaces on public roads for persons with disabilities and the creation of designated parking places.

⁴¹ These permits may be issued, on application, to:

- (a) Persons with a permanent disability of at least 80 per cent;
- (b) Persons with a permanent disability deriving directly from the lower limbs and causing a disability of at least 50 per cent;
- (c) Persons with total upper limb paralysis or who have undergone upper limb amputation;
- (d) Persons whose state of health causes a permanent reduction in their degree of autonomy of at least 12 points, determined on the basis of the applicable guidelines and scale, as established in the legislation governing allowances for persons with disabilities;
- (e) Persons whose state of health gives rise to a reduction in their ability to move freely of at least two points;
- (f) Children who meet the allocation criterion for at least two points of the “Mobility and travel” category, pillar 2.3, of the medical social scale contained in annex I to the Royal Decree of 28 March 2003 implementing articles 47, 56 septies and 63 of the consolidated Acts on family allowances for employees and article 88 of Programme Act (I) of 24 December 2002;
- (g) Children who meet the allocation criterion for at least two points of the “Travel” category, according to the guide for determining autonomy contained in the annex to the Royal Decree of 3 May 1991 implementing articles 47, 56 septies, 62, paragraph 3, and 63 of the consolidated Acts on family allowances for employees and article 96 of the Act of 29 December 1990 on social matters;
- (h) Civilian victims and military veterans of war, with a war disability of at least 50 per cent.

for personal mobility.⁴² Financial allowances may also be available to help to meet the cost of obtaining a driving licence and learning orientation and mobility techniques. To ensure that persons with disabilities who use service dogs are able to access public buildings and facilities, the Walloon government promulgated the Decree of 23 November 2006 and its implementing regulations, set out in the Decree of 2 October 2008;

- In the German-speaking Community, a number of aids are available to enable persons with disabilities to lead an autonomous life. An occupational therapist provides advice on technical issues and the allowances available. In addition, an agreement has been concluded with a local branch of the Red Cross that allows persons with disabilities to rent equipment not available from the stock held by the Agency of the German-speaking Community for Persons with Disabilities;
- As well as providing personal assistance budgets (see under article 19 above), the Common Community Commission monitors all aspects of mobility for persons with disabilities as a member of the Regional Mobility Commission. The remit of the Regional Mobility Commission is to study, evaluate and formulate opinions and recommendations on mobility in general and the adaptation of public places and public transport in particular;
- To facilitate the inclusion of persons with disabilities in society, the French Community Commission Decree of 4 March 1999 provides for contributions towards the travel expenses of persons who, because of their disability, are unable to use any form of public transport unaccompanied. The Decree also provides for contributions towards the cost of personal mobility aids such as vehicle adaptations, the acquisition of a guide dog and white cane mobility training.

Article 21

Freedom of expression and opinion, and access to information

94. With regard to freedom of expression and opinion, some administrations provide special support to ensure that persons with disabilities are able to use their preferred means of communication:

- In Flanders, persons whose ability to communicate verbally or in writing or whose access to forms of communication is severely restricted are eligible for support from the Flemish Agency for Persons with Disabilities, which provides appropriate devices or customized software. Of the programmes shown by the Flemish public broadcasting organization VRT, 77 per cent, including 100 per cent of all news and information programmes, have closed captioning, and the organization is working to continuously increase this percentage. A number of commercial networks in the Flemish Region are also investing in closed captioning. In addition, the Flemish Government supports the Kamelego group, which produces online versions of daily newspapers for persons with visual impairments or reading difficulties. Audio

⁴² These provisions are incorporated in the annex to the Walloon Government Order of 14 May 2009 that establishes the conditions and service delivery arrangements for personal assistance to facilitate the inclusion of persons with disabilities.

newspapers can be accessed every day (in streaming or downloadable format) through the document server platform www.anderslezen.be;⁴³

- In Walloon, eligibility for assistive products in the fields of information and communication is regulated by the Walloon Government Order of 14 May 2009 establishing the conditions and service delivery arrangements for personal assistance to facilitate the inclusion of persons with disabilities;
- In the German-speaking Community, persons with hearing impairments are entitled to the assistance of a sign language interpreter for a minimum of 35 hours per year, extendable by an additional 20 hours where needed. The Agency of the German-speaking Community for Persons with Disabilities covers the interpreter's fees and travel expenses. To ensure access to the media, a Braille printing unit has been established to provide free Braille transcriptions on demand, as the local media do not provide adapted information;
- In terms of personal assistance, the French Community Commission Decree of 4 March 1999 provides for allowances towards sign language interpretation and transliteration, communication aids (video-magnifiers, TV magnifiers, wireless sound transmitters, FM equipment, adapted telephones, Braille writing machines, computers and adaptations for persons who are blind or visually impaired) and Braille translation.

95. A number of measures have been taken at different levels of government to ensure that information provided to the general public is accessible to persons with disabilities in a timely manner and without additional cost. The following are of particular note:

- In 2010, the Flemish Government took the decision to make all policy documents on education, youth and equal opportunities accessible. It will be encouraging similar initiatives for other policy areas;
- In the 2011 budget of the Brussels-Capital Region, a new basic allocation was introduced to fund the creation of a regional forum for universal accessibility. The forum will consider ways to guarantee the right of persons with disabilities to freedom of expression and opinion.

96. To encourage broader media accessibility, the Government of Belgium has developed the Anysurfer label to increase and standardize web accessibility (referred to under article 9 above). All organizations that wish to do so and comply with all the requirements may apply this label to their website or application. A considerable number of the federal and federated authorities' websites already have the Anysurfer label or are in the process of obtaining it, or have been designed with accessibility issues in mind:

- The goal of the Flemish Government is that all its websites should be accessible to persons with disabilities and thus that all should carry the Anysurfer label. In 2010, 18 per cent of its websites had obtained the label (a 6 per cent increase since 2008). In addition, to encourage private entities and the media to provide their information and services in a form accessible to persons with disabilities, Equal Opportunities in Flanders is working to improve the accessibility of private sector websites and encouraging Anysurfer labelling in the private sector;⁴⁴

⁴³ The platform was developed by Pyxima, which is a spin-off from Catholic University Leuven. Thanks to close cooperation with Plector-Shinano, Pyxima has also been able to launch a Daisy player (the universal format for talking books) in both desktop and portable versions.

⁴⁴ A support programme has been offered to a number of web design agencies to this end. The programme consists of web accessibility training and advisory sessions on Anysurfer labelling for the

- In 2002, the Walloon government undertook to make the majority of the Walloon Region's websites accessible to persons with visual impairments. In 2005, this policy was incorporated in the Walloon component of the national action plan for tackling the digital divide. At present, there are 27 websites carrying either the Anysurfer or Blindsurfer label;
- The website of the Equal Opportunities Unit of the Ministry of the Brussels-Capital Region was designed to meet the accessibility standards required by persons with functional limitations (visually impaired and blind persons, persons with hearing impairments, etc.) and the process of obtaining the Anysurfer label for the site is under way. Furthermore, a special recruitment and employment website for the Brussels-Capital Region is in the development stage and will likewise be designed to Anysurfer standards;
- In the French Community, the Community Policy Statement for 2009–2014 provides that the Government will increase the number of websites carrying the Anysurfer label. The Ministry of the French Community has begun the work needed to meet accessibility standards;
- With a view to ensuring access to the most important information, the Agency of the German-speaking Community for Persons with Disabilities produces easier-to-read summaries for blind and visually impaired persons. It also provides a guide to website accessibility;
- For the French Community Commission, the website of the Brussels French-speaking Service for Persons with Disabilities has been designed for blind and visually impaired persons and includes an easy-to-read version.

97. Various measures have been taken at different levels of government to ensure the recognition of sign language:

- The Flemish Government officially recognized Flemish sign language in its Decree of 5 May 2006. Flemish sign language is defined as the natural visual-gesture language used by deaf persons and sign language users in the Flemish Community and in the bilingual Brussels-Capital Region. Deaf persons are recognized as a minority linguistic and cultural group for whom the use of Flemish sign language is an identifying factor. Since January 2008, the Flemish Sign Language Centre has been recognized by the Flemish Government. The Centre serves as a hub for coordination between sign language experts, the deaf community and professionals active in the field and works with them to increase and disseminate knowledge. In addition, the Flemish Government Order of 20 July 1994 establishes that the Flemish Agency for Persons with Disabilities must meet the cost of sign language interpretation to assist persons who are deaf or hearing impaired;
- The Walloon Region subsidizes the Walloon Interpretation Service for Deaf People (SISW), which provides sign language interpretation and translation from and into French, on request, in all areas (medical, legal, cultural, administrative, training, vocational, etc.) except compulsory education. The service is used by deaf people living in the Walloon Region and by public and private sector organizations and associations that work in deafness-related fields.

development of new projects. After creating their websites, the agencies can request an audit with a view to obtaining the Anysurfer label. The Flemish Government also co-finances an annual review of website accessibility.

- The Brussels-Capital Region supports associations working on the ground by providing voluntary funding for projects that promote equal opportunities and diversity. In 2010, it funded the nineteenth European conference on the theme “Deaf persons and image – Image of the deaf”. The conference, which was held on 6 November, was part of the thirty-seventh international festival of independent film running from 2 to 7 November 2010;
- The French Community recognized French Belgian sign language as an official language in its Decree of 22 October 2003. It has also established a Sign Language Advisory Commission. The Commission is tasked with drafting opinions and proposals on any issues related to sign language use for submission to the government of the French Community, on its own initiative or on the Government’s request.

Article 22

Respect for privacy

98. Information about decisions on the capacity of adults and the incapacity of minors is recorded in the population registers pursuant to article 1 (15) of the Royal Decree of 16 July 1992 on the communication of information contained in population registers and in the register of foreign nationals. Access to this information is strictly regulated and is granted only to duly authorized institutions.

99. Protection of privacy in the processing of personal data is regulated in the Act of 8 December 1992. The Act makes no distinction between persons.⁴⁵ The Act of 22 August 2002 on patients’ rights also contains provisions on protection of private life and respect for privacy (art. 10).

100. In 2009, the Walloon Commission for Persons with Disabilities, in conjunction with the Walloon Agency for the Integration of Persons with Disabilities, published a guide to shared professional confidentiality for persons with disabilities and their families, volunteers and professionals working in the disability support sector.

Article 23

Respect for home and the family

101. Legislation on respect for home and the family is based on the following principles:

- All persons, whether or not they have a disability, have the right to respect for their personal and family life (Belgian Constitution, art. 22). The right to marry and to found a family is guaranteed under article 12 of the European Convention on Human Rights;
- Article 1 of the Act of 26 June 1990 on the protection of persons with mental illness stipulates that: “With the exception of the protection measures provided for in this Act, the diagnosis and treatment of mental disorders shall not give rise to any restriction of individual liberty”;

⁴⁵ Article 2 provides that all individuals are entitled to protection of their fundamental rights and freedoms, including their privacy, when personal information about them is processed.

Article 7 prohibits the dissemination or use of personal information about health unless the person concerned has given his or her consent in writing.

- Persons under temporary guardianship or legal supervision retain the right to marry;
- A child may be legally recognized by a person declared legally incapable. However, a minimum degree of discernment is required (Civil Code, art. 328);
- When they live together, parents exercise joint authority in respect of their children (Civil Code, art. 373).
- If one parent is unable to express his or her wishes, the other parent has sole authority (Civil Code, art. 375).

102. In Flanders, preventive support is available for families dealing with disability. The following services have been established: educational support for parents with a mental disability; supported and sheltered accommodation for persons with disabilities; home support services; and emotional support services for persons with disabilities (under a cooperation agreement between the Child and Family Agency and the Flemish Agency for Persons with Disabilities).

103. Preventive, adaptive and inclusive measures for persons with disabilities are also in place in the Walloon Region (see article 4 of the Decree of 6 April 1995 on the integration of persons with disabilities). Here, the preferred option is to provide care and support for persons with disabilities in their family homes or usual living environment. To assist parents who have a child with a disability aged under 8 years, the Walloon Region, through the Walloon Agency for the Integration of Persons with Disabilities, provides special allowances to cover around 20 early intervention services. As an alternative to institutionalized care, the Walloon Region offers various forms of family foster care through the Walloon Agency for the Integration of Persons with Disabilities.

104. Through its SENS service, the Agency of the German-speaking Community for Persons with Disabilities provides advice and support to persons with disabilities and their relatives on questions of friendship, love, relationships, emotions and sexuality.

Article 24

Education

Situation in Flanders

105. Various measures have been adopted to ensure that every child with a disability has access to nursery, primary, secondary and higher education.

106. In implementation of the Act of 6 July 1970 on special education, schools have been established for children and young people aged from 2 and a half to 21 years⁴⁶ who require special teaching on a temporary or permanent basis because of their educational needs. The schools are organized on the basis of type of disability⁴⁷ (primary level) and form of

⁴⁶ If suitable care options are not available through the welfare service, pupils can remain in special education beyond the age of 21 years.

⁴⁷ Type of disability:

- Mild mental disability (type 1);
- Moderate or severe mental disability (type 2);
- Serious behavioural and/or personality disorders (type 3);
- Physical disabilities (type 4);
- Admission to hospital or quarantine for medical reasons (type 5);
- Visual impairments (type 6);

education⁴⁸ (secondary level). Pupil guidance centres (CLB) issue statements of special educational needs (assessment reports) that confer the right to enrol in special or integrated education. Pupils are also entitled by law to free transportation to a special education school. In Flanders the right to education of children and young people with disabilities is thus guaranteed. Only 0.07 per cent of children and young people with disabilities do not receive some form of education because of their very complex problems.

107. In mainstream primary and secondary education, the school authorities may accept pupils holding a statement of special educational needs for disability types 1 to 7, subject to the strict condition that the school has sufficient resources⁴⁹ to cater for the educational, therapeutic and care needs of the pupil in question. The school authorities may decide to refuse admission after consulting the parents and the pupil guidance centre that supports the school. There is also a legal protection procedure, entrusted to local consultative bodies on which the main local stakeholders in and outside education are represented. One of the tasks of these bodies is to mediate in cases where admission is refused on the grounds of insufficient resources. If no solution is reached through mediation and the child continues to be refused admission, the parents can lodge an appeal against the decision with the Commission on Pupils' Rights established by the Ministry of Education and Training. The Commission can submit a proposal for disciplinary sanctions to the Flemish Government.

108. The development of special education over the past 40 years has meant that pupils with disabilities are usually catered for in a non-inclusive education system: 0.78 per cent (nursery education), 6.79 per cent (primary education) and 4.24 per cent (secondary education).⁵⁰

- Hearing impairments (type 7);
- Serious learning difficulties (type 8);
- Types 1 and 8 are not provided for in nursery schools;
- Type 8 is not provided for in secondary schools.

⁴⁸ Form of education:

- Education category 1 (types 2, 3, 4, 6, 7): acquisition of general social skills to facilitate integration in a sheltered living environment;
- Education category 2 (types 2, 3, 4, 6, 7): acquisition of vocational and social skills to facilitate integration in a sheltered living and work environment;
- Education category 3 (types 1, 3, 4, 6, 7): acquisition of knowledge and skills to facilitate integration in a regular living and work environment;
- Education category 4 (types 3, 4, 5, 6, 7): acquisition of the same knowledge and skills as pupils in mainstream secondary education.

⁴⁹ In determining whether the school has sufficient resources to cater for the pupil's needs, the school authorities must take the following into account:

- The parents' expectations of the child and the school;
- The specific support needs of the pupil in terms of learning areas, social functioning, communication and mobility;
- An assessment of the special needs resources regularly available in the school. The teaching team should use all available means at its disposal to meet the needs of the pupil concerned;
- The support measures available in and outside education;
- The active involvement of the parents in the different stages of the consultation and decision-making process.

⁵⁰ In the 2009/10 school year, 1,962 children were attending special nursery schools, of whom 67.58 per cent were boys and 32.42 per cent were girls. By comparison, in mainstream nursery education (250,391 students) 51.16 per cent of pupils were boys and 48.84 per cent were girls. In primary education, the same trends were apparent. Of a total of 407,902 pupils in primary education, 51.01 per

109. In 1986, the law was amended to give children and young people with disabilities the opportunity to leave special education and receive a supported education in a mainstream school. Thus, in the last decade the number of such pupils in integrated education (GON) has risen from 1,522 pupils (1999/00) to 10,503 pupils (2009/10).⁵¹ However, these children continue to account for only a small percentage of total pupils (0.95 per cent).

110. In higher education, support for students with functional impairments is secured through four initiatives:

- The higher weighting given to these students in the distribution of operating resources;
- The establishment of an incentive fund to encourage educational institutions to adopt an equal opportunities and diversity policy;
- The provision of funding for the Inclusive Higher Education Support Centre;
- The award of social grants to fund student support services and improve conditions of study.

111. The Flemish Ministry of Education and Training supports pupils and students in mainstream education and adult education by making special learning aids available to them (technical equipment, Flemish sign language interpreters, written language interpreters, Braille and large print transcriptions, adapted furniture, software for dyslexics and digitized manuals).

112. The Ministry commissioned an advisory opinion on the legal implications and impact of article 24 of the Convention.⁵²

113. Skills training in Braille, sign language, alternative communication options, mobility and other areas is generally offered as part of the special or integrated education curriculum. Organizations for persons with disabilities also provide skills training of this kind.

114. Since the 1996/97 school year, deaf pupils and students have been able to attend mainstream secondary and higher education institutions with the help of a Flemish sign language and/or written language interpreter. Since 2008, students in adult education and/or attending basic education centres have also been able to request the assistance of an interpreter.

115. Teachers develop their professional skills in the classroom and through support service providers working with the school. Their professional profile and core

cent were boys and 48.99 per cent were girls. In mainstream primary schools (380,197 pupils), 50.16 per cent were boys and 49.84 per cent were girls. In special primary schools, (27,705 pupils) 62.70 per cent of pupils were boys and 37.30 per cent were girls. For secondary education, the figures are: total, all schools (448,760 pupils): 51.36 per cent boys and 48.64 per cent girls. Mainstream secondary schools (429,745 pupils): 50.84 per cent boys and 49.16 per cent girls. Special secondary schools (19,015 pupils): 63.23 per cent boys and 36.77 per cent girls.

⁵¹ In integrated education (all levels of education, 2010/11 school year), the figures and percentages are as follows: 11,678 pupils in integrated education, of which 1,715 in nursery schools, 4,809 in primary schools, 4,741 in secondary schools and 413 in higher education. The percentage of boys vs. girls was 64.7 vs. 35.3 per cent in nursery education, 75.1 vs. 24.9 per cent in primary education, 77.9 vs. 22.1 per cent in secondary education and 73.8 vs. 26.2 per cent in higher education (74.7 vs. 25.3 per cent in total).

⁵² For the executive summary and full opinion, and the contribution of the Department of Education concerning article 24 of the Convention, see www.ond.vlaanderen.be/leerzorg/VN.

competencies are expected to include skills related to the care of pupils with special educational needs.⁵³ The Bachelor after Bachelor (BanaBa) courses in special education, special needs provision and remedial teaching are also worthy of note. In addition, a wide range of in-service training programmes is available.

116. To ensure that the educational needs of children with disabilities are identified at an early stage, schools must have a special needs management policy and a cooperation agreement with a pupil guidance centre. One of the tasks conferred on the centres is to perform a diagnostic assessment of the needs of any pupil who has difficulties taking part in education.

Situation in the French Community

117. Access and the right to education are enshrined in the Belgian Constitution, the Education Covenant (29 May 1959), the Education Missions Decree (24 July 1997), the Decree on special education (3 March 2004) and the Decree on co-education (1 March 2010). The special education system was created in 1970, at the request of the parents' associations of the time, to provide certain categories of children with an education tailored to their specific needs.

118. To prevent inconsistencies in the system, the Decree of 3 March 2004 on special education established a number of guidelines, including the following:⁵⁴

- *Organization according to type of education.* Type of education is determined, based on the pupil's disability and specific needs, by a body totally independent of the school or by a specialist physician. Organizing special education in this way ensures that the pupil concerned benefits from an adapted education with personalized support from medical auxiliaries, social workers and other professionals;
- *Conditions governing admission to special education.* The choice of type of education, the conditions of admission and decisions as to whether children should remain in special education are strictly regulated and based on a duly substantiated report drawn up by a body unattached to the school or by a specialist physician, depending on the case;
- *Parents' freedom of choice.* Parents are free to choose a mainstream school or a special school for their child;
- *Objectives of the different forms of special education.* The objectives set for each of the different forms of special secondary education are centred on achieving the form of social and professional integration best suited to each pupil individually, based on his or her capabilities and disability;
- *Option of moving from special education to mainstream education.* Parents have the option of enrolling or re-enrolling their child in mainstream education after a period in special education;
- *Increase in the number of integration programmes.* Pupils enrolled in special education may, at their parents' request or at the suggestion of the special school's class council, be admitted to an integration programme in a mainstream school

⁵³ Flemish Government Decrees of 5 October 2007 on the professional profile of teachers and on core competencies of teachers.

⁵⁴ In its Decree of 21 March 2003, the French Community recognized sign language as an official language. There are four special education schools specializing in services for children who need to learn Braille or sign language.

where they are supported by special teaching staff. Such programmes are now available for all categories of special education and are encouraged by new provisions issued by decree on 5 February 2009, which stipulate that pupils are no longer required to spend at least three months in a special school in order to benefit from the support of special teaching staff (teachers, medical auxiliaries and other professionals, depending on the needs of the child).

119. All schools offering special education at the basic education and/or secondary level (types 1, 2 and 3) must draw up an individual education plan for each pupil, which serves as the basis for all areas of learning (Decree of 3 March 2004). These plans are methodological tools drawn up and implemented by the class council in consultation with the pupil and his or her parent or guardian. They are regularly supplemented and adjusted to take account of the pupil's interests, achievements, behaviour, capabilities, skills and difficulties.⁵⁵

120. The French Community has taken measures to ensure early identification of persons with disabilities and their educational needs through screening by a paediatrician or specialist physician, as appropriate, and routine screening during check-ups at the Birth and Childhood Office.

121. When children begin school, a psychological, medical and social centre (CPMS) or guidance centre carries out a multidisciplinary review that includes medical and psychological tests and pedagogical and social assessments. A psychological, medical and social centre,⁵⁶ which is responsible for the pupils of the school assigned to it but independent of the school itself, monitors the pupils as they progress through school. Special education pupils who are integrated in mainstream schools are monitored by the centre responsible for mainstream education and also by the centre dealing with special needs.

122. Special education establishments are fitted with special infrastructure; in the case of mainstream education establishments, adaptations (including, where necessary, to classroom occupation rates) are provided for in the integration agreements concluded with schools to cater for the special needs of integrated pupils. In 2008–2009, there were 31,317 children with disabilities in special education. Given a population of 867,466 pupils in basic education and secondary schools,⁵⁷ special education pupils therefore account for 3.61 per cent of total pupils. Since the new measures were introduced in September 2009, the number of students integrated in mainstream education has been rising: from 203 in the 2008/09 school year, it had risen to 854 by the 2010/11 school year.

123. The French Community has also recognized French Belgian sign language as an official language (Decree of 22 October 2003) and there are four special education schools catering for children who need to learn Braille or sign language.

124. In higher education, the Government of the French Community is working to improve access for persons with disabilities by:⁵⁸

⁵⁵ Some schools have also established secure websites where teachers can consult the individual education plans of all their pupils in order to facilitate and optimize preparations for the activities to be conducted.

⁵⁶ The psychological, medical and social centre help to ensure the best possible psychological, pedagogical, medical, paramedical and social conditions for pupils and their immediate educational support teams, and thus to ensure that they have the best possible chance of balanced personal development and individual and social well-being (Royal Decree of 13 August 1962).

⁵⁷ Basic education encompasses nursery and primary education.

⁵⁸ See the Community Policy Statement 2009–2014.

- Coordinating efforts to make all fields of study accessible to persons with disabilities;
- Making basic adjustments to logistics and evaluation methods after identifying the needs and principal obstacles;
- Developing training for trainers in sign language.

125. Through the Walloon Agency for the Integration of Persons with Disabilities, the Walloon Region helps with the cost of transport and boarding fees and provides assistive products adapted to the needs of children with disabilities enrolled in mainstream education. It also meets the cost of teaching support in higher education and funds around 30 integration assistance services that provide comprehensive educational assistance for young people aged between 7 and 20 years. Lastly, the Walloon Region has concluded a cooperation agreement with the French Community, which has jurisdiction over education, to encourage the integration of children with special needs in mainstream schools.

Situation in the German-speaking Community

126. The Parliament of the German-speaking Community adopted a decree concerning the centre for support teaching and special teaching on 11 May 2009. The aim of the decree was to improve special needs support in mainstream and special schools and encourage the provision of support for pupils with special needs or adaptation or learning difficulties in mainstream and special schools. The decree has three core objectives:

- *Early detection of learning difficulties.* Learning difficulties should, according to the Finnish model, be identified as early as possible at the start of basic education and should be alleviated through differentiated, personalized support. To achieve this aim,⁵⁹ all schools must have the necessary expertise;
- *Integration of pupils requiring special needs support in mainstream education.* Another objective of the decree is to integrate as many pupils with special needs or adaptation or learning difficulties as possible in mainstream education. To achieve this objective, the plan is to continue developing, after a pilot phase, the procedure for approving integration programmes that was introduced in 2007, to extend the procedure to secondary schools and to formalize the procedure in an official decree.⁶⁰ With regard to secondary education, the view of parents' associations is

⁵⁹ The decree provides for a gradual increase in the employment budget equivalent to 100 quarter-time positions (+/- 600 periods) in mainstream basic education schools and 18 quarter-time positions in special schools by 2015. Initially, the authorities can use this employment budget to free up teachers to attend in-service training in support teaching (covering, in particular, diagnostic assessment of the support necessary and methods of support). Subsequently, the authorities can use the additional employment budget to recruit teachers who already have an additional qualification in the areas mentioned. The Independent College of Higher Education in the German-speaking community is planning to organize the corresponding training in conjunction with lecturers from Zurich and Lucerne.

⁶⁰ It is important that those responsible for the child's education are involved in the decision-making process. For this reason, the procedure, which was designed from the outset to be transparent and easy to follow, provides that pupils can be integrated in mainstream education only if their need for special needs support has previously been established by a psychological, medical and social centre and the persons responsible for their education, in conjunction with representatives of the mainstream and special schools, have defined the support objectives and the support measures necessary to achieve them, as well as the place in which the support will be provided, i.e. the mainstream or special school. Additionally, to achieve the above-mentioned objective, the financial resources allocated to integration programmes have been guaranteed by decree and increased by a total of 100 hours. A total

that there are not enough integration programmes. Parents' associations also highlight the fact that schools are not sufficiently accessible for children with a motor disability;

- *Establishment of a centre for support teaching and special teaching.* A centre for support teaching and special teaching was established on 1 September 2009. The centre's mandate includes the following tasks:⁶¹
 - Providing support teaching in basic and secondary education;
 - Making qualified staff available to provide special needs support in mainstream schools;
 - Providing guidance and support to mainstream schools whenever they have problems with support teaching.

Article 25 Health

127. Various measures have been taken with a view to ensuring free access for persons with disabilities at no financial cost:

- Persons with disabilities residing in Belgium are guaranteed free access to compulsory health insurance (that is, without any obligation to pay contributions). Disability is defined⁶² as the inability to perform paid work owing to one's state of health.⁶³ The status of person with a disability also confers on the individual concerned the right to various benefits, such as entitlement to a higher insurance reimbursement rate and a fixed chronic illness payment. The "maximum charge" mechanism guarantees an annual ceiling on household health expenditure, with persons with disabilities, in principle, enjoying the lowest ceiling. Under certain conditions, persons with disabilities whose health expenditures are high may also be eligible for a fixed annual health-care payment. Moreover, particular attention is given to children with disabilities who benefit from a higher compulsory insurance

of 138 quarter-time jobs (+ or - 828 hours) are now available for integration programmes. Nonetheless, pupils' parents believe that integrating children with a mental disability in a mainstream primary school is near impossible because of a lack of available support hours. In secondary education, parents believe that there are not enough integration programmes. Lastly, parents note that schools are not sufficiently accessible for children with a motor disability.

⁶¹ To perform these tasks, the centre works closely with all partners active in the field of educational support, with institutions active in the field of early intervention for children and with the Agency of the German-speaking Community for Persons with Disabilities. It also seeks to engage in ongoing dialogue with civil society. The centre has established an advisory council composed of representatives of education networks, the psychological, medical and social centres, the Independent College of Higher Education, the Agency for Persons with Disabilities, the Institute for Training and Continuing Training for the Self-Employed and Small and Medium-Sized Businesses, and public service organizations active in the field of special education.

⁶² Article 32, subparagraph 13, of the consolidated Act of 14 July 1994 on compulsory health insurance and benefits, and article 128 ter of the Royal Decree of 3 July 1996 implementing the Act.

⁶³ If a person with a disability is employed in a sheltered workshop, the amount of his or her compulsory health-care contributions is lower than that set for the other employees. Persons with disabilities who have lost both their mother and father have free access to health insurance if they receive income-replacement allowance under the regulations governing allowances for persons with disabilities. Lastly, like any other individual, persons with disabilities in other situations can be enrolled as dependants if they meet the general regulatory conditions.

reimbursement rate, a fixed health-care payment under certain conditions, application of the third-party payment system and protection against extra fees in case of hospitalization;

- Respect for a certain number of rights is guaranteed for all patients without distinction by the Act of 22 August 2002 on patients' rights and the Patients' Rights Unit. Mention should be made of the right to the provision of quality services, the right to the free choice of health-care practitioner, the right to information on the patient's state of health, the right to informed consent, the rights relating to the patient's medical records, the right to respect for privacy and the right to lodge a complaint with the competent mediation service;⁶⁴
- A number of initiatives have also been taken at the level of the communities. For example, under the French Community Commission Decree of 4 March 1999, functional rehabilitation centres must offer persons with disabilities comprehensive physical, psychological and social care. These centres must also be accessible to all, in line with the Decree of 9 July 2010 on combating certain forms of discrimination and implementing the principle of equal treatment.

128. Belgian legislation also protects persons with disabilities in the field of reproductive research and health. The Act of 11 May 2003 on in vitro embryo research provides a framework for research and prohibits in particular the undertaking of research or treatments involving eugenics,⁶⁵ with the exception of selection for the purpose of ruling out embryos affected by gender-linked diseases. The Act of 6 July 2007 on medically-assisted procreation contains specific provisions on pre-implantation genetic diagnosis (arts. 67 and 68).⁶⁶

129. Various measures have been taken concerning equal access to quality health services for persons with disabilities. For example, in Flanders, with a view to developing "personalized" care that is accessible to all, the Flemish Government has been working to implement an inclusive policy and has made further efforts to tackle the issue of unequal access. In this context, the Flemish Agency for Persons with Disabilities and the health and treatment centres are frontline information points. Moreover, in 2010, a Centre for the Development of Health Systems was created within the University of Antwerp. The Centre carries out multidisciplinary scientific research on issues related to management and implementation in the field of health care.

130. Various measures have been taken at the level of the communities⁶⁷ with regard to early detection and intervention to minimize or prevent the emergence of secondary disabilities.

⁶⁴ See also www.health.fgov.be/bioeth: Opinion No. 21 of 10 March 2003 concerning forced treatment in cases of involuntary hospitalization.

⁶⁵ That is, based on the selection or development of non-pathological genetic characteristics of the human species, and research or treatments based on gender selection.

⁶⁶ In particular, the Act prohibits pre-implantation genetic diagnosis involving eugenics or based on gender selection but authorizes selection for the purpose of ruling out embryos affected by gender-linked diseases and, exceptionally, pre-implantation genetic diagnosis is authorized in exceptional cases in the therapeutic interest of an already born child or of the prospective parents. See also www.health.fgov.be/bioeth: Opinion No. 49 on the use of pre-implantation genetic diagnosis (PGD) to detect healthy carriers of a mutation causing a serious condition that may pose a high risk to descendants.

⁶⁷ The French Community has set up two early detection programmes. The first involves neonatal screening for congenital metabolic anomalies. The aim of this programme is to detect congenital anomalies (either in the maternity ward or at home in the case of mothers being monitored by

131. In order to inform doctors and other health professionals of the rights of persons with disabilities, in 2009, the Centre for Equal Opportunities and Action to Combat Racism published an awareness-raising brochure entitled “Reasonable Accommodation for Persons with Disabilities in the Health Sector”.⁶⁸ The brochure contains a great deal of advice on accommodations, dealing with both the adaptation of buildings and infrastructure and the introduction of reception and communication techniques adapted to all types of disability.

132. As to discrimination in respect of access to health insurance and other types of insurance, article 32, paragraph 13, of the consolidated Act of 14 July 1994 on compulsory health insurance and benefits states that “those persons included on the National Register who, owing to their state of health, are recognized as being incapable of performing paid work shall have the right to health-care provision”. Health insurance thus covers persons with disabilities without discrimination in relation to the population as a whole. Persons with disabilities enjoy coverage either as dependants (in which case, they have a derived right to health care) or in their own right, but virtue of their status as persons with disabilities (in particular when the disability prevents the person concerned from exercising a professional activity and he or she is not deemed to be a dependant).⁶⁹ However, persons with disabilities encounter greater obstacles when they attempt to take out private insurance. In 2009, the Centre for Equal Opportunities and Action to Combat Racism opened around 20 files concerning persons who, owing to a disability or chronic illness, had been turned down, excluded or charged an excessive premium after applying for residual debt insurance, hospitalization insurance or guaranteed income insurance.

133. Various preventive health measures have been taken: information campaigns on the dangers of alcohol, tobacco and drug consumption during pregnancy, publicizing of rapid detection initiatives, adapted prevention campaigns and HIV/AIDS awareness activities.⁷⁰

independent midwives) that, if not treated early, can lead to death, mental retardation or other permanent and severe conditions. The second programme focuses on screening for neonatal deafness, a condition that is relatively common: around 1 to 3 children in 1,000 suffer from bilateral hearing impairment from the neonatal period onwards. This programme involves a series of neonatal tests to screen in maternity wards all children born in the French Community. In the German-speaking Community, the aim of the early intervention service is to develop the entire range of the child patient’s faculties, as well as the skills of the family as a whole, in order to allow them to live as normal a life as possible together. The work of the early intervention service is complete when the child reaches the age of 6 years and becomes the responsibility of the family support service. The work of the service is based on an early holistic approach to the individual. For example, the German-speaking Community offers a hearing test for newborns with a view to the early detection of potential cases of hearing impairment. Moreover, targeted projects are run to raise awareness among persons with disabilities concerning the importance of leading a healthy lifestyle and closely monitoring their own health.

⁶⁸ Downloadable from the Centre’s website: www.diversite.be.

⁶⁹ Specific statuses also exist for certain categories of person, for example persons with disabilities under the age of 15 years enjoy a particular status, while persons with disabilities who receive an income from a professional activity are enrolled in their own right in connection with their professional activity.

⁷⁰ Various initiatives have been launched in order to strengthen awareness-raising and education concerning the prevention of HIV/AIDS:

- With regard to the defence of persons living with HIV/AIDS, the Centre for Equal Opportunities and Action to Combat Racism has a long-standing partnership with the Flemish-speaking organization Sensoa and the French-speaking AIDS Prevention Platform, as well as with HIV referral centres. In particular, the Centre takes part in the preparation of awareness-raising literature targeting persons living with HIV/AIDS and focusing on their rights within the framework of anti-discrimination legislation;

Article 26

Habilitation and rehabilitation

134. Belgium has a large number of rehabilitation centres, which offer a multidisciplinary rehabilitation programme to persons with various functional limitations. These rehabilitation programmes are designed to allow the persons concerned to become as independent as possible and to ensure their optimal reintegration in social and family life. Most of these rehabilitation centres form part of a hospital. There are also multidisciplinary referral centres for various pathologies. These centres specialize in specific (relatively rare) pathologies. The number of centres per pathology is therefore limited. Referral centres generally offer their patients lifelong care. They play a major role in diagnosis. Following diagnosis, the centres may continue to monitor the evolution of the health of their (mainly) outpatients and to provide them with the required information, education and psychosocial assistance, if need be. To this end, they collaborate with other primary and secondary health-care providers.

135. The various federated entities have established their own assistance structures to provide habilitation and rehabilitation services:

- In Flanders, the Flemish Agency for Persons with Disabilities has specialized multidisciplinary teams in place to determine the most appropriate assistance for persons with disabilities. These teams assist persons with disabilities in submitting applications and remain at their disposal should they require advice. Services are organized in such a way that the persons concerned incur no costs. The multidisciplinary teams possess a wide variety of skills, allowing them to tackle situations of the utmost complexity. These teams can also call on external experts approved by the Agency;
- In the Walloon Region, the Walloon Agency for the Integration of Persons with Disabilities has multidisciplinary teams that work on a decentralized basis in each of the seven regional offices. These teams are responsible for examining applications by persons with disabilities and working with them and their carers to establish personalized assistance plans;
- There are no rehabilitation centres in the German-speaking Community. The Agency for Persons with Disabilities has therefore signed a cooperation agreement with the Walloon Region and works with rehabilitation and advice centres abroad, in particular with regard to hearing and visual impairments and the adaptation of wheelchairs for children;

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- The Walloon Agency for the Integration of Persons with Disabilities has set up a think tank on the emotional and sexual life of persons with disabilities and, more specifically, on the issue of sexually-transmitted and blood-borne diseases. The work carried out by this think tank led to the creation of a network and a charter entitled "A Charter for Action", available on the Internet: www.awiph.be/pdf/AWIPH/projets_nationaux/charte_pour_agir/charte_pour_agir.pdf. This charter was signed in 2002 by the three competent ministers in the field of health and social affairs in the French Community and its aim is to improve the well-being and quality of life of persons with disabilities by making recommendations and proposing actions in the field of emotional and sexual life. In addition, in the field of mental health, the Agency has supported seven mobile assistance units since 2009. The task of these units is to provide help and support in terms of human resources to living assistance teams that request it. The aim is to maintain or (re)integrate in their own communities persons with mental disabilities and associated mental disorders that render their harmonious integration difficult.

- In Brussels, various community services have been established. The French Community Commission Decree of 4 March 1999 provides for the Brussels French-speaking Service for Persons with Disabilities and, more specifically, its multidisciplinary team, to establish, supplement or modify comprehensive processes for the social and professional integration of persons with disabilities, in cooperation with those persons and/or their legal representatives. As part of these efforts, the aid and assistance to be granted to persons with disabilities is determined and advice is provided to facilitate their social integration, taking account of their requests, capacities and needs. The processes can involve the provision of individual assistance of any form, vocational training, employment finding, early support and intervention, day care or accommodation. The Common Community Commission accredits and funds bicommunal centres and services for persons with disabilities. The task of these centres is to promote integration and participation. The residential centres are responsible for providing, during the weekends and the daytime, if need be, either social habilitation and paramedical activities, or social, creative or recreational activities, in order to allow persons with disabilities to acquire or retain the skills required for daily life and to promote their independence and inclusion in society (Order of the Joint Board of 25 October 2007, art. 39). Day centres provide medical, psychological, paramedical, social and educational care during the day for persons with disabilities, so that they can achieve or retain as much independence as possible and enjoy optimal involvement in family and community life (Order of the Joint Board of 25 October 2007, art. 63). The Commission has accredited and funds three supervised housing services.

136. The communities, as the authorities responsible for education and training policies, have taken different measures concerning the training of professionals and staff working in the habilitation and rehabilitation services:

- In the French Community, various services (psychological, medical and social centres, the administration, associations, etc.) provide parents and professionals with permanent access to clear, detailed and precise information on the rights and duties of all, as well as on the procedures for responding to the needs, including the specific educational requirements, of each child. Within this framework, the French Community has prepared a handbook, available to all at the website www.enseignement.be, and has organized training modules delivered by the Institute for In-Service Training (IFC) to promote the use of the tool by teachers. In addition, a working group is focusing on the training offered by the special education sector, in particular with a view to improving coverage in the various types of special education;
- There are no specialized vocational training centres in the German-speaking Community. The Agency for Persons with Disabilities has signed a cooperation agreement concerning training centres with its Walloon counterpart. Individuals lacking the necessary French-language skills may receive guidance in specialized training centres in Germany. However, the German centres are often located far from the homes of the individuals concerned. As a result, persons taking up places at those centres must do so on a boarding basis. In order to increase community-based vocational training opportunities, a cooperation agreement has been concluded between the Agency and the Institute for Training and Continuing Training for the Self-Employed.

137. As to promotion, availability, knowledge and use of assistive devices and technologies designed for persons with disabilities, several initiatives have been launched. The Walloon Agency for the Integration of Persons with Disabilities, for example, has adopted various approaches. The Agency subsidizes specialized advisory services focusing

on assistive products and/or adaptation work in domestic homes. In addition, it has a Coordinating Service for Information and Advice on Technical Aids (CICAT), which is responsible for disseminating information on assistive products among persons with disabilities, their families, associations and professionals. Through sponsorship, the Service funds various initiatives run by specialized associations, which also carry out information campaigns in this area. Furthermore, the Service provides part of the funding for the database on technical aids: ACCES-AT (www.accesat.be). A special unit of the Flemish Agency for Persons with Disabilities, the Knowledge Centre for Assistive Technology (KOC), is also responsible for developing appropriate tools and knowledge.

138. The German-speaking Community emphasizes that the arrangements described could be further improved. Interconnectedness could be strengthened, above all as regards the transition from one area of life to another. Moreover, the work of actors in the fields of habilitation and rehabilitation (a federal matter) and those involved in providing pedagogical and vocational assistance (a community matter) could be harmonized to ensure coherence. The measures available abroad, in Germany for example, could be taken into account when focusing on this issue in the future.

Article 27

Work and employment

139. Efforts to tackle discrimination against persons with disabilities are governed by the Act of 10 May 2007 on combating certain forms of discrimination.⁷¹ This Act prohibits all forms of discrimination: direct and indirect discrimination, incitement to discrimination, harassment and denial of reasonable accommodation for persons with disabilities (art. 14). The Act is applicable, in both the private and public sectors, to employment relations, conditions of access to employment, working conditions and the regulations concerning redundancies, and covers employed and self-employed persons at all levels of seniority and in all branches of activity. Moreover, pursuant to the Act of 4 August 1996 on welfare in the workplace, employers, who are responsible for the welfare of employees, must take preventive measures to avoid situations of risk and to avoid or limit injuries. These measures relate in particular to the adaptation of the workplace, the design and adaptation of workstations, the selection and use of work equipment and of personal protection equipment, and so forth. Thus, employers must take account of employees' disabilities in the context of the preventive measures adopted to protect the health and safety of those employees.

140. Policies on the technical and/or financial assistance to be made available for carrying out reasonable accommodations have been developed by authorities at several levels:

- As an employer, the federal administration has a duty to facilitate the adjustment of workstations so that all staff members can carry out their work in optimal conditions. The adaptation of workstations is a right conferred by the Anti-Discrimination Act of 10 May 2007. Thus, each federal public service must ensure

⁷¹ This Act is based in particular on the principles established in European Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation. It forms part of a broader framework designed to combat all forms of discrimination, which comprises, in addition to the above-mentioned Act, the Act on combating gender-based discrimination and the Act on combating discrimination and punishing certain racist or xenophobic acts, also adopted on 10 May 2007.

that technical assistance with respect to workstation adaptation is made available to staff members with disabilities, as necessary;

- The Federal Administration Selection Bureau (Selor) organizes reasonable accommodations in respect of selection and recruitment procedures, language testing, internal mobility and career management, as defined in the Royal Decree of 5 March 2007 on the recruitment of persons with disabilities to the federal administration. The aim of these reasonable accommodations is to guarantee equal opportunities, treatment and access to the Belgian civil service for candidates with disabilities.

A large number of measures to promote the employment of persons with disabilities on the labour market have been taken on a sector-by-sector basis.

Private labour market

141. The Royal Decree of 9 February 2010⁷² redefined the conditions that young workers with disabilities must meet in order to retain their supplementary disability allowance. As a result, young persons with disabilities can receive supplementary allowances until the age of 21 years. Moreover, the Federal Government in 2005, in cooperation with the regions, began to develop a new Equality-Diversity label for enterprises in respect of employment and promotion of diversity. In 2006, a pilot project was launched, with the enterprises concerned making an active commitment to further diversity and equality within their organizations in order to obtain the label. So far, 15 of the enterprises involved in the project have been awarded the label.

142. On 8 May 2002, Flanders adopted a decree stipulating proportionate participation in the labour market. The policies implemented in this context are aimed at supporting equality and diversity on the labour market and improving the integration of disadvantaged groups, including persons with disabilities. The following actions should be highlighted:

- Through the services of the Flemish Employment and Vocational Training Office (VDAB), unemployed persons with disabilities can access the general assistance provided by the Office or more specialized assistance aimed at jobseekers with work disablement. The assistance services offer graduated, comprehensive assistance and support for persons seeking employment. The help offered includes: screening and guidance, assistance and training concerning recruitment procedures, vocational training, access to trainers, assistance and training concerning career paths and adaptation of the work environment;
- Pursuant to the 2002 decree, Flanders is also implementing a policy to promote proportionate participation and diversity on the labour market with the aim of improving and strengthening the integration of at-risk groups, in particular persons with vocational disabilities. The actions provided for include the formulation of diversity plans by enterprises, local administrations and other employers in the business and non-business sectors. Enterprises are invited to draw up targets in terms of entry, transition, training and retention, notably of persons with vocational disabilities, to plan related actions and to submit reports in this regard. In Flanders, since 2000, around 5,000 enterprises and organizations have implemented this type of diversity policy;

⁷² This piece of legislation amends the Royal Decree of 3 May 1991 implementing articles 47, 56 septies and 63 of the consolidated Acts on family allowances for employees and article 96 of the Act of 29 December 1990 on social matters.

- The “Jobkanaal” project, aimed at Flemish employers, attempts to stimulate labour market participation of certain disadvantaged groups, including workers with disabilities. This employment platform allows enterprises seeking competent employees belonging to certain target groups to access a network of over 500 recruitment agencies;
- Flanders also supports the hiring by trade unions of diversity advisors, responsible for raising awareness among trade union leaders, officials and activists in enterprises and organizations concerning proportionate participation of at-risk groups in the labour market;
- Similarly, Flanders has invested in support for and professionalization of the participation of the at-risk group constituted by persons with vocational disabilities in the policies implemented by the Gebruikersoverleg Handicap en Arbeid (Platform on Disability and Work), which is represented on the Diversity Commission of the Social and Economic Council of Flanders (SERV) and in other forums of actors in the sector;
- Moreover, various recruitment-support measures have been developed, including, subsidies for wage costs, adaptations to workplaces and work tools, provision of interpreters for deaf persons, and financial support with regard to transport and accommodation costs;
- The Office’s employment policies for persons with vocational disabilities and persons with disabilities recognized by the Flemish Agency for Persons with Disabilities in particular, are subject to quantitative monitoring and checks.

143. In order to promote equal opportunities for persons with disabilities on the general labour market, the Walloon government adopted the Decree of 29 November 2007, which provides for several reasonable accommodation measures and different forms of technical and financial assistance.⁷³ As set out in the Decree of 1 April 2004 on the coordinated social and professional integration mechanism, the Walloon Region has 11 regional employment offices. The main task of these offices is to implement integration and support initiatives, focusing particularly on persons with disabilities with a view to steering them towards sustainable employment. In addition, the Walloon Agency for the Integration of Persons with Disabilities has accredited and funds 13 vocational training centres, which have as their mission to organize vocational training tailored to the professional aspirations, personality, skill level and needs of each participant. The aim of the vocational training is to ensure that trainees find employment under regular working conditions. In addition, the Walloon government has made strenuous efforts in respect of training for persons with disabilities, in particular those aged between 18 and 25 years, in order to prevent the loss of knowledge acquired at school and maintain work habits. These efforts have included:

- Developing employment support activities within the services providing assistance for persons with disabilities;
- Supporting access to training courses organized by the Walloon Office for Vocational Training and Employment (FOREM) and its partners for jobseekers with disabilities;

⁷³ In particular, the Decree makes provision for wage cost subsidies, assistance with adapting workstations, allowances for self-employed persons, taster training courses, vocational adaptation contracts, integration grants, mentoring allowances and assistance with the cost of travel to and from the workplace.

- Placing representatives of the Walloon Agency for the Integration of Persons with Disabilities in the Office's advice services to promote the employment of persons with disabilities in tandem with the Office;
- Strengthening and assessing job coaching provided to persons with disabilities in order to help them become established in their posts, as well as developing personal integration assessments involving skills-analysis, identification of potential aids and necessary adaptations, spotting of employment opportunities, and so forth;
- Incorporating in the Diversity Charter a percentage-based recruitment quota for persons with disabilities and assessing, including at the federal level, the possibility of a quota policy in the private sector.

144. The Brussels-Capital Region has adopted the following legislation:

- The Order of 4 September 2008 on combating discrimination and on equal treatment, which makes provision for workplace diversity plans;
- The Order of 18 March 2004 on the accreditation and funding of local employment development initiatives (ILDEs) and inclusive enterprises (EIs);
- The Order of 26 June 2003 on joint management of the employment market.

In addition, within the framework of the Territorial Employment Pact for the Brussels-Capital Region, which mobilizes and coordinates all stakeholders in the field of employment around a common project, Actiris (the regional employment office) offers support to enterprises and associations wishing to develop a diversity policy. Such policies may focus on gender, disability, age or origin and address recruitment and selection, personnel management, internal communication or external positioning. Subsidies covering half the cost of implementing a diversity plan, up to a maximum of €10,000, are available. Under the Territorial Employment Pact, enterprises also have access to the services of diversity consultants, and those enterprises and associations that meet the required criteria are eligible to receive the Diversity label.

145. The Brussels-Capital Region supports grass-roots associations through subsidies for projects that promote equal opportunities and diversity. In 2010, the following projects focusing on access to employment received financial support: the organization of an open day involving meetings, discussions and events on the theme "Disability/Employment", and a project run by the Braille League aimed at promoting among potential employers the recruitment of persons with visual impairments.

146. In Brussels, the French Community Commission has taken measures in respect of: vocational adaptation contracts, wage cost subsidies, start-up allowances for self-employed persons, assistance with the cost of adapting workstations, taster training courses, mentoring allowances, integration grants and recruitment premiums. In addition, cooperation has been established between the Brussels French-speaking Service for Persons with Disabilities and the Brussels Regional Employment Office to ensure that persons with disabilities have access to job offers while at the same time receiving adequate support.

147. In the German-speaking Community, the Agency for Persons with Disabilities offers two forms of orientation for persons with disabilities, in particular special education pupils: guidance within enterprises, which is provided as part of a wider vocational guidance scheme managed in cooperation with the public employment service, and training within enterprises, which consists of practical instruction in the workplace leading to a partial qualification and a job on the labour market. However, owing to a lack of means, the system is not currently functioning as well as it ought to. Thus, there are not enough posts available and the services responsible for providing assistance lack staff.

Work in an adapted environment

148. Certain bodies also provide for cases in which persons with disabilities fail to find employment on the general labour market:

- In Flanders, a number of “rehabilitation through employment” initiatives have been set up in cooperation with adapted work enterprises (ETAs), sheltered workshops, psychiatrists and social protection bodies to assist persons with disabilities in day centres. Around 15,000 workers with disabilities are currently employed by adapted work enterprises;
- In the Walloon Region, the Walloon Agency for the Integration of Persons with Disabilities has accredited and funds 58 adapted work enterprises and provides wage assistance. The Walloon government is committed to supporting these enterprises through the professionalization and training of their workers. It is also examining the possibility of creating a special status for persons who are unable to work on a full-time basis or are prevented from accessing employment in regular enterprises or adapted work enterprises because of concerns about profitability and productivity. Around 7,000 workers with disabilities are currently employed by adapted work enterprises;
- There are three such enterprises in the German-speaking Community. However, as many persons are employed on the general labour market as in adapted work enterprises;
- In its Decree of 4 March 1999, the French Community Commission made provision for employment support in adapted work enterprises in order to ensure that all persons with disabilities have useful paid work and to allow them to develop professionally and make use of their skills. All workers employed by adapted work enterprises receive at least the guaranteed monthly average minimum income. In the (French-speaking) Brussels Region, there are 13 adapted work enterprises, which employ 1,450 workers with disabilities.

Civil service

149. Various measures have been taken at all levels of government to encourage the employment of persons with disabilities in the civil service:

- To this end, the federal administration has set itself the goal of increasing the number of persons with disabilities in its employ. The Royal Decree of 5 March 2007 on the recruitment of persons with disabilities states that such persons should make up 3 per cent of the staff of each federal department. The Federal Administration Selection Bureau also attaches great importance to the integration of persons with disabilities in the workplace. It provides advice to various employers wishing to recruit graduates with disabilities. This advice focuses in particular on the adaptation of the tasks to be performed (in terms of their content), as well as the adaptation of workstations, workspaces and the work environment;
- To promote proportionate access to employment for persons with disabilities, the Decision of the Flemish Government of 24 December 2004 on diversity and equal opportunities policy in the Flemish administration makes provision for the following: a clear definition of the notion of “person with work disablement”; a target figure of 4.5 per cent representation of employees with disabilities within the Flemish administration; measures to support the employment of persons with disabilities (such as subsidized wages and technical support); setting aside of posts for persons with disabilities and encouragement of equal opportunities in recruitment procedures; and regular dialogue with members of staff with disabilities;

- The Walloon government adopted the Decree of 27 May 2009, under which provinces, municipalities and associations of municipalities are obliged to employ persons with disabilities. These public administrations must employ 1 part-time employee with a disability for every 20 full-time employees. Moreover, the Walloon government intends to impose on all public enterprises the obligation to publish, in their annual reports and through their presentational media, such as Internet websites, the percentage of staff members with disabilities on their payrolls. Likewise, the government wishes to appoint, within the various divisions of the Walloon civil service, case officers who would be responsible for facilitating the integration of employees with disabilities in the work team, as well as for providing vocational support to ensure their adaptation to the occupations and work concerned;
- In Brussels, the Order of 4 September 2008 on promoting diversity and combating discrimination in the Brussels regional civil service guarantees equal treatment in respect of employment in the civil service and prohibits all disability-based discrimination. The Order of 6 May 1999 on the administrative and salary regulations applicable to officials of the Ministry of the Brussels-Capital Region (art. 319 bis) and the Decree of 26 September 2002 on the administrative and salary regulations applicable to officials of public-service bodies of the Brussels-Capital Region (art. 325 bis) impose a figure of 2 per cent representation of employees with disabilities and define the criteria for recognition of the existence of a disability. Furthermore, the Ministry of the Brussels-Capital Region encourages the employment of persons with disabilities through vocational adaptation contracts;
- In the French Community, the Government Decree of 21 December 2000 on the employment of persons with disabilities in government services and in certain public-service bodies within the remit of the French Community sets the percentage of persons with disabilities to be employed within those services and bodies at 2.5 per cent.

150. Regarding harassment of workers with disabilities, the concept of disability-based harassment is explicitly referred to in the Belgian legislation on protection against violence and harassment (chapter V bis of the Act of 4 August 1996 concerning employees' welfare while at work and the Royal Decree of 17 May 2007 on the prevention of psychosocial stress caused by work, including violence and psychological or sexual harassment). Employers must thus take account of this risk factor in their prevention policies. Furthermore, workers with disabilities who feel that they are the object of harassment linked to their disabilities have access, in the same way as other workers, to the internal procedures of their enterprises: they may request that the situation be resolved through informal channels or through a complaint lodged with a prevention adviser specializing in the psychosocial aspects of work.

151. With regard to the measures taken to promote the trade union rights of persons with disabilities, all discrimination in connection with membership of or involvement in the activities of organizations of workers or employers, or any other organization the members of which exercise a given profession, as well as in connection with the advantages obtained by such organizations, is prohibited (under the Act of 10 May 2007 on combating certain forms of discrimination). Moreover, a number of additional initiatives have been launched. For example, Flanders encourages the presence of diversity consultants within trade unions in order to raise awareness among trade union confederations, trade union representatives and activists in enterprises of the issue of proportionate participation of protected groups.

152. Procedures are in place to ensure that workers are reintegrated in the work environment as quickly as possible, depending on their remaining capabilities:

- The Royal Decree of 28 May 2003 on monitoring the health of workers makes provision for a reclassification procedure in cases of permanent incapacity to work (art. 39) and consultation between the parties concerned with regard to opportunities for new assignments and workstation adaptations (art. 57);
- Under the Royal Decree of 1 July 2006 on the termination proposals to be put to persons suffering from or at risk of an occupational disease, the Occupational Diseases Fund may take steps to reintegrate a worker in cases where temporary removal from the workplace has proved harmful to him or her (temporary adapted work). In cases of definitive termination of work, the Fund also examines the possibility of rehabilitation (vocational training).

153. The protection afforded against unlawful dismissal is based on the principles contained in the European directives on equal treatment and non-discrimination,⁷⁴ as well as on the Act of 10 May 2007 on combating certain forms of discrimination, which prohibits and penalizes discrimination in this area (notably against workers with disabilities). Article 5 of the Act focuses in particular on employment relationships, more specifically on procedures and practices in respect of the termination of an employment relationship.⁷⁵ Article 7 states that any direct distinction based on one of the protected criteria constitutes direct discrimination, unless such direct distinction can be objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary. Thus, a direct distinction based on a disability can only be justified by essential and fundamental professional requirements.

154. Various measures have been taken at the level of the communities to encourage the integration of special education pupils in the world of work:

- In Flanders, an initiative was implemented in 2010 to build bridges between the education sector and the labour market. The “Alternating Vocational Education” project involved intensive workplace internships;
- In the French Community, specialized vocational education training programmes have been set up pursuant to the Education Missions Decree (of July 1997). These programmes are developed as part of the work of the French-speaking Service for Professions and Professionally Recognized Qualifications and by professionals themselves, and are recognized in professional circles;
- In the German-speaking Community, the Agency for Persons with Disabilities offers two forms of orientation for persons with disabilities, in particular special education pupils: guidance within enterprises, which is provided as part of a wider vocational guidance scheme managed in cooperation with the public employment service, and training within enterprises, which consists of practical instruction in the workplace leading to a partial qualification and a job on the labour market.

⁷⁴ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

⁷⁵ Including, but not limited to:

- The decision to proceed with a redundancy;
- The establishment and application of the conditions and modalities for the redundancy;
- The establishment and application of criteria during the redundancy selection procedure;
- The granting and setting of compensation following the termination of the employment relationship;
- The measures taken following the termination of the employment relationship.

155. Many persons with disabilities may find it more difficult to travel to work. New communication technologies offer an excellent solution in the form of telework. The aim of Collective Labour Agreement No. 85 on telework, concluded on 9 November 2005⁷⁶ under the auspices of the National Labour Council, is to establish the fundamental principles governing telework. This Collective Agreement is designed to implement the European Framework Agreement on Telework of 16 July 2002. Moreover, since 1996, home work contracts have come within the scope of the Act of 3 July 1978 on work contracts. Home workers are therefore now on an equal footing with other workers, although certain considerations linked to the fact that they are not present on the work premises are taken into account.

Article 28

Adequate standard of living and social protection

156. The Act of 27 February 1987 regulates the allowance scheme for persons with disabilities. It provides for three types of allowance and defines the process for calculating their amounts.

157. Types of allowance:

- The income-replacement allowance is granted to persons with disabilities whose physical or mental condition has been demonstrated to reduce their earning capacity to one third or less of what a non-disabled person could earn on the general labour market. The allowance is designed to ensure a minimum income for persons whose disability makes it difficult for them to earn a living. The amount of the allowance depends on a person's family situation and means;
- The integration allowance and the assistance allowance for older persons are designed to compensate for the extra costs incurred because of disability. They are also granted to persons with disabilities whose lack of autonomy or reduced autonomy has been established.

158. *Determining the amount of the allowance:*⁷⁷ the degree of autonomy of persons with disabilities is determined using a sociomedical scale that considers several factors having to do with their ability to (1) move about, eat and prepare their own food; (2) ensure their personal hygiene and dress themselves; (3) maintain the cleanliness of their homes and do household chores; (4) live unsupervised; (5) appreciate and avoid danger; and (6) communicate and establish social connections. For each of these factors, a number of points is assigned from 0 to 3, on the basis of the person's behaviour and difficulties.⁷⁸ The person

⁷⁶ This Agreement was amended by Collective Labour Agreement No. 85 bis of 27 February 2008.

⁷⁷ The disability allowance scheme is a State-funded social assistance scheme; therefore, the income of persons with disabilities and their spouses or cohabiting partners is taken into account when calculating the allowance and may not exceed a certain level. Persons with disabilities and their spouses or cohabiting partners are responsible for claiming the social security benefits to which they may be entitled.

⁷⁸ The following scale is used:

- No difficulties, no particular effort, no use of special auxiliary means: 0 points;
- Limited difficulties, limited additional effort or limited use of special auxiliary means: 1 point;
- Significant difficulties, significant additional effort or significant use of special auxiliary means: 2 points;
- Inability to live without outside help, without care in a specialized facility or outside a fully adapted environment: 3 points.

is then placed in a given category on the basis of the total points obtained. There are five categories for both the integration allowance and the assistance allowance for older persons. No allowance is granted for totals of less than 7 points.

159. Since disabilities can result in additional costs, various public and private organizations have taken specific measures for persons with disabilities. For example, depending on the established⁷⁹ disability, these persons are entitled to:

- An exemption from motor vehicle tax (in the case of paralysis or amputation of the upper limbs or of 50 per cent of the lower limbs or complete blindness);
- An exemption from radio and television licence fees (if reduced autonomy has been evaluated at 12 or more points);
- Certain housing benefits (if reduced autonomy has been evaluated at 9 or more points or if earning capacity is reduced to one third or less of what a non-disabled person could earn on the general labour market);
- Rebates on income tax and on income tax payable on immovable property (if reduced autonomy has been evaluated at 9 or more points, or if earning capacity is reduced to one third or less of what a non-disabled person could earn on the general labour market);
- Reduced telephone rates (if reduced autonomy has been evaluated at 9 or more points, or if earning capacity is reduced to one third or less of what a non-disabled person could earn on the general labour market);
- Reduced electricity and gas rates (if receiving a disability allowance or additional family allowance for children with disabilities);
- Reduced fare on public transport (if 90 per cent loss of sight has been established).

160. In addition, authorities at several levels have prepared action plans or launched initiatives to include persons with disabilities in groups benefiting from anti-poverty measures.

- In 2008, Belgium adopted a federal anti-poverty plan with 59 specific measures regarding income, employment, health, housing, and access to energy and public services. One of the objectives of the plan is to increase the lowest social allowances, including disability allowances. The federal plan also resulted in a new tool for raising awareness of poverty in Belgium, the Inter-federal Poverty Barometer. It is based on 15 indicators that measure poverty trends in the country and allow action to be better targeted in the future. The Poverty Barometer has revealed that persons with disabilities or illnesses are among the population groups at high risk of poverty (24.9 per cent);
- Like all European Union member States, Belgium also has a national action plan on social inclusion and poverty reduction. Given that there has been no noticeable reduction in poverty in recent years, the 2008–2010 action plan kept the key goals outlined in the 2006 plan, namely: (a) promoting diversity with a view to integrating more workers from at-risk groups (for example, youths, persons with disabilities and immigrants) in the labour market; (b) ensuring access to quality, long-term and

⁷⁹ Persons with disabilities wishing to establish their disability in order to benefit from these measures can apply to the Directorate-General for Persons with Disabilities of the Federal Public Service for Social Security, which will assess their disability and issue them a certificate, where applicable. Some of the measures are automatically granted thanks to information exchanges between the Directorate-General and the relevant organizations.

affordable housing for all; and (c) combating childhood poverty as a means of breaking the poverty cycle;

- On 9 July 2010, the Flemish Government adopted an anti-poverty action plan to align Flemish policies with overall poverty and social exclusion reduction objectives for the period 2010–2014. The action plan contains many objectives for reducing poverty and social exclusion generally and also focuses on the specific situation of certain target groups, such as persons with disabilities. A progress report was prepared in the first half of 2011, setting out the timetable of activities and the available funds;
- The Brussels-Capital Region organized the first equal opportunities and diversity forum (10–15 November 2010) around the theme of social exclusion and poverty. The Vereniging Personen met een Handicap (Association for Persons with Disabilities) presented its project entitled “Living with a disability in Brussels: Opportunities and risks”, which consisted of a documentary and an information exchange on the association’s activities. The documentary showed in a positive light the situation of persons with disabilities and closely examined the issue of social exclusion;
- The Common Community Commission is part of the pilot working group on the homeless and persons with disabilities, which brings together all of the relevant players in Brussels.

161. Several federated entities have taken measures to ensure affordable access by persons with disabilities to services, equipment and other appropriate types of assistance:

- The Flemish Agency for Persons with Disabilities assists with the cost of the equipment and adaptations needed by persons with disabilities in the community with a view to their inclusion. The cost must be more than that which would be incurred by a non-disabled person in similar circumstances. Moreover, the level of need, frequency of use, effectiveness and efficiency of the aid, according to disability type, are taken into account in the calculation of the assistance;
- With regard to covering the extra financial burden associated with disability, the Walloon government adopted the Order of 14 May 2009⁸⁰ establishing the conditions and service delivery arrangements for personal assistance to facilitate the inclusion of persons with disabilities. The Order provides for financial contributions towards the cost of home adaptations, assistive products and certain services that help persons with disabilities to live as independently as possible. More than 7,400 persons received such financial contributions in 2009;
- The Decree of the French Community Commission of 4 March 1999 on the social and professional integration of persons with disabilities provides that persons with disabilities covered by the Decree may apply for assistance, allowances or counselling. A multidisciplinary team consisting of a doctor, a psychologist and an academic decides on the applications, bearing in mind the goal of social integration and taking account of demand, capacities and needs. Applications can also be for personal assistance. Allowances are granted to persons with disabilities to cover only those expenses that, owing to their disability, are vital to their integration. The expenses must be more than those incurred by a non-disabled person in identical circumstances;

⁸⁰ The conditions and service delivery arrangements set out in the Order are based on the International Classification of Functioning, Disability and Health (ICF) developed by the World Health Organization (WHO) in 2001.

- The work of the Agency of the German-speaking Community for Persons with Disabilities is based on a holistic approach to persons with disabilities that takes account of their specific needs. Every person with disabilities receives a personalized programme of assistance and services based on their situation and individual abilities, interests and wishes. When the programme is put in place, emphasis is placed initially on inclusive services; therefore, standard measures available to all inhabitants are offered first. Resources available in the person's own environment are also taken into consideration. Services reserved for persons with disabilities are only offered when the other options prove inadequate. The chief objective of all the services offered by the Agency is to ensure an adequate standard of living.

162. Regarding the measures for persons with disabilities provided for in public housing programmes, one goal of the Comprehensive Equal Opportunities Plan of the Walloon government is to ensure that persons with disabilities have access to decent, affordable and long-term housing. This implies supporting the construction of social housing units that can be adapted on the basis of age and disability and defining simplified criteria for categorizing applicants. In addition, in order to foster the personal fulfilment, integration and independence of tenants, all public housing entities will be required to ensure that every tenant receives social support from the various services in the area of personal assistance and social work.

Article 29

Participation in political and public life

163. Belgium ensures that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, including as regards the right and opportunity to vote and be elected. The Electoral Code determines the conditions for eligibility to vote (art. 1) and run for office (art. 227) for the entire population. The Code identifies cases in which electoral rights may be suspended owing to incapacity (art. 7): the electoral rights of persons deemed incapable of attaining legal majority owing to a mental disability (pursuant to the Act of 29 June 1973) and persons confined in institutions (pursuant to provisions of the Social Protection Act of 1 July 1964) are suspended for the duration of the incapacity.

164. The law provides that returning officers (at traditional or electronic polling stations) may authorize voters who, because of a physical impairment, cannot enter the voting booth alone or cast their vote themselves to be accompanied or assisted by a guide or aid (Electoral Code, art. 143). The choice of such person is entirely free and may not be influenced by the returning officer.

165. Furthermore, the Federal Public Service for Home Affairs has changed its elections guidance to educate personnel on the ground about accommodating persons with disabilities. Voter instructions have been prepared in easy-to-read language for persons with comprehension problems. Lastly, the main electoral offices have been briefed on enabling persons with disabilities to take part, to the extent possible, in the running of a polling station or vote count.

166. Awareness-raising campaigns on the participation of persons with disabilities in political and public life have been conducted by some communities and regions. For example, Equal Opportunities in Flanders systematically runs a campaign during elections ("Don't think in clichés. Don't vote in clichés.") to encourage voters to think about the value of diversity in decision-making and vote for candidates from underrepresented groups, such as persons with disabilities.

167. Regarding accessibility of voting, by law, at least one in five voting booths in every building housing one or more polling stations must be set up specially for voters with disabilities (Ministerial Decree of 6 May 1980 supplementing the Ministerial Decree of 10 August 1894 on voting facilities for legislative, provincial and municipal elections). Awareness-raising activities are carried out by federal and some community and regional authorities to advise municipalities on the accessibility of polling stations. Since 2007, the Federal Public Service for Home Affairs, in cooperation with disabled persons' associations, has drafted a series of practical recommendations on the topic.

168. Measures have been taken at various levels of government to encourage the representation and defence of persons with disabilities:

- In Flanders, organizations of users with disabilities play a role in making and implementing policies (for example, the advisory committee of the Flemish Agency for Persons with Disabilities, the Gebruikersoverleg Handicap en Arbeid (Platform on Disability and Work), the Flemish forum of disabled persons' associations, the Flemish Education Council (YLOP), as part of the discussion about "bespoke" instruction, and the Diversity Commission of the Social and Economic Council of Flanders (SERV));
- The Walloon Government, through its Decree of 6 April 1995, appointed two entities to promote the full participation of persons with disabilities in social and economic life: the Walloon Agency for the Integration of Persons with Disabilities (and its various bodies) and the Walloon Commission for Persons with Disabilities. Of the 13 titular and substitute members of the Agency's steering committee, 4 represent associations of persons with disabilities and their families. The Agency has 13 subregional coordination committees, which, as tripartite bodies, include persons with disabilities or associations representing them. The Commission is an advisory body that submits opinions and/or reports to the Walloon Council for Social Welfare and Health. It too consists of representatives of associations of persons with disabilities and their families;
- The Decree of the German-speaking Community of 19 June 1990 establishing the Agency of the German-speaking Community for Persons with Disabilities provides for the representation of persons with disabilities and their representatives on the Agency's board. Thus, the stakeholders are fully involved in these activities.

Article 30

Participation in cultural life, recreation, leisure and sport

169. In Belgium, the participation of persons with disabilities in leisure, sport and cultural activities is broadly covered by federal, regional or community anti-discrimination laws. In 2009, the Centre for Equal Opportunities and Action to Combat Racism published a number of information booklets about reasonable accommodation in the goods and services sector, including booklets on leisure, culture, sport and transportation.⁸¹ Owing to the limited accessibility of certain activities, persons with disabilities are often obliged to be accompanied, increasing the cost of their participation. Some local authorities now issue companion cards that allow companions to take part in activities free of charge.

170. The federated entities are the main authority regarding cultural activities, recreation, tourism and sport, and several measures have been taken in these areas.

⁸¹ The booklets can be downloaded from the Centre's website <http://www.diversite.be> (under "Publications").

Tourism

171. Accessible travel packages are one of the key components of tourism policy. Several federated entities support or are setting up projects and action plans that take account of persons with disabilities:

- In 2001, Flanders Tourism launched an action plan on accessible travel, focused on improving accessibility for tourists. Specifically, the plan provides for:
 - Incorporating accessibility criteria in funding programmes for hotels, youth hostels, holiday resorts, camp grounds, amusement parks and tourist information centres;
 - Designing fact-sheets with clear specifications for the accessibility of tourism infrastructure;
 - Holding training sessions for tourism professionals;
 - Setting up an information outlet on accessible travel (and a website in four languages: www.accessinfo.be) through which travellers can obtain reliable information about the accessibility of travel packages;
 - Evaluating tourism infrastructure based on objective criteria and, from 2008, preparing an accessibility mark for the tourism industry;
- In the Walloon Region, the National Tourism Office, in cooperation with the Tourism Office for the Walloon Region and Brussels, supports the project “Tourism for All: Accessibility for persons with reduced mobility”, which aims to provide clearer information and make the tourism sector more accessible;
- Several initiatives are under way in the Brussels-Capital Region to increase the participation of persons with disabilities in tourism, cultural and leisure activities. Bruxelles Environnement, an environmental management institute, has since 2008 been carrying out work in the city’s various green spaces to make them accessible for persons with reduced mobility. Moreover, the *Brussels for All* tourism guide gives visitors with disabilities information about the accessibility of leisure and cultural facilities, hotels, restaurants, car parks and public transport;
- The Agency of the German-speaking Community for Persons with Disabilities offers holiday budgets enabling persons with disabilities to pay for recreational services. In the light of the positive results obtained, there are plans to expand the project to other areas, so that persons with disabilities can pay from a personal budget for the services of their choice based on their own aspirations.

Sports

172. A range of measures have been taken to support the participation in and access of persons with disabilities to sports activities:

- As part of the Flemish sports policy, “G-sports” (*Gehandicaptensport*) initiatives are intended to increase access to sports facilities and participation by athletes with disabilities. They are supported by many actors, including G-sports clubs and federations, provincial sports departments and the Flemish Community Commission in Brussels. In 2010, various G-sports actors were consulted with a view to promoting exchanges of information on the initiatives taken and discussion about expanding the policy of support for disability sports associations in Flanders. The goal is active and integrated coordination of available strengths, knowledge and resources. The Flemish Government is taking steps not only to adapt sports facilities and equipment but also to ensure that information about sports options for persons

with disabilities is made available. Fact sheets have been prepared to inform persons with disabilities of available adapted facilities and any restrictions;

- In the Walloon Region, subsidies for sports infrastructure are granted on the basis of facilities' compliance with accessibility standards for persons with reduced mobility (specifically, articles 414 and 415 of the Walloon Code of Town and Country Planning, Heritage and Energy);
- Pursuant to the Decree of 8 December 2006 on organizing and subsidizing sport in the French Community, special steps must be taken regarding the participation in sport of persons with impairments that require the adaptation of sports activities. These rules are supplemented by legal and regulatory provisions on the accessibility of buildings;⁸²
- In the German-speaking Community, the Sports Decree of 19 April 2004 sets out the terms of subsidies for local sports clubs. It has helped to increase inclusion of athletes with disabilities in mainstream sports clubs by granting larger subsidies to those clubs that admit members with disabilities.

Culture

173. Various initiatives have been launched at the community level to encourage the participation of persons with disabilities:

- In Flanders, three decrees are intended to promote equal access to culture for all:
 - The Arts Decree of 2 April 2004 on support measures and incentives to participate in cultural, sports and youth activities provides for structural operations assistance for sociocultural organizations working with persons with disabilities;
 - The Decree of 4 April 2003 on sociocultural activities for adults provides for support to associations in that field and for the promotion of educational initiatives that offer training to persons with disabilities or raise awareness of the issue;
 - The Decree of 18 July 2008 on participation aims to facilitate participation in cultural, youth and sports activities and takes a more cross-cutting approach in order to build on the array of sectoral decrees. It also defines a number of target groups, including persons with disabilities, and singles them out for additional assistance;
- The Government of the French Community is striving to increase accessibility to infrastructure for persons with disabilities and foster receptiveness to sign language or subtitling at cultural events. It advocates a cross-cutting approach to sign language issues;
- Creative workshops in the German-speaking Community run courses on the various arts, such as painting, in cooperation with sheltered workshops. In 2010, an exhibition was held in the region's largest cultural centre;
- The French Community Commission has funded various initiatives in Brussels with a view to increasing access of persons with disabilities to certain museums,

⁸² Decree No. 2006-555 of 17 May 2006 on the accessibility of buildings and facilities open to the public and housing.

supporting extracurricular leisure activities and boosting access to cultural activities, including of persons with mental impairments.

Youth activities

174. Measures have been taken to guarantee children with disabilities equal access to play, recreational, leisure and sports facilities:

- The French Community ensures that children with disabilities have access to organized holiday sports camps by recognizing and subsidizing sports associations that aim to include persons whose impairments require the adaptation of sports activities (Decree of 8 December 2006). In addition, inclusion for all, including how to take account of disabilities in the various sports, is a component of coach training;
- The Agency of the German-speaking Community for Persons with Disabilities offers courses for camp counsellors, so that children and youth with disabilities can participate in leisure and holiday activities on a par with their non-disabled peers. The Agency also helps to find appropriate recreational activities and handles all issues of mobility, enabling persons with disabilities to take part in the activities on offer.

175. Various measures have been taken to promote deaf culture. For example, the Flemish Government has recognized Flemish sign language⁸³ as the language of a specific community in Flanders and Brussels, while the French Community Commission has accredited and subsidized the Brussels sign language interpreting service.

Article 31

Statistics and data collection

176. Given that jurisdiction over disability matters is shared between the Federal Government and the federated entities and that there is no uniform definition of disability in Belgium, there are no coordinated statistics on the issues covered in the Convention. The coordination mechanism will have to look into improvements in this area.

177. In 2011, an ad hoc module was added to the survey on the employment of persons with disabilities conducted by the Federal Public Service for the Economy.⁸⁴ The results will be available in June 2012. Data produced by the Federal Public Service for the Economy can be obtained online and in a number of information points across Belgium. Thus, persons with disabilities can access them easily and safely. In data collection, no distinction is made between people on the ground of disability.

178. In mid-2009, the Centre for Equal Opportunities and Action to Combat Racism set up a new electronic system (METIS) to record and process complaints and individual files relating to anti-discrimination legislation. Data from METIS are included in the Centre's annual reports and progress reports. The Flemish authorities responsible for equal opportunities policy, especially the 13 anti-discrimination contact points, and the French Community also work with METIS, so that all reports of cases of discrimination in Belgium are centralized.

⁸³ Decree of 5 May 2006 recognizing Flemish sign language.

⁸⁴ The survey is conducted by the Directorate-General for Statistics and Economic Data of the Federal Public Service for the Economy as part of the community surveys coordinated by the Statistical Office of the European Communities (Eurostat) and funded by the European Commission.

179. Flanders does not carry out separate surveys on disability but, to fill the gap, related questions are included in as many other studies as possible. Thus, a disability component is integrated into the national health survey and the European Union survey on income and living conditions (EU-SILC). The research department of the Flemish Government ensures comprehensive monitoring of Flemish policy. A report is published annually (VRIND⁸⁵), giving an overview of the achievements of the Flemish authorities with regard to accessibility and the situation of persons with disabilities in such areas as:

- Allowances and assistance, including income-replacement allowance, integration allowance and individual material assistance;
- Care and support services, including outpatient care, residential care and personal assistance budgets;
- Employment in the social economy.

180. The Brussels Institute of Statistics and Analysis collates and publishes statistics on the Brussels-Capital Region. It collaborates with the Directorate-General for Persons with Disabilities of the Federal Public Service for Social Security on data regarding that population group.

Article 32

International cooperation

181. The situation of human rights, including the rights of persons with disabilities, is taken into account in Belgian bilateral development cooperation with each of the 18 partner countries. Specific issues relating to the rights of persons with disabilities may be broached during political discussions with the various partners. Moreover, the minister responsible for development cooperation prepares annual reports for the Belgian Parliament on the situation of human rights, including the rights of persons with disabilities, in those countries.

182. Sums of €7,585,000 in 2009 and €7,071,000 in 2010 were awarded under Belgian development cooperation to projects fostering the rights of persons with disabilities. The projects, mostly implemented by NGOs, aim to provide personalized services for the social reintegration of persons with disabilities and promote, in cooperation with disability rights organizations of the South, the rights of their members. In addition, a large proportion of Belgian development cooperation funding goes to international organizations whose activities have a particular focus on persons with disabilities. Lastly, Belgian development cooperation has also funded a public awareness campaign linking the Millennium Development Goals with the rights of persons with disabilities.

183. Regarding actions taken by the federated entities, while disability is not a cross-cutting issue, several projects to enhance the quality of life and increase the inclusion of persons with disabilities have nonetheless been carried out:

- Numerous initiatives for persons with disabilities have been supported as part of Flemish development cooperation efforts, including projects of international and non-governmental organizations with proven expertise, such as the World Health Organization (building capacity for child road traffic injury prevention in Southern Africa), APOPO (detection of land mines in Mozambique) and Handicap

⁸⁵ VRIND 2010: www4.vlaanderen.be/dar/svr/publicaties/Publicaties/vrind/vrind2010/2010-10-28-vrind2010-volledig-blw.pdf.

International (humanitarian assistance), and bilateral projects such as support for the strategic plan of the Office on the Status of Disabled Persons in South Africa;

- Pursuant to cooperation agreements signed between the Walloon Region, the Brussels-Capital Region, the French Community of Belgium and third countries, the Walloon Agency for the Integration of Persons with Disabilities was chosen to lead joint projects with Morocco⁸⁶ and Tunisia⁸⁷ on promoting the social and professional integration of persons with disabilities. This cooperation took the form of experience and knowledge-sharing.

184. As part of its foreign policy initiatives, for example during political dialogues or statements to the United Nations, Belgium regularly urges other countries to sign and ratify the Convention and its Optional Protocol. Belgium also advocates general recognition of the rights of persons with disabilities in multilateral forums. Moreover, the recommendation to ratify the Convention is systematically included in statements by Belgium under the universal periodic review.

Article 33

National implementation and monitoring

185. A series of focal points have been put in place at the various levels of government:

- Federal Government: focal points are located in the different public services and a federal coordination mechanism has been set up within the Federal Public Service for Social Security (in the Directorate-General for Strategic Support);
- Flanders: the Equal Opportunities in Flanders unit of the General Government Policy Department;
- Walloon Region: the Walloon Agency for the Integration of Persons with Disabilities;
- Brussels-Capital Region: the external affairs department of the Ministry of the Brussels-Capital Region;
- French Community: the international and multilateral department of Wallonia-Brussels International;
- German-speaking Community: the Agency for Persons with Disabilities;
- French Community Commission: the PHARE (Persons with disabilities seeking autonomy) project;
- Common Community Commission: the Commission's administration.

186. The inter-federal coordination unit is part of the Federal Public Service for Social Security (in the Directorate-General for Strategic Support).

187. *Independent mechanism:* During the discussion about persons with disabilities at the plenary session of the interministerial conference on well-being, sports and family held on 12 July 2011, the Centre for Equal Opportunities and Action to Combat Racism was given

⁸⁶ The Agency implemented a three-year (2009–2011) cooperation project with the Moroccan Ministry of Social Development, Family Affairs and Solidarity on training and capacity-building for professionals involved in the social and professional integration of persons with disabilities.

⁸⁷ The Agency is rolling out a three-year (2008–2010) cooperation project with the Tunisian Ministry of Social Affairs, Solidarity and Tunisians Living Abroad on the integration of persons with disabilities.

the mandate concerning the framework made up of one or more independent mechanisms. Both the Federal Government and the federated entities will shortly conclude a cooperation protocol to this effect with the Centre. Each of the relevant authorities will also commit to allocating the necessary funds for the Centre to discharge its mandate as effectively as possible. A follow-up commission will be established at the Centre with a view to involving civil society at large in activities connected with the implementation of the Convention.

188. *Role of civil society:* Associations that represent persons with disabilities and defend their rights, as well as civil society more broadly, have been involved in preparing this initial report through multilateral coordination (COORMULTI) meetings organized by the Federal Public Service for Foreign Affairs. As far as possible, comments by civil society have been included in the report.

189. At the federal level, consultation of the representative organizations is regulated by the Royal Decree of 9 July 1981, which stipulates that the National Higher Council for Persons with Disabilities is responsible for addressing all issues regarding persons with disabilities that come under federal jurisdiction. The Council has the authority, of its own accord or at the request of the competent ministers, to issue opinions and make proposals on matters such as the harmonization and coordination of laws and regulations. In order to give such consultations more structure, the Council of Ministers decided on 20 July 2011 to ensure that the National Higher Council is consulted, at the outset, on any legal initiative regarding persons with disabilities or any initiative with a broader social scope of which certain aspects could have a specific impact on that group.
