



# Convention on the Rights of the Child

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## Committee On The Rights Of The Child

### Consideration of reports submitted by States parties under Article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography

Initial report of States parties due in 2008

**Belgium<sup>\*,\*\*</sup>**

[20 July 2009]

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

\*\* The annexes may be consulted at the secretariat.

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**LIST OF ABBREVIATIONS**

ACC	Autorité centrale communautaire en matière d’adoption (Central community authority for adoptions)
ACF	Autorité centrale fédérale en matière d’adoption (Central Federal Authority for Adoptions)
AFE	Statistical record code meaning “type of offence”
AR	Royal Decree
ASBL	Association sans but lucratif (not-for-profit association)
BNG	Main national database
CAEM	Comité d’accompagnement de l’enfance maltraitée (French-speaking community – Support committee for abused children)
CAW	Centra Algemeen Welzijnswerk (Flemish community – General social assistance centres)
CIATTEH	Centre d’information et d’analyse sur la traite et le trafic des êtres humains (Information and analysis centre on trafficking and smuggling of persons)
CIC	Criminal investigation code
CIRE	Certification of entry in the foreigners’ register
CLB	Centrum Leerlingen Begeleiding (Flemish community – see PMS in the French-speaking community)
CNDE	Commission Nationale pour les Droits de l’Enfant (National Commission on the Rights of the Child)
COCOF	French-speaking community commission (for Brussels)
COCOM	Joint Community Commission (for Brussels)
CODE	Child rights coordination for NGOs
COO	Observation and Guidance Centre
CRC	International convention on the Rights of the Child (1989)
CSA	Higher Broadcasting Council (French-speaking community)
CTB	Coopération technique belge (implementing agency for Belgian development cooperation)
DGCD	Directorate-General for Cooperation and Development
DRC	Democratic Republic of the Congo
ECPAT	End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes
ERF	European Refugee Fund
FCCU	Federal Computer Crime Unit
Fedasil	Federal agency for receiving asylum seekers in Belgium
FPS	Federal Public Service (Federal Ministry)
ICT	Information and Communications Technology
ILO	International Labour Organization
INAMI	National Sickness and Invalidity Insurance Institute
IOM	International Organisation for Migration

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ISPA	Internet Service Providers Association
K&G	Kind en Gezin (Flemish community – equivalent of the ONE)
KJT	Kinder – en Jongerentelefoon (Flemish community – equivalent of “écoute-enfants”)
MB	Moniteur Belge (Official Government Gazette)
MENA	Unaccompanied minor
NGO	Non-governmental organization
OE	Aliens Office
OEJAJ	Observatory on Children, Youth and Assistance to Young People of the French-speaking community
ONE	Office de la naissance et de l’enfance (Births and Children Office – French-speaking community – equivalent of Kind & Gezin)
OSBJ	Ondersteuningsstructuur voor bijzondere jeugdbijstand (Flemish community – Youth protection support agency)
OSCE	Organization on Security and Cooperation in Europe
PV	Summary record
RIE	Child Impact Report (Flemish community – KER)
RTBF	Radio-télévision belge francophone (French-speaking Belgian Radio and Television – French-speaking community)
SAJ	Youth Care Service (French-speaking community)
SDJ	Youth legal service
SPC	Crime policy service
SPJ	Legal Protection Service
TEH	Trafficking in persons
UN	United Nations
VGC	Vlaamse Gemeenschapscommissie – Flemish community Commission (Brussels office)
VK	Vertrouwenscentra Kindermishandeling (Flemish community – Child-Abuse Shelters)

## Introduction

1. Pursuant to article 12, paragraph 1 of the Optional Protocol to CRC on the sale of children, child prostitution and child pornography, the present report describes the various initiatives taken by Belgium up to the end of June 2008 and of the persistent difficulties in this field and the goals that the various Belgian Governments are setting for the future.

2. Over the years, and following five successive State reforms, Belgium has evolved into an efficient but complex federal structure. Some explanations in that connection may be helpful for reading this report. Given the nature of Belgium's federal structure, the country's affairs are no longer administered by the federal government alone, but responsibilities are now divided among the federal State and various federalized institutions: the communities and the regions. These have clearly delimited powers which are handed down to them and which they manage themselves. The federal State has mainly retained the residual powers which it also exercises independently. The pyramid structure of the former monolithic State has given way to a more complex three-tiered structure:

- On the upper tier are the federal State and the federalized institutions: the communities and the regions. They are equal before the law and therefore act on an equal footing but each in their own fields. They have legislative and governmental institutions;
- On the next tier are the provinces. They must act as subordinate to all the authorities above them;
- At the base of the structure are the municipalities. Depending on the powers they exercise, they pertain to the federal level, a community or a region.

Our interest in this reporting exercise focuses on the top level.

### *Federal State*

3. The federal State has retained powers in many areas, such as foreign affairs, national defence, justice, finance, social security, and much of public health and home affairs.

### *The communities*

4. There are three of these: the French-speaking community, the Flemish community and the German-speaking community. The communities are responsible for: culture (youth, theatre, libraries, broadcasting, etc.), education, use of language and personal matters which comprise health policy (preventive and curative medicine) and assistance to individuals (youth protection, social assistance, family assistance, reception of immigrants, etc.). The communities are also responsible for scientific research and international relations in their areas of competence. Each community exercises these powers on its own territory. The French-speaking and Flemish communities exercise part of their powers in the Brussels Capital Region.

### *The regions*

5. There are three of these too: the Flemish Region, Brussels-Capital and the Walloon Region. They are competent in the areas of the economy, employment, agriculture, water policy, housing, public works, energy, transport (except for the Belgian national railway company), environment, regional and town planning, nature conservation, credit, foreign trade, and supervision of the provinces, municipalities and inter-municipal undertakings. The regions are also responsible for scientific research and international relations in the areas listed above. Each region exercises these powers on its own territory.

6. Note that there is a difference between the French-speaking and Flemish institutions: the institutions of the Flemish community and Region have been merged into a single Flemish Parliament and Government.

*The Community Commissions*

7. In the bilingual Brussels-Capital Region, community powers are exercised by the French-speaking and Flemish communities, the French-speaking and Flemish community commissions and the Joint Community Commission (for matters affecting both communities). However, the Flemish community Commission has exclusive powers as a decentralized administration of the Flemish community. The three Community Commissions have a legislative branch and an executive branch, each with members from the institutions of the Brussels Capital Region.

8. In accordance with this government structure, the measures that the various political bodies have taken in order to implement the Protocol will be listed under separate sections. The following fixed structure has been adopted:

- (a) National level;
- (b) Federal level;
- (c) Federalized institutions;
  - (c.1) Flemish Government;
  - (c.2) Governments of the French-speaking community and/or the Walloon Region;
  - (c.3) Government of the German-speaking community;
  - (c.4) Government and Colleges of the Brussels-Capital Region.

9. This numbering is unchanged even if, for example, only the Government of the German-speaking community has information to notify. In this case, only (c.3) appears. Obviously, an absence of information may be due to the distribution of powers between the various bodies. For instance, for the territory of the Brussels-Capital Region, reference should often be made to the information given for the Flemish and French-speaking communities. The same applies to the territory of the Walloon Region; please refer to the information given for the French- and German-speaking communities as well as that relating explicitly to the Walloon Region.

10. National level is not an official level in the Belgian Government structure. The title referring to the virtual national level is used for activities resulting from cooperation between the above-mentioned levels of competence.

11. Reference to any previous recommendations of the United Nations Committee on the Rights of the Child relating to the topic and the extent to which these recommendations are being followed up appears at the beginning of each section.

12. The last section of each title is devoted to difficulties and future goals. To draft this section, the National Commission on the Rights of the Child (CNDE) set up a working group which produced recommendations. The various Belgian Governments have taken up a large number of these as future goals. The report was unanimously approved by the members of the CNDE (see approval report at annex A).

## I. General implementing measures

### A. General information

13. Recommendation 30(d)<sup>1</sup> of the concluding observations of the United Nations Committee on the Rights of the Child on the second periodic report of Belgium on CRC provides that adequate resources (human and financial) should be allocated to policies and programmes in this area. Information in the implementation of that recommendation is provided throughout this report.

#### (a) General information

##### (i) Data collection method

14. The National Commission on the Rights of the Child (CNDE – see the third periodic report of Belgium on CRC, paragraphs 10-11) contacted the various Belgian authorities to obtain their contributions to the present report.

15. The Justice FPS (Crime Policy Service), which chairs the Bureau responsible for the day-to-day running of the Interdepartmental Coordination Unit combating trafficking and smuggling of persons,<sup>2</sup> coordinated the contribution of the federal institutions.

16. It also obtained statistical data from the central service on trafficking and smuggling of persons of the federal police. The President of the College of Principal Public Prosecutors was asked to provide the Office's statistics on this phenomenon. The Centre for Equal Opportunities and Opposition to Racism<sup>3</sup> was asked to supply figures on child victims of trafficking in persons. The Statistics Unit of the Crime Policy Service provided statistics on convictions.

17. The Flemish, French- and German-speaking communities provided their information via the Agentschap Sociaal-Cultureel Werk voor Jeugd en Volwassenen (Social and Cultural Assistance Agency for Young People and Adults - ASCWJV), youth department, the Observatory on Children, Youth and Assistance to Young People (OEJAJ) and the Department of Employment, Health and Social Affairs of the Ministry of the German-speaking community respectively.

##### (ii) General principles

18. For more detailed information on general principles, please refer to the third periodic report of Belgium on CRC, paragraphs 120-206.

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<sup>1</sup> “Ensure that adequate resources (human and financial) are allocated to policies and programmes in this area.”

<sup>2</sup> This office deals with the daily running of the Interdepartmental Coordination Unit for combating trafficking and smuggling of persons, see paragraph 63 below.

<sup>3</sup> The Centre is a public institution responsible for fostering equal opportunities and combating all forms of segregation, exclusion, restriction or preference based on race, skin colour, origin, provenance or nationality. The Centre is also responsible for promoting the fight against trafficking and smuggling of persons. In carrying out its mission, the Centre is fully independent and has legal personality. See the Law of 15 February setting up a Centre for Equal Opportunities and Opposition to Racism, Official Government Gazette,



**(iii) Ratification of the optional protocol by Belgium**

19. On 17 March 2006 Belgium ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, adopted in New York on 25 May 2000, as corrected by the Secretary-General of the United Nations on 14 November 2000.<sup>4</sup>

20. In view of the definition of child pornography in the Optional Protocol, Belgium did not want its ratification to result in censorship of the written word. Belgium therefore included a statement of interpretation in the law of assent of 9 February 2006. According to that statement, “child pornography” means any visual representation of a child engaging in real or simulated sexual activities or of a visual representation of the sexual parts of a child primarily for sexual purposes.

21. Belgian law applies the principle that international human rights conventions have a direct effect in national law where they conflict with the latter. The judiciary is determining whether an international law such as the Optional Protocol has direct effect. To do so, it is basing its decision on both subjective and objective criteria.

22. The subjective criterion is to check whether the contracting State has chosen to give direct effect to the Convention. If so, the State intends the Convention to create rights and/or duties for individuals. In ratifying the Convention, Belgium stated its wish to grant Belgian citizens the subjective rights set out in the Convention.

23. The objective criterion implies that the provisions of the Convention concerned must be supplemented and tightened up to ensure that they are not subject to discretionary implementing measures.

24. An answer as to whether the provisions of the Optional Protocol are of direct effect in Belgian law must therefore be derived from the relevant Belgian precedents. However, there are no available precedents regarding the provisions of the Optional Protocol.

**B. Figures**

**(b) Federal level**

**(i) Police data**

25. The police statistics (see annex 1) were obtained from the main national database (BNG). The BNG covers all the information systems of the integrated police force and is designed to support the work of the judicial and administrative police, so that exchanges of information are as structured and secure as possible. The BNG is a basis for judicial investigations, though it is limited as it is a database of perpetrators and crimes. Since it contains no (or only sporadic) data on victims, and the “age” variable does not necessarily have to be filled in, and moreover since – following the amendment of the law on trafficking in persons in 2005 – the 2005 figures cannot be compared with those for 2006 and 2007, the police statistics are really only indicative. It was therefore decided not to incorporate them into the report but to attach them as an annex (see annex 1).

26. “Illegal adoption” is not classed as an offence under “trafficking in persons”. The BNG records “illegal adoption” as a modus operandi in relation to several offences falling under trafficking and smuggling of persons. Searches can be carried out in combination with the age of the victim.

<sup>4</sup> See the Law of 9 February 2006, Official Government Gazette, 17 March 2006; Flemish Decree of 7 February 2003, Official Government Gazette, 24 February 2003 (and the transposition of the Protocol into the Flemish Actieplan Kinderrechten (2004-2012) and the Flemish Jeugdbeleidsplan (2006-2009)); Decree of the French-Speaking Community of 12 May 2004, Official Government Gazette, 7 June 2004; Decree of the German-Speaking Community of 27 October 2003, Official Government Gazette,

27. “Child prostitution” is not classed as a criminal offence. However, incitement of a minor to such “immoral acts” or exploitation or advertising in relation to immoral acts is punishable.

28. No figures are available for child prostitution linked to sex tourism. This description is not listed as a specific criminal offence. Sex tourism involving children is regarded as sexual abuse of a child abroad.

29. Please refer to annex 1 for the police data on “child pornography” and “trafficking in persons for the purposes of child pornography”.

**(ii) Statistics of the Aliens Office**

30. The tables below cover foreign minors in respect of whom “trafficking in persons” proceedings have been initiated. “accompanied minors” are understood to be foreign minors one or both of whose parents are acknowledged human trafficking victims and who therefore have the same status. Since such minors have the same status as their parents, their personal details are not given below. For unaccompanied minors, the table gives details of their age, gender, type of exploitation they have suffered, country of origin, and an indication of the outcome of the proceedings. In Belgium, victims of trafficking in persons may be granted a special residence permit provided they leave the place where they are being exploited, accept the supervision offered by a special reception centre and cooperate with the judicial authorities. For more information on this procedure, and especially the attribution of CRC and the registration certificate, see paragraphs 198, 199 and 200 below. See also the third periodic report of Belgium, paragraph 644.

2006					
Minor victims					
14					
Unaccompanied minors					Accompanied minors
6					8
Date of birth	Gender	Type	Country	Outcome	
23/02/1990	F	Prostitution	Hungary	CIRE trafficking in persons indefinite duration	
28/06/1988	F	Trafficking	Iran	CIRE trafficking in persons indefinite duration	
03/05/1989	M	Economic exploitation	Morocco	CIRE Trafficking in persons valid until 01/2009	
22/01/1989	F	Prostitution	Latvia	Disappearance	
15/05/1990	M	Trafficking	Iran	CIRE Trafficking in persons valid until 02/2009	
01/01/1991	F	Other	Morocco	CIRE Trafficking in persons valid until 02/2009	

2007					
Minor victims					
9					
Unaccompanied minors					Accompanied minors
4					5
Date of birth	Gender	Type	Country	Outcome	
28/11/1989	F	Economic exploitation	Brazil	CIRE Trafficking in persons valid until 06/2008 no application for renewal	
27/06/1989	F	Prostitution	Bulgaria	Not a victim according to the prosecution service: No further news	
06/10/1990	M	Trafficking	India	No news	
10/03/1990	F	Prostitution	Serbia	Not a victim but CRC pursuant to article 9 of the law of 15/12/1980	

2008 (January to June)					
Minor victims					
8					
Unaccompanied minors					Accompanied minors
4					4
Date of birth	Gender	Type	Country	Outcome	
20/04/1990	F	Other	Morocco	CIRE Trafficking in persons valid until 11/2008	
11/09/1991	F	Trafficking	Congo	CIRE Trafficking in persons valid until 03/2009	
24/12/1991	F	Prostitution	Romania	Registration certificate Trafficking in persons valid until 10/2008	
03/11/1991	F	Prostitution	Uzbekistan	Not a victim, request to apply the circular of 15/09/2005	

**(iii) Statistics of the Central Federal Authority for Adoptions**

31. Since 1 September 2005 (when the new adoptions law entered force), the Central Federal Authority (ACF – see the third periodic report of Belgium on CRC, paragraph 284) has refused to recognize 209 of the 1459 foreign adoptions applied for. All these adoptions had been carried out through unrestricted channels before or after the new law entered force.

32. Most refusals are on the grounds of being contrary to public order (article 365.2, subparagraph 2.1 of the Code of Civil Procedure), taking account of the best interests of the child and his or her fundamental rights under international law. Specifically these include the absence of valid consent by the child being adopted, since he or she still lived with his or her parents at the time of the application for recognition, or because the latter are still fulfilling their obligations to the adopted child. These reasons for refusal are not in themselves indicative of the sale of the child.

33. Since 2005, ACF has had one case of refusal of recognition on grounds of the sale of the child. The mother had not given her free consent to the adoption and the adoption had come about as a result of a financial negotiation with a non-approved intermediary over the internet.

34. In other cases, ACF was unable to class them as trafficking in persons but did find reasons for adoption that were closely related to it: statement by the adopted girl that she was going to Belgium to work in the home of her adoptive parents, and that they had showed her how to do the housework and asked her to do as she was told; statement that she was going to Belgium to look after the two children of her adoptive mother and to study; statement that she was going to Belgium to maintain her family in her country of origin; assumption that the adoption was actually a means of bringing a young Chinese girl to work in the family restaurant.

**(iv) Statistics on cases before the Prosecution Service***Preliminary remarks*

35. Before analysing the collected statistical data, it is worth making the following remarks to delimit the scope of the investigations being carried out:

- The statistical data given in the tables below were taken from the databases, on 10 January 2008, containing the records of the summary jurisdiction courts of 26 of the 27 public prosecutors at the court of first instance<sup>5</sup> and the federal prosecution service;
- The data relate to offences committed by adults only. Offences committed by minors are handled by the “youth” sections of the prosecution services and the statistical analysts do not have any data for these.

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<sup>5</sup> The Eupen prosecution service does not register its cases in the computer system as there is no German-language version.

### Results

Table I. Number of “procuring for minors” and “child prostitution” cases (main or accessory charge) handled by the Belgian public prosecution services over the years 2002-2007 (with columns for No. and percentage for each year)

The data are broken down by the year of submission to the public prosecution service

	Procuring of minors		Child pornography		Total	
	No.	%	No.	%	No.	%
2000	11	14.10	127	4.38	138	4.64
2001	4	5.13	143	4.94	147	4.94
2002	6	7.69	523	18.05	529	17.78
2003	18	23.08	272	9.39	290	9.75
2004	11	14.10	258	8.91	269	9.04
2005	12	15.38	358	12.36	370	12.44
2006	9	11.54	463	15.98	472	15.87
2007	7	8.97	753	25.99	760	25.55
Total	78	100.00	2 897	100.00	2 975	100.00

Source: Database of the College of Principal Public Prosecutors – statistical analysts.

Table II. Number of “procuring of minors” and “child pornography” cases handled by the Belgian public prosecutors during the years 2000-2007 (with columns for No. and percentage for each year)

The data are broken down by judicial district

		Procuring of minors		Child pornography		Total	
		No.	%	No.	%	No.	%
Antwerp	Antwerp	.	.	417	14.39	417	14.02
	Hasselt	7	8.97	76	2.62	83	2.79
	Mechelen	1	1.28	78	2.69	79	2.66
	Tongeren	.	.	63	2.17	63	2.12
	Turnhout	4	5.13	117	4.04	121	4.07
	Jurisdiction	12	15.38	751	25.92	763	25.65

		Procuring of minors		Child pornography		Total	
		No.	%	No.	%	No.	%
Brussels	Brussels	28	35.90	491	16.95	519	17.45
	Leuven	.	.	101	3.49	101	3.39
	Nivelles	3	3.85	82	2.83	85	2.86
	Jurisdiction	31	39.74	674	23.27	705	23.70
Ghent	Bruges	3	3.85	231	7.97	234	7.87
	Dendermonde	.	.	104	3.59	104	3.50
	Ghent	2	2.56	266	9.18	268	9.01
	Ieper	.	.	13	0.45	13	0.44
	Kortrijk	2	2.56	95	3.28	97	3.26
	Oudenaarde	5	6.41	29	1.00	34	1.14
	Veurne	.	.	18	0.62	18	0.61
	Jurisdiction	12	15.38	756	26.10	768	25.82
Liège	Arlon	1	1.28	26	0.90	27	0.91
	Dinant	.	.	31	1.07	31	1.04
	Huy	.	.	25	0.86	25	0.84
	Liège	2	2.56	63	2.17	65	2.18
	Marche-en-Famenne	.	.	16	0.55	16	0.54
	Namur	1	1.28	46	1.59	47	1.58
	Neufchateau	.	.	13	0.45	13	0.44
	Verviers	1	1.28	35	1.21	36	1.21
	Jurisdiction	5	6.41	255	8.80	260	8.74
Mons	Charleroi	10	12.82	42	1.45	52	1.75
	Mons	6	7.69	46	1.59	52	1.75
	Tournai	2	2.56	23	0.79	25	0.84
	Jurisdiction	18	23.08	111	3.83	129	4.34
FEDERAL PROSECUTION SERVICE	FEDERAL PROSECUTION SERVICE	.	.	350	12.08	350	11.76
	Jurisdiction	.	.	350	12.08	350	11.76
Belgium		78	100	2 897	100	2 975	100

Source: Database of the College of Principal Public Prosecutors – statistical analysts.

Table III. Progress, at 10 January 2008, of “procuring of minors” and “child pornography” cases before the public prosecutors between 2000 and 2007 (with columns for No. and percentage for each year)

The data are broken down according to the year they were brought before the public prosecutor

The various stages of progress in the table below are defined in the footnotes.

	2000		2001		2002		2003		2004		2005		2006		2007	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
(1) Information	.	.	7	1.26	14	2.52	6-	1.08	10	1.80	9	1.62	70	12.61	439	79.10
(2) Terminated <sup>6</sup>	63	6.98	86	9.52	231	25.58	110	12.18	113	12.51	96	10.63	129	14.29	75	8.31
(3) Available <sup>7</sup>	25	6.31	14	3.54	30	7.58	47	11.87	54	13.64	81	20.45	50	12.63	95	23.99
(4) Joinder <sup>8</sup>	18	4.99	12	3.32	19	5.26	43	11.91	28	7.76	98	27.15	48	13.30	95	26.32
(5) Settlement <sup>9</sup>	.	.	.	.	8	47.06	2	11.76	.	.	2	11.76	4	23.53	1	5.88
(6) Mediation <sup>10</sup>	.	.	.	.	4	14.29	8	28.57	3	10.71	5	17.86	6	21.43	2	7.14
(7) Investigation	4	4.94	.	.	1	1.23	7	8.64	2	2.47	3	3.70	25	30.86	39	48.15
(8) Council chamber <sup>11</sup>	10	5.81	6	3.49	78	45.35	11	6.40	11	6.4	16	9.30	37	21.51	3	1.74
(9) Summons and follow-up <sup>12</sup>	18	3.90	22	4.76	144	31.17	56	12.12	48	10.39	60	12.99	103	22.29	11	2.38
Total	138	4.64	147	4.94	529	17.78	290	9.75	269	9.04	370	12.44	472	15.87	760	25.55

Source: Database of the College of Principal Public Prosecutors – statistical analysts.

<sup>6</sup> The decision to terminate the proceedings is always provisional. Unless the prosecution has been terminated, the case may be reopened. Table 4 gives details of grounds for terminating proceedings.

<sup>7</sup> Unless a case is returned to the referring prosecution service, it remains with the original prosecution service where it is considered closed. Such cases are re-opened under a new number at the destination prosecution service.

<sup>8</sup> These cases are considered closed as they remain unchanged and as subsequent decisions are taken in the main case to which they are attached.

<sup>9</sup> The “Settlement” category covers criminal cases where a settlement is proposed, cases awaiting a final decision (including partially paid settlements), cases closed by the payment of a settlement that terminates the prosecution and, finally, cases in which a settlement has been refused but which have not yet moved on to another stage.

<sup>10</sup> This heading covers criminal cases for which mediation has been proposed, criminal cases closed after successful mediation and criminal cases in which mediation has been refused but have not since moved on to another stage.

<sup>11</sup> The heading “Council chamber” covers cases from the stage of the settlement of the proceedings to the date of any trial before the criminal court. Cases ending with a termination of the prosecution remain in that state.

<sup>12</sup> The heading “Summons and follow-up” contains cases involving a summons or a decision subsequent to the summons. These are cases in which a summons has been sent, a trial before a criminal court has been scheduled, a sentence has been pronounced, a set-aside has been requested, an appeal has been lodged, etc.

Table IV. Grounds for terminating proceedings in cases brought before the public prosecution service over the years 2001-2007 (with columns for No. and percentage for each year)

		Procuring of minors		Child pornography		Total	
		No.	%	No.	%	No.	%
(1) appropriateness	(1) Limited social repercussions	1	3.57	13	1.49	14	1.55
	(2) Situation restored to order	1	3.57	7	0.80	8	0.89
	(4) Minor damage	.	.	6	0.69	6	0.66
	(5) Reasonable length of time elapsed	.	.	23	2.63	23	2.55
	(6) No past history	.	.	9	1.03	9	1.00
	(7) Occasional acts – specific circumstances	.	.	8	0.91	8	0.89
	(8) Young offender	.	.	2	0.23	2	0.22
	(9) Disproportionate consequences – social disorder	1	3.57	11	1.26	12	1.33
	(10) Behaviour of the victim	.	.	1	0.11	1	0.11
	(12) Insufficient grounds to investigate	.	.	85	9.71	85	9.41
	(13) Other priorities	4	14.29	25	2.86	29	3.21
(15) technical	(15) No offence	8	28.57	114	13.03	122	13.51
	(16) Insufficient charges	5	17.86	222	25.37	227	25.14
	(17) Statutory limitation	.	.	2	0.23	2	0.22
	(18) Death of the perpetrator	.	.	8	0.91	8	0.89
	(21) Incompetence	1	3.57	46	5.26	47	5.20
	(22) Authority of 'res judicata'	.	.	20	2.29	20	2.21
	(26) Perpetrator(s) unknown	7	25.00	263	30.06	270	29.90
(28) other	(29) Judicial probation	.	.	4	0.46	4	0.44
	(30) Particulars of the perpetrator	.	.	6	0.69	6	0.66
Total		28	100	875	100	903	100

Source: Database of the College of Principal Public Prosecutors – statistical analysts.

(v) **Statistics on sentencing**

*General remarks*

36. The tables below show not only the number of Custodial sentences and number of detainees, but also the number of convictions and the number of people sentenced for each offence, according to the statistics on sentencing compiled by the Crime Policy Service of the Federal Public Service. One person may be sentenced several times for



an offence, either during the same year, or in different years. Similarly, different decisions may be taken regarding the same person. For example, a suspended sentence may be handed down for a person on a first offence. The same person may be sentenced at a second trial for the same offence some years later. The same person may therefore appear several times in the various tables and columns, and may even be counted several times under the same case.

37. The unit of account used here is therefore the number of convictions involving at least one offence of the types listed in the “convictions” tables, and the number of people sentenced for at least one offence of the types listed in the “sentenced persons” tables. The figures given relate to the years 2000 to 2006. However, the data for 2006 are provisional owing to a delay in recording.

38. The following four main categories of offences against minors have to be considered. They are as follows:

- Prostitution;
- Pornography;
- Indecency associated with offences under article 77 *bis* (former article on trafficking in persons);
- Rape associated with offences under article 77 *bis* (former article on trafficking in persons).

39. The Law of 28 November 2000, which entered force on 1 April 2001, made various amendments to the Law of 13 April 1995 containing provisions to combat trafficking of persons and child pornography. With the introduction of that Law, the various criminal provisions relating to those offences were renumbered and some were slightly amended (such as the provisions relating to age). The scope of the protection of minors against criminal offences was broadened. Reference is therefore sometimes made to “article x, original version” and “article x, amended version”, depending on whether it is a provision that has been amended meanwhile, or a regulation of the Criminal Code.

*Crimes and offences relating to young people involved in immoral acts, corruption or prostitution*

40. Incitement to immoral acts, corruption or prostitution of a minor.

Table I. Number of convictions for the offence “incitement to immoral acts, corruption or prostitution of a minor”

Convictions	2000	2001	2002	2003	2004	2005	2006
Incitement to immoral acts, corruption or prostitution of a minor over 16 years of age (379, 1, old)	12	21	14	20	13	7	9
Incitement to immoral acts, etc. of a minor aged 14 to 16 (379, 2, old)	4	11	9	6	6	8	5
Incitement to immoral acts, etc. of a minor aged under 16 (379, 2, new)	7	9	5	5	7	10	7
Incitement to immoral acts, etc. of a minor aged 10 to 14 (379, 3, new)	3	4	4	9	9	9	10
Incitement to immoral acts, etc. of a minor under 10 years of age (379, 4 old or 379, 3, new)	2	3	3	7	1	5	2
<b>Total</b>	<b>31</b>	<b>42</b>	<b>35</b>	<b>53</b>	<b>26</b>	<b>32</b>	<b>24</b>

Table II. Number of persons sentenced for the offence “incitement to immoral acts, corruption or prostitution of a minor”

Persons sentenced	2000	2001	2002	2003	2004	2005	2006
Incitement to immoral acts, corruption or prostitution of a minor over 16 years of age (379, 1, old)	12	21	14	20	13	7	9
Incitement to immoral acts, etc. of a minor aged 14 to 16 (379, 2, old)	4	11	9	6	6	8	5
Incitement to immoral acts, etc. of a minor aged under 16 (379, 2, new)	7	9	5	5	7	10	7
Incitement to immoral acts, etc. of a minor aged 10 to 14 (379, 3, new)	3	4	4	9	9	9	10
Incitement to immoral acts, etc. of a minor under 10 years of age (379, 4 old or 379, 3, new)	2	3	3	7	1	5	2
<b>Total</b>	<b>31</b>	<b>42</b>	<b>35</b>	<b>52</b>	<b>26</b>	<b>32</b>	<b>24</b>

Table III. Number of custodial convictions for the offence “incitement to immoral acts, corruption or prostitution of a minor”

Custodial sentences	2000	2001	2002	2003	2004	2005	2006
Incitement to immoral acts, corruption or prostitution of a minor over 16 years of age (379, 1, old)	1	1	1	1	0	0	0
Incitement to immoral acts, etc. of a minor aged 14 to 16 (379, 2, old)	1	0	0	3	0	0	0
Incitement to immoral acts, etc. of a minor aged under 16 (379, 2, new)	3	0	0	0	0	1	1
Incitement to immoral acts, etc. of a minor aged 10 to 14 (379, 3, old or 379, 3, new)	0	0	2	0	1	2	1
Incitement to immoral acts, etc. of a minor under 10 years of age (379, 4 old or 379, 3, new)	0	0	0	0	0	0	0
<b>Total</b>	<b>3</b>	<b>1</b>	<b>5</b>	<b>4</b>	<b>1</b>	<b>3</b>	<b>2</b>

Table IV. Number of persons detained for the offence “incitement to immoral acts, corruption or prostitution of a minor”

Detainees	2000	2001	2002	2003	2004	2005	2006
Incitement to immoral acts, corruption or prostitution of a minor over 16 years of age (379, 1, old)	1	1	1	1	0	0	0
Incitement to immoral acts, etc. of a minor aged 14 to 16 (379, 2, old)	1	0	0	3	0	0	0
Incitement to immoral acts, etc. of a minor aged under 16 (379, 2, new)	3	0	0	0	0	1	1
Incitement to immoral acts, etc. of a minor aged 10 to 14 (379, 3, new)	0	0	2	0	1	2	1
Incitement to immoral acts, etc. of a minor under 10 years of age (379, 4 old or 379, 3, new)	0	0	0	0	0	0	0
<b>Total</b>	<b>3</b>	<b>1</b>	<b>5</b>	<b>4</b>	<b>1</b>	<b>3</b>	<b>2</b>

41. Provocation of immoral acts by a minor through words, gestures or signs in a public place.

Table V. Number of convictions for the offence “provocation of immoral acts by a minor, etc. (380 *bis*, new)”

Convictions	2000	2001	2002	2003	2004	2005	2006
Total	0	1	1	5	2	0	1

Table VI. Number of persons sentenced for the offence “provocation of immoral acts by a minor, etc. (380 *bis*, new)”

Persons sentenced	2000	2001	2002	2003	2004	2005	2006
Total	0	1	1	5	2	0	1

Table VII. Number of custodial sentences for the offence “provocation of immoral acts by a minor, etc. (380 *bis*, new)”

Custodial sentences	2000	2001	2002	2003	2004	2005	2006
Total	1	0	0	0	0	0	0

Table VIII. Number of persons detained for the offence “provocation of immoral acts by a minor, etc. (380 *bis*, new)”

Detainees	2000	2001	2002	2003	2004	2005	2006
Total	1	0	0	0	0	0	0

42. Recruitment, coercion, abduction or harbouring of a minor with the intent of immoral acts or prostitution.

Table IX. Number of convictions for the offence “recruitment, coercion, abduction or harbouring of a minor with the intent of immoral acts or prostitution”

Convictions	2000	2001	2002	2003	2004	2005	2006
Recruitment, coercion, etc. of a minor (380 <i>bis</i> , para. 1.1.1, old)	16	11	22	26	36	38	28
Recruitment, coercion, etc. of a minor under 16 years of age (380 <i>bis</i> , para. 4.1, old)	3	4	5	4	2	6	1
Recruitment, coercion, etc. of a minor under 10 years of age (380 <i>bis</i> , para. 5, old)	0	0	0	0	1	1	0

Table X. Number of convictions for the offence “recruitment, coercion, abduction or harbouring of a minor with the intent of immoral acts or prostitution”

Persons sentenced	2000	2001	2002	2003	2004	2005	2006
Recruitment, coercion, etc. of a minor (380 <i>bis</i> , para. 1.1.1, old)	16	11	22	26	36	38	28
Recruitment, coercion, etc. of a minor under 16 years of age (380 <i>bis</i> , para. 4.1, old)	3	4	4	4	2	6	1
Recruitment, coercion, etc. of a minor under 10 years of age (380 <i>bis</i> , para. 5, old)	0	0	0	0	1	1	0

Table XI. Number of custodial convictions for the offence “recruitment, coercion, abduction or harbouring of a minor with the intent of immoral acts or prostitution”

Custodial sentences	2000	2001	2002	2003	2004	2005	2006
Recruitment, coercion, etc. of a minor (380 <i>bis</i> , para. 1.1.1, old)	0	0	0	0	0	1	0
Recruitment, coercion, etc. of a minor under 16 years of age (380 <i>bis</i> , para. 4.1, old)	0	0	0	0	0	0	0
Recruitment, coercion, etc. of a minor under 10 years of age (380 <i>bis</i> , para. 5, old)	0	0	0	0	0	0	0

Table XII. Number of persons detained for the offence “recruitment, coercion, abduction or harbouring of a minor with the intent of immoral acts or prostitution”

Detainees	2000	2001	2002	2003	2004	2005	2006
Recruitment, coercion, etc. of a minor (380 <i>bis</i> , para. 1.1.1, old)	0	0	0	0	0	1	0
Recruitment, coercion, etc. of a minor under 16 years of age (380 <i>bis</i> , para. 4.1, old)	0	0	0	0	0	0	0
Recruitment, coercion, etc. of a minor under 10 years of age (380 <i>bis</i> , para. 5, old)	0	0	0	0	0	0	0

43. Keeping a brothel (minors).

Table XIII. Number of convictions for the offence of “keeping a brothel (minors)”

Convictions	2000	2001	2002	2003	2004	2005	2006
Keeping a brothel for prostitution involving minors (380, para. 4.2, new)	2	6	2	2	4	3	5
Keeping a brothel for prostitution involving minors under 10 years of age (380, para. 5, old)	0	0	0	0	0	0	0

Table XIV. Number of persons sentenced for the offence of “keeping a brothel (minors)”

Persons sentenced	2000	2001	2002	2003	2004	2005	2006
Keeping a brothel for prostitution involving minors (380, para. 4.2, new)	2	6	2	2	4	3	5
Keeping a brothel for prostitution involving minors under 10 years of age (380, para. 5, old)	0	0	0	0	0	0	0

No custodial sentences were handed down for this offence between 2000 and 2006.

44. Sale, letting or ... of rooms or other premises for the purposes of prostitution (victim = minor)

Table XV. Number of convictions for the offence “sale, letting or ... of rooms or other premises for the purposes of prostitution (victim = minor)”

Convictions	2000	2001	2002	2003	2004	2005	2006
Sale, letting or ... of rooms or other premises for the purposes of prostitution (victim = minor) (380 <i>bis</i> , para. 4. 3, old – 380, para. 4.3, new)	0	1	0	0	0	0	1
Sale, letting or ... of rooms or other premises for the purposes of prostitution (victim = minor under 10 years of age) (380 <i>bis</i> , para. 5, old)	0	0	0	0	0	0	0

Table XVI. Number of persons sentenced for the offence “sale, letting or ... of rooms or other premises for the purposes of prostitution”

Persons sentenced	2000	2001	2002	2003	2004	2005	2006
Sale, letting or ... of rooms or other premises for the purposes of prostitution (victim = minor) (380 <i>bis</i> , para. 4.3, old – 380, para. 4.3, new)	0	1	0	0	0	0	1
Sale, letting or ... of rooms or other premises for the purposes of prostitution (victim = minor under 10 years of age) (380 <i>bis</i> , para. 5, old)	0	0	0	0	0	0	0

No custodial sentences were handed down for this offence between 2000 and 2006.

#### 45. Exploitation of immoral acts or prostitution by a minor.

Table XVII. Number of convictions for the offence “exploitation of immoral acts or prostitution by a minor”

Convictions	2000	2001	2002	2003	2004	2005	2006
Exploitation of immoral acts or prostitution by a minor under 16 years of age (380 <i>bis</i> , para. 4.4, old or 380, para. 5, new)	4	0	12	10	7	7	8
Exploitation of immoral acts or prostitution by a minor under 10 years of age (380 <i>bis</i> , para. 5, old)	0	0	0	0	0	0	0

Table XVIII. Number of persons sentenced for the offence “exploitation of immoral acts or prostitution by a minor”

Persons sentenced	2000	2001	2002	2003	2004	2005	2006
Exploitation of immoral acts or prostitution by a minor under 16 years of age (380 <i>bis</i> , para. 4.4, old or 380, para. 5, new)	4	0	11	10	7	7	8
Exploitation of immoral acts or prostitution by a minor under 10 years of age (380 <i>bis</i> , para. 5, old)	0	0	0	0	0	0	0

Custodial sentences	2000	2001	2002	2003	2004	2005	2006
Exploitation of immoral acts or prostitution by a minor under 16 years of age (380 <i>bis</i> , para. 4.4, old or 380, para. 5, new)	0	0	0	0	0	0	1
Exploitation of immoral acts or prostitution by a minor under 10 years of age (380 <i>bis</i> , para. 5, old)	0	0	0	0	0	0	0

Detainees	2000	2001	2002	2003	2004	2005	2006
Exploitation of immoral acts or prostitution by a minor under 16 years of age (380 <i>bis</i> , para. 4.4, old or 380, para. 5, new)	0	0	0	0	0	0	1
Exploitation of immoral acts or prostitution by a minor under 10 years of age (380 <i>bis</i> , para. 5, old)	0	0	0	0	0	0	1

46. Advertising for providing sexual services with minors or offering services by minors or persons reputed to be minors.

Table XIX. Number of convictions for the offence “advertising for immoral acts and prostitution”

Convictions	2000	2001	2002	2003	2004	2005	2006
Advertising for providing sexual services with minors ... (380 <i>quinquies</i> , para. 1.1, old or 380 <i>ter</i> , para 1.1, new)	2	0	2	0	0	1	0
... with the intent or effect of facilitating prostitution or immoral acts by a minor or his or her exploitation for sexual purposes (380 <i>quinquies</i> , para. 1.2, old or 380 <i>ter</i> , para. 1.2, new)	1	0	1	0	0	0	0

Table XX. Number of persons sentenced for the offence “advertising for immoral acts and prostitution”

Persons sentenced	2000	2001	2002	2003	2004	2005	2006
Advertising for providing sexual services with minors ... (380 <i>quinquies</i> , para. 1.1, old or 380 <i>ter</i> , para 1.1, new)	2	0	2	0	0	1	
... with the intent or effect of facilitating prostitution or immoral acts by a minor or his or her exploitation for sexual purposes (380 <i>quinquies</i> , para. 1.2, old or 380 <i>ter</i> , para. 1.2, new)	1	0	1	0	0	0	0

No custodial sentences were handed down for this offence between 2000 and 2006.

*Indecent exposure*

Table XXI. Number of convictions for the offence of “indecent exposure”

Convictions	2000	2001	2002	2003	2004	2005	2006
Child pornography: distribution, sale, ... (383 <i>bis</i> , para. 1)	14	13	9	21	17	27	19
Child pornography: possession of symbols, objects, films, photographs or other visual media (383 <i>bis</i> , para. 2)	19	25	20	42	65	54	53
Indecent exposure in the presence of a minor under 16 years of age (385, 2)	90	68	69	70	63	66	49
Indecent exposure in the presence of a minor over 16 years of age (386, 2)	20	15	13	9	27	16	7

Table XXII. Number of persons sentenced for the offence of “indecent exposure”

Persons sentenced	2000	2001	2002	2003	2004	2005	2006
Child pornography: distribution, sale, ... (383 <i>bis</i> , para. 1)	14	13	9	21	17	26	19
Child pornography: possession of symbols, objects, films, photographs or other visual media (383 <i>bis</i> , para. 2)	19	25	20	42	65	52	53
Indecent exposure in the presence of a minor under 16 years of age (385, 2)	90	68	69	70	63	65	49
Indecent exposure in the presence of a minor over 16 years of age (386, 2)	20	15	13	9	27	16	7

Table XXIII. Number of custodial sentences for the offence of “indecent exposure”

Custodial sentences	2000	2001	2002	2003	2004	2005	2006
Child pornography: distribution, sale, ... (383 <i>bis</i> , para. 1)	0	1	1	0	1	2	0
Child pornography: possession of symbols, objects, films, photographs or other visual media (383 <i>bis</i> , para. 2)	0	1	1	3	0	3	6
Indecent exposure in the presence of a minor under 16 years of age (385, 2)	13	5	8	8	2	16	6
Indecent exposure in the presence of a minor over 16 years of age (386, 2)	6	1	2	1	1	3	2

Table XXIV. Number of persons detained for the offence of “indecent exposure”

Detainees	2000	2001	2002	2003	2004	2005	2006
Child pornography: distribution, sale, ... (383 bis, para. 1)	0	1	1	0	1	2	0
Child pornography: possession of symbols, objects, films, photographs or other visual media (383 bis, para. 2)	0	1	1	3	0	3	6
Indecent exposure in the presence of a minor under 16 years of age (385, 2)	13	5	8	8	2	15	6
Indecent exposure in the presence of a minor over 16 years of age (386, 2)	6	1	2	1	1	3	2

*Indecency without violence or threats towards minors and article 77 bis*

Table XXV. Number of convictions for offences under article 77 bis (former article on trafficking in persons), related to the offence of indecency with or without violence towards a minor

Convictions	2000	2001	2002	2003	2004	2005	2006
indecency without violence or threats towards a minor under 16 years of age (article 372.1, Criminal Code)	0	0	0	0	0	0	0
indecency with violence or threats towards a minor aged 16 or over (article 373.2, Criminal Code)	0	0	0	0	0	0	0
indecency with violence or threats towards a minor under 16 years of age (article 373.3, Criminal Code)	0	0	0	0	1	0	0

47. Indecency without violence or threats towards a person aged 16 to 18 cannot be reported as there is no specific offence for this age group. It falls under the general category of “indecency”, without distinction between minor or adult victims. Since the age of victims is not recorded in the database, no data can be supplied for persons aged 16 to 18.

*Statutory rape and article 77 bis*

Table XXVI. Number of convictions for offences under 77 bis (formerly trafficking in persons) associated with the offence of “rape” and by the age of the minor

Convictions	2000	2001	2002	2003	2004	2005	2006
Involving a minor over 16 years of age	0	1	0	0	2	0	1
Involving a minor under 16 years of age	0	0	1	0	2	0	1
Involving a minor under 14 years of age	0	0	0	0	0	0	0
Involving a minor under 10 years of age	0	0	0	0	0	0	0



**(c) Federalized institutions****(c.1) Flemish Government**

48. The “domino” database entered service in 2006. This database contains the data supplied by the Youth Care Committees and the Social Service attached to each juvenile court (SPJ) and is designed to produce statistics. These bodies can submit their information with reference to a list of subject headings (e.g. prostitution, perpetrator of sexual abuse within the family, perpetrator of sexual abuse outside the family, unaccompanied minors). The system should be fully operational in 2009.

49. No illegal adoptions were reported in the Flemish community. There are no records to date, in the Flemish community, of any children adopted via intermediaries using methods incompatible with article 21 of CRC.

50. Reference may be made to the figures available in the “Assessment Report for 2006-2007” by the support committee for the cooperation agreement for the support and treatment of perpetrators of sexual abuse (see annex 2 and paragraph 124 below). This report states that, during 2006, 99 per cent of perpetrators reported were males, 1 087 perpetrators were reported, 1 216 perpetrators were treated and supported and, finally, 24 of the perpetrators reported (= 4 per cent) were under 18 years of age. For 343 perpetrators (= 46%), the behavioural problem related to sexual violence towards minors. Forty-seven perpetrators (= 6 per cent) were reported for child pornography.

51. Child Focus, the European Center for Missing and Sexually Exploited Children, has the mission of actively supporting, at national and international levels, investigations into the disappearance, abduction or sexual exploitation of children. The organization also strives to prevent and fight against these phenomena. The centre conducted an investigation into child prostitution in Flanders entitled “op het scherp van het net”, an investigative study on youth, internet and paid sex. It aimed to survey the present nature and extent of child prostitution in Flanders, and complemented a study by the French-speaking community on child prostitution in Wallonia and Brussels (see paragraphs 55 and 148 below). The survey was completed in November 2008.

52. Reference may also be made to the third periodic report, title I.F. “Data collection and scientific study” (paragraphs 92-95).

**(c.2) Government of the French-speaking community**

53. No illegal adoptions were reported in the French-speaking community. There are no records to date, in the French-speaking community, of any children adopted via intermediaries using methods incompatible with article 21 of CRC.

54. For the French-speaking community in 2006, the Esperanto Centre, a reception centre for unaccompanied minor victims of trafficking, took in 24 young people involved in trafficking (see paragraphs 196 and 202 below).

55. Some figures on child prostitution in the French-speaking community may be taken from the study “young prostitutes and social responses: an inventory”. In 2004, according to the figures of the Trafficking in Persons (TEH) unit of the Federal Police, 24 minors were recorded as “voluntary” prostitutes, including three aged 14, five aged 15, four aged 16 and twelve aged 17 (for more details, see paragraph 148 below).

**(c.3) Government of the German-speaking community**

56. There are no statistics on this issue for the German-speaking community.

57. No illegal adoptions were reported in the German-speaking community. There are no records to date, in the German-speaking community, of any children adopted via intermediaries using methods incompatible with article 21 of CRC.

### C. Implementing measures

58. Recommendation 28(e)<sup>13</sup> of the concluding observations of the United Nations Committee on the Rights of the Child on the second periodic report of Belgium to CRC is to improve cooperation and exchange of information among all the actors involved. The measures for implementing this recommendation consist of setting up specialist services and carrying out various initiatives. They are described in paragraphs 63, 64 and 67.

#### (a) National level

59. The recommendations of the National Commission Against Sexual Exploitation of Children were examined by two working groups (one Dutch-speaking and one French/German-speaking), in order to harmonize the judicial, protective and criminal approach on the one hand and the psychological, medical and social approach on the other, of all cases of child abuse. For more information, please refer to the third periodic report of Belgium on CRC, paragraphs 302, 623, 625 and especially 313. That report announces the widespread setting-up of consultation and coordination councils in the districts, and explains that the Belgian authorities intend to designate reference magistrates and that they are following up the application, by all players concerned, of the memoranda of understanding in order to ensure fair treatment in the interests of the child and to give better information to children and victims.

60. The action plan for the French-speaking community was signed by the competent ministers and circulated to public prosecution services in the French-speaking community. The district councils already existed in the French-speaking community. The latter have been allocated more resources. The stappenplan, which is one of the recommendations envisaged in the Flemish memorandum of understanding, was circulated to all public prosecution services in the Flemish community. Reference magistrates responsible for child abuse cases have already been designated in each judicial district. The Flemish memorandum of understanding has yet to be approved in full. Please refer to the third periodic report of Belgium on CRC, paragraphs 299 and 627, for more information on the information brochure for persons knowing of or suspecting a case of child (sexual) abuse. This brochure indirectly ensures that child victims are better informed.

61. As a reminder, the National Commission on the Rights of the Child contributes to the drafting of any report on child rights and encourages exchanges of ideas between political players and field workers in the context of working groups.

62. On 18 October 2008, European Anti-Trafficking Day, the Centre for Equal Opportunities and Opposition to Racism, the Samilia Foundation and three reception centres for victims of trafficking in persons, Pag-Asa, Payoke and Sürya, organized awareness-raising initiatives in three Belgian cities: Brussels, Antwerp and Liège.

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<sup>13</sup> “Improve cooperation and exchange of information among all the actors involved, including the Aliens Office and other relevant authorities, police services, tribunals, reception centres and NGOs.”

**(b) Federal level****(i) Mechanisms for coordination between the various competent authorities**

63. The “Trafficking in Persons” Task Force set up by the Prime Minister in the year 2000 prompted the adoption of a Royal Decree<sup>14</sup> which:

- Reactivated the Interdepartmental Coordination Unit for combating trafficking and smuggling of persons, set up in 1995 to coordinate the various initiatives against trafficking and smuggling of persons. It is chaired by the Minister for Justice. The Unit brings together all the federal ministers with responsibilities relating to the issue and Child Focus (see paragraphs 51 above and 69 below) and the Centre for Equal Opportunities and Opposition to Racism. In other words, all the federal strategic and operational players taking an active part in combating the above-mentioned phenomena.

Besides its coordination function, the Interdepartmental Coordination Unit also has to make a critical assessment of the fight against trafficking and smuggling of persons.

Since the Unit meets only two or three times a year, a Bureau was formed which meets monthly. It deals with the day-to-day running of the Unit and prepares and implements the decisions, recommendations and initiatives.<sup>15</sup>

In 2005, a working group was set up within the Unit to improve the status of victims of trafficking in persons, especially minors. The working group made several recommendations for the care of minor victims. On this basis it was established that, although the system for supervising unaccompanied minors was a considerable step forward for the protection of minors, it was still necessary to draw the attention of guardians and institutions organizing guardianship that certain minors were also victims of trafficking in persons. These minors should also be offered better care. The Law of 15 September 2006 (see annex 3) took several of these recommendations into account (see paragraphs 194, 198 and 199 below).

- The setting-up of the Centre for information on and analysis of trafficking and smuggling of persons (CIATTEH) The aim was to set up an information network for the exchange of anonymous data gathered by the various players involved in combating trafficking and smuggling of persons. The Centre is responsible for collecting, processing, analysing and communicating all the information for the various partners. This database will enable the partners to carry out and coordinate their work on combating these two problems. These strategic analyses will be carried out on the basis of a mandate from the Unit. The Centre is run by a management committee chaired by the Justice FPS (Crime Policy Service). The CIATTEH is not yet operational for a number of reasons (problems connected with the anonymity and gathering of the data, lack of budget and staff). The national plan of action against trafficking in persons (see annex 4) lists initiatives designed to get the CIATTEH up and running.

64. The national plan of action against trafficking and smuggling of persons of 11 July 2008 (see annex 4) is the first instrument of its type to be adopted in Belgium for this type of crime. Many international institutions recommend adopting this type of instrument to ensure that this phenomenon is tackled with a global approach.

<sup>14</sup> Royal Decree of 16 May 2004 on combating trafficking and smuggling of persons, Official Government Gazette, 28 May 2004.

<sup>15</sup> The Bureau members come from the Crime Policy Service (chair), Centre for Equal Opportunities and Opposition to Racism (secretariat), Aliens Office, the central service “trafficking and smuggling of persons” of the Federal Police, State Security, the social inspection service of the Social Security Federal Public Service, the social welfare inspection service of the Employment, Labour and Social Consultation Federal Public Service.

65. The action plan is the fruit of the work of the various players in the Interdepartmental Coordination Unit for combating trafficking and smuggling of persons. It makes an assessment of the policy carried out since the Unit was set up. In addition to that assessment, the aim is to keep the Government's attention focused on the issue. To that end, it stresses the important implications and the projects that should be carried out at federal level over the next ten years, and makes many proposals. These have been culled from various international and national reports and studies, and adapted to the regional context.

66. The proposals cover possible changes in the law and regulations and various aspects of awareness raising, prevention, prosecution of traffickers, or proper protection of trafficking victims – with specific measures for minors. The action plan also deals with coordination, collection of information and the assessment of policy in this area.

67. In 2001, the College of Principal Public Prosecutors set up a network of experts on trafficking and smuggling of persons. The network is responsible for assisting the Principal Public Prosecutor competent for trafficking and smuggling of persons, by means of specific projects, in his task of devising and implementing a general crime policy that is coherent and coordinated. The network of experts is composed of members of the prosecution service, the Justice FPS (Crime Policy Service), the central “trafficking in persons” service of the Federal Police and external members who take part in the activities of the network of experts as required by the subjects under discussion: the Centre for Equal Opportunities and Opposition to Racism, inspection services and academic experts.

68. Under their auspices, the basic instrument relating to crime policy and the detection and prosecution policy, namely the ministerial guidelines on the detection and prosecution of trafficking in persons, is regularly adapted to changes observed on the ground.<sup>16</sup>

69. One of the missions of Child Focus (see paragraph 40 above) is to support and advise minor victims of sexual abuse outside the family, and their parents. In the context of the fight against organized sexual exploitation, Child Focus has an operational role in relation to the police and judicial services, notably with regard to child pornography.

70. Cooperation between Child Focus and the competent judicial and police authorities is governed by four cooperation protocols:

1. The 1998 Protocol governs cooperation between Child Focus and the judicial and police authorities on disappearances and sexual exploitation of children. It was assessed in 2001 and 2005;
2. The 2002 Protocol (also assessed in 2005) governs cooperation between the civilian point of contact at Child Focus (Childfocus-net-alert), the judicial services, the central “trafficking in persons” service of the Federal Police and the FCCU regarding child pornography on the internet;
3. The 2007 Protocol governs cooperation between Child Focus and the judicial authorities, the Justice FPS (Federal contact point for international parental abductions) and the Foreign Affairs FPS, in the area of international parental abductions and cross-border visiting rights;
4. The 2008 Protocol governs cooperation between Child Focus and the police services (police districts of Brussels-Capital and Kastze (Kampenhout, Steenokkerzeel and Zemst), the judicial services (Brussels prosecution service and principal prosecution service), the Aliens Office, the General Commissariat for Refugees and Stateless Persons and the Guardianship Service, regarding the handling of cases of minors disappearing from observation and guidance centres (COOs).

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<sup>1</sup> See the Directive of the Minister for Justice of 14 December 2006 on policy for detecting and prosecuting trafficking in persons, circulated to prosecution services by COL 01/2007 of 1 February 2007, see annex 5.

71. On 27 April 2007, the first two protocols were confirmed by the various partners after assessment and adaptation. On the same date, the third protocol was signed while the last protocol was formalized on 12 November 2008.

72. The smooth operation of the Child Focus organization was highlighted in a recent report by J.M. Petit, Special Rapporteur on the sale of children, child prostitution and child pornography, submitted to the United Nations Human Rights Council (A/HRC/4/31).

**(c) Federalized institutions**

73. Most of the coordination mechanisms described in this section are located at the level of the general services responsible for coordinating child and youth rights policy. The federalized institutions do not have services specializing in the specific issue of child pornography, the sale of children or child prostitution, but rather work through the general information services which have recourse, where necessary, to subsidized specialist services (see paragraphs 77, 83 and 85 below).

74. Indeed, the Communities have not so far defined or invested in policies targeted specifically at the subject matter of the Optional Protocol, namely the sale of children, child prostitution and child pornography. This is explained by the relatively low incidence of these phenomena in Belgium and should be seen as a deliberate choice of the Communities to avoid over-specializing in prevention and assistance for minors.

75. Accordingly, social prevention and educational policies and youth assistance policies are designed to be holistic and cross-cutting. Young people who are in danger or in difficulty are taken in hand by the general and specific services, which offer a palette of services. The young person is considered as a whole, as a young person in difficulty or danger often suffers on a number of fronts. Thus, depending on the needs identified, young people receive support in a variety of forms ranging from general social assistance, mental health support, positive cultural or citizens' projects, sometimes involving more specialist help such as assistance in the community or protection measures.

76. The Communities are nevertheless aware of the social realities facing young people, and therefore take account of changes in society and identify the growing emerging problems. Accordingly, some initiatives for supporting sexually abused minors or minor sex offenders have been run as pilot projects (see paragraphs 139 and 329 below).

**(c.1) Flemish Government**

**(i) Mechanisms for coordination between the various competent authorities**

77. The Flemish Government's integrated policy on youth and child rights was given a legal basis by the Decree of 18 July 2008 on the application of a Flemish policy for youth and child rights. At administrative level, the ASCWJV is responsible for coordinating the follow-up of CRC and its protocols, facilitated by contact persons in each administration.

78. The youth policy plan, introduced in 2002, has evolved since the above-mentioned Decree into an plan of action on child rights and is accordingly the ideal instrument for monitoring child rights in Flanders.<sup>17</sup> The

<sup>17</sup> The second Flemish youth policy plan 2006-2009, approved by the Flemish Government on 16 December 2005, already enshrined the objectives and measures of the Flemish plan of action on child rights of 2004 and was subsequently incorporated into the national plan of action. For more information on Flemish youth and child rights policy, please refer to the third report of Belgium on the CRC, paragraphs 13, 19-30 and 294.

implementation of the Protocol discussed in the present report is integrated into both the Flemish plan of action on child rights and the youth policy plan.

79. The Flemish Government monitors the implementation of these objectives on an annual basis in the annual report on the youth and child rights policy to the Flemish Parliament and the Kinderrechtencommissaris (Child Rights Commissioner).<sup>18</sup> In the context of the think tank on Flemish youth and child rights policy, the ASCWJV involves civil society and all the Flemish authorities, via contact persons, in youth and child-rights policy, including the Flemish report on the present Protocol and the activities of the National Commission on the Rights of the Child, vice-chaired by the Agency.

**(ii) The contribution of NGOs and the role of the child mediation service**

80. The Kinderrechtencoalitie Vlaanderen (Flemish Child Rights Coalition) and the Kinderrechtencommissariaat (Child Rights Commissariat) will no doubt each inform the Committee of their efforts and observations in their alternating report. As required by the Protocol, some initiatives are mentioned although no attempt is made to make an exhaustive list.

81. In 2006, the not-for-profit association Kinderrechtencoalitie Vlaanderen chose “violence” as its annual theme following a United Nations study led by Professor Pinheiro. The Coalition has made recommendations on child trafficking, child prostitution and sexual exploitation of children and domestic violence and violence at school and in leisure time (see <http://www.kinderrechtencoalitie.be>).<sup>19</sup> The main Coalition members to have focused their attention on the issues covered by the Protocol are Ecpact Belgium (see <http://www.ecpat.be/>) and Unicef Belgium (see <http://www.unicef.be>).<sup>20</sup>

82. Every year the Flemish authorities circulate information material from the Kinderrechtencommissaris (see <http://www.kinderrechten.be>) to youth and welfare movements and education (see paragraph 59 of the third periodic report of Belgium on CRC). Brochure K-30 (2008) of the Kinderrechtencommissariaat informs children that they are entitled to protection against all forms of violence: physical, psychological and sexual violence, and child trafficking. Reference may also be made to the opinions of the Kinderrechtencommissariaat on zero tolerance of violence against children.

**(c.2) Government of the French-speaking community**

**(i) Mechanisms for coordination between the various competent authorities**

83. The Observatory on Children, Youth and Assistance to Young People (OEJAJ), founded in 1997, has a number of missions, including inventorizing, promoting and supporting policy on children, youth and youth assistance (see the second periodic report of Belgium on CRC, paragraphs 172-173 and the third report, paragraph 34).

<sup>18</sup> See the third periodic report of Belgium on the CRC, paragraph 22.

<sup>19</sup> Kinderrechtencoalitie Vlaanderen asbl, third forum on child rights, *Geweld tegen kinderen* (child abuse), 2006, 10-13.

<sup>20</sup> Since 2001, the Flemish authorities have been subsidizing Unicef Belgium for its involvement in the global action plan for children (New York, 2002 and 2007) and the “What do you think?” project (see the third periodic report of Belgium on the CRC). Since the year 2000, the not-for-profit association Kinderrechtencoalitie Vlaanderen has been receiving subsidies from the Flemish authorities in order to assemble expertise on child rights from within civil society organizations. The alternating report occupies a central position in this context. For 2008, it is an operating subsidy of 105 000 euros, plus a subsidy for projects of 41 000 euros for organizing child rights villages, an initiative whereby the not-for-profit association Kinderrechten, in cooperation with the Kinderrechtencommissaris, visits young people to inform them about child rights (<http://www.kinderrechtendorp.be/>).

84. The setting-up within the OEJAJ of a standing group to monitor CRC<sup>21</sup> was confirmed by decree in 2004. It has the following missions:

- To exchange information and consult on initiatives and projects promoting the implementation of child rights;
- To prepare the French-speaking community's contribution to the drafting of the national report referred to in article 44 of CRC and the three-yearly report drafted by the Government for the Parliament of the French-speaking community;
- To analyse and monitor the recommendations of the United Nations Committee on the Rights of the Child, notably preparing a Community plan of action on child rights;
- To prepare the work of the National Commission on the Rights of the Child.

85. The Births and Children Office (ONE) of the French-speaking community is launching a major campaign to combat child abuse, notably through SOS Enfants teams; it subsidizes and supervises their work. For more information on this subject, see paragraph 138 below.

**(ii) The contribution of NGOs and the role of the child mediation service**

86. In the context of his special mission to receive information, complaints and requests for mediation in cases of violations of children's rights and interests, the Delegate-General of the French-speaking community for child rights may be referred to regarding child victims of the practices proscribed in the Optional Protocol. His action in this type of situation basically consists of referring children to the structures of the youth and child assistance sector that can provide appropriate assistance for their physical and psychological rehabilitation. Where appropriate, he can also report to the judicial authorities the actions of anyone engaging in the practices proscribed by the Optional Protocol. Judicial referral should not be automatic, however. There may be other ways of stopping the violence and handling such situations. The Delegate-General may also make general recommendations for handling such situations. For more information on the missions of the Delegate-General for child rights, see the third periodic report of Belgium on CRC, paragraph 33.

87. CODE – Child rights coordination for NGOs – receives financial support from the French-speaking community and has the principal goal of ensuring that Belgium implements the Convention on the Rights of the Child and of disseminating information, raising awareness and educating people about children's rights. Its missions cover the subject matter of the Protocol. In particular it carried out research on exploitation of children in begging (see paragraph 149 below).

88. Some pilot projects, such as Groupados and the Kaleidos not-for-profit association, were conducted in the French-speaking community specifically to take care of victims of sexual abuse or minor sex offenders. For more information, see paragraph 139 below.

89. The French-speaking community supports associations active in the field covered by the Protocol through regular or occasional subsidies. For instance, it supports the Movement Against Paedophilia on Internet (MAPI). It also supports Le Nid, a pluralist association which offers support to persons linked to prostitution: prostitutes, their

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<sup>21</sup> The Standing CRC Monitoring Group is composed of representatives of members of the Government, the administrations and the ONE, the advisory councils on children, youth and youth assistance, the Delegate-General for Child Rights and non-governmental organizations working in the field of child rights. Representatives of other administrations, notably from Wallonia and Brussels, working with children and young people, the Parliament of the French-Speaking Community and any other person of institution able to contribute expertise may also be invited.

families and clients. The association is recognized by the French-speaking community as a lifelong learning movement. It is subsidized by the Ministry of Youth Assistance of the French-speaking community, the Ministry of Health of the Brussels-Capital Region and the Ministry of Health and Social Affairs of the Walloon Region.

#### **D. Difficulties and future goals**

90. We would restate the objective for the near future, which was set out in paragraph 102 of the third periodic report of Belgium on CRC: “With a view to further intensifying the coordination of the policies applied by the various federal departments on issues affecting children, among others, in matters where several ministers have overlapping competences (such as unaccompanied minors or trafficking in persons and children), a number of measures will be examined, notably the designation of a federal minister coordinating child rights. Furthermore, European and international coordination are clearly important. Belgium will endeavour to step up exchanges of best practice between the Member States of the European Union and to promote the integration of United Nations principles on child rights into European policies, as already happens to a certain extent (establishment of a European forum and approval of texts on child rights)”.

91. The National Commission on the Rights of the Child will invite the competent authorities to take the necessary steps to:

- Improve cooperation between the various bodies responsible for social care of unaccompanied minors (Fedasil, CPAS, shelters organized or subsidized by the Communities) to provide assistance suited to the young person’s situation, in particular effective access to youth assistance and protection facilities;
- Assist the transfer of unaccompanied minors who are potential victims (not previously detected) of trafficking in persons from general care to specialist care. Examine to that end the feasibility of the widespread introduction – as has already been done at certain levels of authority – of a network consisting of one member per Fedasil observation and guidance centre (COO) and one competent youth assistance counsellor. The aim would be to ensure that each young person is offered consultation between the member of the COO concerned and the young persons’ guardian or, failing this, a representative of the Guardianship Service and the competent youth assistance counsellor in order to discuss together the most appropriate form of care, and to support the decision that falls to the guardian in this context.

92. The National Commission on the Rights of the Child will call upon the Bureau of the Interdepartmental Coordination Unit for combating trafficking and smuggling of persons:

- To implement without delay all the points of the national plan of action against trafficking and smuggling of persons, no later than the deadlines laid down in the action plan.
- To consider the advisability and terms of incorporating representatives of the communities and regions concerned by the issue of trafficking and smuggling of persons and other possible partners into the Interdepartmental Coordination Unit.
- To draw up an inventory with the aim of achieving a more coherent operation of all the competent services nationwide, as announced in the national action plan, with special attention for child victims;
- To submit to the interdepartmental Coordination Unit a proposal for the setting-up of a working group involving all the stakeholders in the fight against child trafficking, with a view to drawing up a roadmap coordinating the cooperation and exchange between the players concerned.



- To request the Interdepartmental Coordination Unit to ensure that the CIATTEH becomes operational within the deadlines laid down in the national action plan;
- To submit to the Coordination Unit, in cooperation with the players concerned, a draft cooperation protocol between the police, Fedasil and the special reception centres in order to allow direct referral of (potential) victims of child trafficking to a special reception centre.

93. The National Commission on the Rights of the Child will invite the CIATTEH Management Committee to:

- Examine the feasibility of introducing, at a second stage, after it becomes operational, a cooperation link with the communities and regions, with a view to fostering exchanges of data in general, not only between departments of the same level of competence (such as police and justice), but between all players, at all levels of competence in Belgium (for example also with those working in youth care);
- To submit a proposal to the Interdepartmental Coordination Unit for coordinating the gathering and exchange of data between all the services involved in combating child trafficking.

94. At the invitation of the National Commission on the Rights of the Child, all the competent authorities will take the initiatives necessary to mention the perpetrators as well as the victims in all statistics on the sale of children, child prostitution and child pornography. This will apply to the police (main national database), prosecution services and the courts (registries), which will add codes for “child prostitution” and “illegal adoption” and make the fields for “age of victim” and “age of perpetrator” mandatory. Statistics will also be kept on convictions and cases in progress abroad where there is a link with Belgium.

95. At the invitation of the National Commission on the Rights of the Child, the competent authority will call upon the College of Principal Public Prosecutors to arrange for registration at the Eupen prosecution service.

## II. Prevention of the sale of children, child prostitution and child pornography

96. Article 9.1 of the Optional Protocol stresses the need to adopt a preventive approach in relation to the sale of children, child prostitution and child pornography. Information and awareness (see article 9.2 of the Optional Protocol) play an essential role in this prevention effort. In order to demonstrate clearly the special attention paid by the present report to the special vulnerability of certain children or groups of children to these phenomena, the present section will tackle separately the general prevention measures and the special prevention measures taken by the various levels of authority in Belgium.

97. Recommendation 24(f)<sup>22</sup> of the concluding observations of the United Nations Committee on the Rights of the Child on the second periodic report of Belgium on CRC relates to the strengthening of the reporting system, and the training of persons working with minor victims. The measures to monitor this recommendation consist of launching a number of initiatives in this respect, such as training for professionals, establishing civilian points of contact and electronic management of dossiers allowing a rapid exchange of information between services (such as between police forces or services within youth assistance). These initiatives are described in paragraphs 98, 101, 102, 106, 110, 111, 112, 130, 131, 132, 150, 152, 153, 200, 210, 211, 306 and 315.

<sup>22</sup> “Strengthen the reporting system, through full support of the confidential centres for abused children, and train teachers, law-enforcement officials, care workers, judges, and health professionals in the identification, reporting and management of cases of ill-treatment.”

## A. General prevention

### (a) National level

98. The Belgian Safer Internet project, coordinated by Child Focus (see paragraph 40 above), is part of the European Commission's Safer-Internet-Plus programme and brings together all partners able to work at national level for a safer internet. One of the goals of the Belgian Safer Internet project is to ensure that minors are safe on the internet, by means of studies, awareness campaigns targeting a broad audience and other action.

99. The platform's website targets the most serious dangers that children and young people can be exposed to, on the internet and other communication channels such as mobile phones, SMS messages, etc.: child pornography, discrimination, sects, internet games, malware, etc. The website is being built in three main phases. The first phase is already complete and is aimed at parents and teachers. Teaching cards are available for the teaching profession. An information kit has been put together for families with children aged 6 to 12. It consists of a guide for parents and a light-hearted brochure for the whole family that tells the story of Céline and Julien explaining how to surf safely to their baby-sitter Camille. Parents and children can read it together. The safety kit contains useful information on how to make a computer secure, entertainment and downloading, online communication and cyber-harassment. In the manual for parents, they receive basic information and advice for supervising their child.

100. A campaign was launched in December 2002 on the prevention of sexual exploitation of minors over the internet. The aim is to alert young internet users, their parents and the teaching profession about the dangers of using unsecure internet. The campaign is an initiative of the Minister of Justice, the Flemish Minister for Education and Training, the Federal Computer Crime Unit of the Federal Police, Child Focus and VT4 (a commercial television channel). The campaign urged secure use of the internet, notably via TV spots, posters and a dedicated site: [www.clicksafe.be](http://www.clicksafe.be).

101. Since 2003, some federal authorities (Home Affairs, Defence and the Federal Police), non-governmental organizations (Ecpat, Child Focus, Plan Belgique) and private- and public- sector businesses are working together to prevent child prostitution. This cooperation agreement was recently extended to include the Justice FPS (Crime Policy Service) and Development Cooperation (FPS Foreign Affairs, Foreign Trade and Development Cooperation). In this context, it was also agreed to talk about "travelling abuse" rather than child prostitution. This is a unique cooperation exercise between several authorities and businesses aimed at prevented "travelling abuse".

102. In 2004 and 2005, an awareness campaign was conducted against sexual exploitation of children. It was an initiative of the Federal Police and Ecpat Belgium in cooperation with Child Focus and some private- and public-sector businesses.<sup>23</sup> A brochure and a web site [www.stopprostitutionenfantine.be](http://www.stopprostitutionenfantine.be) ([www.stopkinderprostitutie.be](http://www.stopkinderprostitutie.be)) were produced for a wide audience. Besides its general objective of prevention, information and awareness, this campaign also laid emphasis on reporting incidents of sexual exploitation of children abroad. The campaign aimed to encourage the public to open their eyes and ears and to report incidents of child abuse, at all times and in all places, even if they occurred during a stay abroad where child prostitution is tolerated or rooted in local traditions. The campaign is addressed not only to tourists but also to anyone staying abroad for short or longer periods for business reasons. Never before has such an ambitious campaign, involving both private and public sectors, been launched in Europe. The cooperation continued and a new campaign was launched in 2007. A new poster and a new brochure were produced for it. In 2007, a European conference was organized on the theme of "travelling abusers in Europe". By bringing together the travel industry, NGOs and the police forces, the aim was to optimize cooperation between the various services.

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<sup>23</sup> The national railway company (SNCB/NMBS), the Defence FPS, the Foreign Affairs FPS, the Royal Belgian road haulage and logistics providers federation, the Federation of the Tourism Industry, the Economics Department of the Galilée High School, the National Lottery and NOW.be.

103. Each partner also took initiatives within its own organization:

- The initiative taken by FPS Foreign Affairs, Foreign Trade and Development Cooperation is described below (see paragraph 105);
- Both the “trafficking in persons” service of the Federal Police and ECPAT contributed to the annual training sessions of the diplomatic staff by means of a presentation of the issue of sexual exploitation of children;
- The armed forces circulated brochures and posters of the prevention campaign to all units. In 2005, the armed forces presented the cooperation link to the NATO-Russia Council working group on peacekeeping. Cooperation with the Federal Police was stepped up in 2001 by the signature of a memorandum of understanding on trafficking and smuggling of persons. Under that MoU, the armed forces undertake to focus more, during operational engagements abroad, on phenomena linked to trafficking and smuggling of persons (especially sexual exploitation of children) and to report them to the Federal Police. The Federal Police undertakes to organize information sessions on the context of the MoU and on the forms of trafficking and smuggling of persons (an important one being the sexual exploitation of children) which soldiers may encounter in the countries where they are serving;
- These information sessions are organized every time a new detachment of the armed forces leaves for Kosovo, Afghanistan, Lebanon or Chad.

104. Finally, we would refer the reader to the Unicef “What do you think?” project and other awareness campaigns that Unicef conducts in the Flemish and French-speaking schools. Child trafficking is also one of the themes tackled in a mini-guide designed to stimulate debate in schools. In the province of Limbourg, several schools are working with the NGO “Stop the Traffik” ([www.stopthetraffik.org](http://www.stopthetraffik.org)).

**(b) Federal level**

**(i) Initiatives to combat the sexual exploitation of children**

105. Since December 1995, the Ministry of Foreign Affairs has been drawing the attention of all diplomatic posts and consulates, via an official circular, to the existence of penal provisions on extraterritoriality in relation to sex tourism. The representations must systematically request a police report if a Belgian is arrested for sexual abuse of a minor under 16 years of age. The representation is bound to notify the department in Brussels, both of the arrest and of the progress of the legal proceedings. All this factual information should enable the Belgian judiciary to assess whether it is competent to act based on the principle of extraterritoriality. The Minister for Foreign Affairs has also instructed embassies and consulates abroad to ask local authorities to keep them informed of any sexual abuse committed against Belgian minors.<sup>24</sup>

106. In January 2008, officials of the Aliens Office responsible for this matter were trained in the Belgian approach and policy regarding trafficking in persons.

107. New training modules for police officers were introduced in February 2007. The new basic training programme for officers aims to teach them several important social skills for making contact, communicating or acting in the context of a dispute. This part of the training is designed to enable the prospective officer to assess correctly certain cultural influences when communicating with ethnic or cultural groups.

<sup>24</sup> Taken from the first periodic report of Belgium to the United Nations Committee on the Rights of the Child, 1999, points 11 onwards, available on this website: [http://www.oejaj.cfwb.be/article.php?id\\_article=42](http://www.oejaj.cfwb.be/article.php?id_article=42).

108. The new basic training programme for inspectors devotes 14 hours to action and observations in the event of racism or discrimination. The prospective officer learns to distinguish the various causes and also the prejudices regarding racism and discrimination (based on race, gender, political or religious convictions, etc.), the need to apply existing legislation and to explain it in a multicultural context, and the need to act appropriately. A training module has also been developed on the right to asylum, human rights and internal and external communication.

109. Furthermore, the Law of 25 March 2003, amending the Law of 8 August 1983 setting up a national register and the Law of 19 July 1991 on population registers and identity cards, introduces an electronic identity card, thereby ensuring more transparency for the authorities and citizens. It is possible to obtain free of charge an internet access card for use by children aged 12 and above, containing the data from their electronic identity card. This card enables the owner of a “chatbox” to check whether the users are really minors rather than adults trying to contact young people with malicious or deceitful intent.

#### **(ii) Initiatives to combat child pornography**

110. Child Focus has set up a civilian contact point in Belgium for child pornography. Any child pornography material can be sent there. It can be reported via the website [www.stopchildporno.be](http://www.stopchildporno.be). This civilian contact point was set up under the European Commission’s “Safer Internet Plus” initiative and the Belgian Safer Internet project.

111. Child pornography can also be reported to the police forces. The official contact point of the Federal Police is: [www.ecops.be](http://www.ecops.be). It is run by the Federal Computer Crime Unit (FCCU). The FCCU groups together the reports with a Belgian connection and sends them to the central “trafficking in persons” service. This service notifies the police of any report of sexual exploitation. This concerns both notifications to the FCCU via eCops and those from Child Focus. A cooperation agreement governs exchanges between Child Focus and the police and judiciary (see paragraph 69 above).

112. The central “trafficking in persons” service is also the judicial entry point for all reports of sexual exploitation of children not sent via eCops, such as reports by mail or telephone.

113. Since January 2008, a team of the central “trafficking in persons” service has been constantly browsing the internet to collect all possible information on the forms of trafficking and smuggling of persons and, essentially, trafficking and smuggling of children. It also pays special attention to sexual exploitation of children.

114. In 1999, agreements were also reached under cooperation arrangement between the Belgian judiciary and the access providers belong to the Belgian Internet Service Providers Association (ISPA). In this way users can directly report any illegal content either to the Federal Police or to the access provider’s own contact point. The latter can report the required information and so give the Federal Police the opportunity to examine the case.

115. The FCCU went through Second Life with a fine-tooth comb looking, among other things, for child pornography (visual representations). For the time being this is an exploratory mission searching for child pornography or other criminal offences.

#### **(iii) Initiatives to combat illegal adoption**

116. The Central Federal Authority (ACF) of the Justice FPS has the goal of preventing illegal adoptions, making as many prospective adopters as possible aware of the adoption procedure applied in Belgium. A leaflet in the three national languages and a more detailed brochure (in Dutch and French) are available to explain the various aspects of adoption. Moreover, the service also sends reports to the central authorities of the Communities upon request. These opinions are based on experience gained with certain countries of origin. Finally, we would point out that, following a change in the law in 2005, a memo was sent to all Belgian embassies to inform them that Belgian visas

or passports would no longer be issued unless they were approved and registered by ACF. Civil-registration officials were informed of the new rules by means of a circular.

**(c) Federalized institutions**

**(c.1) Flemish Government**

*Dissemination of information*

117. As explained in paragraphs 217-219 of the third periodic report of Belgium on CRC, the Flemish Government attaches great importance to putting in place a policy of accessible and detailed information on minors, notably via the Vlaams Informatiepunt Jeugd (Flemish youth information point) and by subsidizing<sup>25</sup> the Kinder- en Jongerentelefoon (Child and youth helpline) and the not-for-profit associations Kinderrechtswinkel and In Petto (<http://www.inpetto-jeugddienst.be/>).<sup>26</sup> In 2006, the Kinder- en Jongerentelefoon prepared its own information guide for 12-year-olds (and another in 2008 via the Vlaams InformatiePunt Jeugd). It warned them against “loverboys” (<http://www.life1215.be/html/ikendeander/relatiesenseksualiteit/kijkuitvoorloverboys/>). In the same context, the Kinderrechtswinkels (Child rights shops) offer an information guide for 12-year-olds and In Petto has prepared a guide for 18-year-olds. These all mention the websites (<http://www.jongereninformatie.be/> and <http://www.kidsgids.be/>).

*Sex education*

118. The subsidies granted to Jeugd en Seksualiteit (youth and sexuality) (<http://www.jeugdoseksualiteit.be/>) and the Kinderrechtenhuis (Child rights centre) in Alken (<http://users.pandora.be/kinderrechtenhuis>) are examples related to the specific subject matter of the Protocol. Jeugd en Seksualiteit offers children and young people - and persons working with them - information, services and training on how to enjoy a happy and healthy sex life. The Child Rights Centre in Alken offers training in child rights and is a dynamic centre (using the empowerment method) offering services to children, young people and anyone working with this target group, and as a project centre.

119. The Flemish health policy includes Sensoa, the centre for expertise on AIDS and sexual health. The main aim of the association, regarding the subject matter of the Optional Protocol, is to warn children by publishing articles about sexual violence and conducting projects with children and young people on deviant sexual behaviours, to help them tackle this kind of situation. “Over de grens” (over the limit), published in 2008, is a guide on deviant sexual behaviour for parents, educators and persons looking after children. It can be consulted at the following address: [http://sensoa.be/downloadfiles\\_shop/algemene\\_gids\\_grensoversch\\_r\\_gedrag.pdf](http://sensoa.be/downloadfiles_shop/algemene_gids_grensoversch_r_gedrag.pdf).

<sup>25</sup> Subsidies of 2 945 000 euros in 2008 for initiatives relating to participation, information and communication with and for Flemish young people.

<sup>26</sup> This not-for-profit association aims to collect signals of “ill-being” sent out by young people and use these signals to improve the well-being of all young people. In this context, In Petto considers that information to and participation of young people play a central role. It organizes consultation and a variety of action, such as “youth counsellors”, “improvement groups”, “peer questioning”, etc.

*Tourism*

120. Pursuant to the new Decree of 2 March 2007 on the status of travel agencies (Belgian Government Gazette, 5 April 2007), Flanders is devising its own draft code of conduct containing a clause on child prostitution. In order to obtain the required opinions, the Flemish Government has agreed in principle to the inclusion of the following provision in the implementing order of the Flemish Government of 19 July 2007:

*“Section VI. Provisions relating to the code of conduct*

*Article 31 bis. License-holders are bound: (...) 2. to refuse to work on travel involving unlawful practices, notably child prostitution and trafficking in persons; 3. to subscribe to the principles of sustainable tourism, as defined in the Global code of ethics for tourism”.*

121. The Global code of ethics for tourism was officially signed in 2008. Flanders thus undertakes to inform tourism businesses of the principles of the code. One of the 10 principles of the Code, Tourism as a vehicle for individual and collective fulfilment, also covers the fight against trafficking in children and child prostitution: “Tourism activities should respect the equality of men and women; they should promote human rights and, more particularly, the individual rights of the most vulnerable groups, notably children, the elderly, the handicapped, ethnic minorities and indigenous peoples. *The exploitation of human beings in any form, (...) conflicts with the fundamental aims of tourism.*”

122. In 2006, the training service of the Toerisme Vlaanderen agency also devised the syllabus “Vorm-de-vormers-cursus voor reis(bege)leiders en gidsen” (Training trainers – course for tour leaders and guides). It draws attention to the relationship between the sex industry (in particular trafficking in children and child prostitution) and the travel industry.

123. The Toerisme Vlaanderen agency is responsible for implementing Flemish tourism policy. The service has hired a project leader in the field of sustainable tourism who also incidentally deals with the issue of child prostitution. The Toerisme Vlaanderen agency is informed by ECPAT of its campaigns. The agency has also undertaken to promote these campaigns with Flemish tour operators. Each professional association of tour operators also has direct contacts with ECPAT. Most tour operators have included rules on this issue in their code of conduct.

*Well-being, public health and the family*

124. On 8 October 1998, the Flemish community concluded a cooperation agreement with the Federal Government on the support and treatment of sex offenders.<sup>27</sup> The aim of this cooperation agreement is to prevent reoffending and help them to reintegrate into society without being stigmatized. The Flemish community has approved specialist structures which have undertaken to support and treat sex offenders, under judicial supervision, in mental health centres (CGGs) and general social assistance centres (CAWs). The figures (see paragraph 50 above) of the support committee show that the structures for support and treatment of sex offenders in Flanders are still treating many people who download child pornography but few clients of child prostitutes.

*Quality sport for young people*

125. The Flemish authorities are aware of the abuses that may take place in the context of young people engaged in sporting activities. It is also important to prevent all practices that might foster trafficking in children. It therefore attaches great importance to the integration of ethical principles, including child rights, into sporting activities for

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<sup>27</sup> Decree of 2 March 1999, Official Government Gazette, 11 September 1999.

young people. The “panathlon” declaration<sup>28</sup> is an example of this. The Flemish Government has also decided to extend, by means of a decree, medically safe sports to include ethically justified sports. In a competitive environment, such a prevention policy is important to prevent child abuse, including sexual abuse.

126. Based on the work of the working groups at the symposium “Sport op jongerenmaat” (Sport for youth), held in 2006, 10 measures were taken to make sport more open to young people. These measures are listed on the website [www.sportopjongerenmaat.be](http://www.sportopjongerenmaat.be). In particular, there is an undertaking to create an independent contact point for victims of abuse in sport, and to work towards the extension of the decree on medically justified sports practice and the decree on sports federations, by introducing safeguards for the mental and physical integrity of children and young people.

#### *Media, internet and education*

127. Regarding the audiovisual policy of the Flemish authorities, we would first refer the reader to paragraph 220 of the third periodic report of Belgium on CRC. Firstly, it provides for protection measures. For instance, broadcasters may not transmit programmes liable to have an adverse effect on the physical, mental or moral development of minors, notably programmes including scenes of pornography or gratuitous violence. This prohibition applies unless programming times are chosen or technical measures introduced to prevent minors from seeing or listening to these programmes in normal circumstances. If such programmes are broadcast without encryption, they must be preceded by an audible warning. These measures are a transposition of the provisions of the EU “Television without Frontiers” Directive. The Vlaams Commissariaat voor de Media (Flemish Commissariat for the Media) was set up to check that these provisions are being complied with, by a decree of 17 December 1997.

128. In elementary education and the first degree of secondary education, a new final extracurricular objective was introduced in 2007 for information and communication technology (ICT) regarding the safe, justified and effective use of ICT (do not open dubious e-mails, do not download illegal software, do not give personal data to strangers, etc.).

129. To support the teaching profession in its mission to teach children and young people how to use the internet, a major campaign was launched in autumn 2007 in cooperation with the experts and organizations involved in Safer-Internet (see paragraph 98 above). Teachers, management and ICT coordinators in all schools received a brochure containing up-to-date information, advice, course materials and guidelines on the safe use of ICT at school, and a related CD-ROM containing five educational modules on specific themes for use in a lesson, short awareness-raising films, brochures on various aspects of safe use of ICTs and an exhaustive list from several organizations entitled “Is my school cybersafe?” and an example of an agreement between the school and pupils on the use of ICT equipment. Moreover, a Sensoa educational module on the internet and sexuality is available ([http://www.sensoa.be/downloadfiles\\_shop/seks\\_en\\_internet.pdf](http://www.sensoa.be/downloadfiles_shop/seks_en_internet.pdf)) and reference may be made to the website [www.gezinsbond.be/veiligonline](http://www.gezinsbond.be/veiligonline) (for parents) which is funded by the Education Administration and developed on the basis of Safer Internet (see paragraph 98 above). The Education Administration, with the permission of the Dutch Ministry of the Economy, has also made a Flemish version of the highly successful “Diploma Veilig Internet” (safe internet diploma), which teaches young people of various age groups computing knowledge and skills, safe browsing and chatting, etc. A website has been developed to help teachers, parents, staff at pupil care centres!, health coordinators, etc. to improve their capabilities for protecting children (<http://www.ond.vlaanderen.be/weerbaar/>).

<sup>28</sup> The panathlon declaration was signed by over 200 sports federations, sports clubs, youth organizations, schools, businesses, individual teachers and trainers, provinces and municipalities, both Flemish and Belgian, with the Flemish authorities.

*Training for professional social caseworkers*

130. Kind en Gezin has prepared guidelines for the members of its regional team (regional nurses and family carers) on reporting and action in educational situations of concern, especially with a view to clearly delimiting responsibilities, so that educational situations of concern can be detected quickly and an appropriate support solution offered without delay. The guidelines are explained in a training course lasting 2-1/2 days. Cooperation between the regional teams and doctors and consultation surgeries!, support by key personnel, retraining by means of an e-learning module on the themes (and continuous training in future), stimulate their implementation.

131. In 2007 the not-for-profit association Steunpunt Algemeen Welzijnswerk (subsidized by the Flemish authorities) organized two training courses on the treatment of traumas for social caseworkers working in general social care. In mid-2008, training was given on social care for young people who had been victims of a single sexual attack. In the near future, spending will be stepped up on “social care for children and young people” and “victimology of traumatic events”, themes laid down in the Steunpunt training agenda. Moreover, social caseworkers regularly have recourse to commercially available training on subjects such as treating grief and trauma in children and young people.

**(c.2) Governments of the French-speaking community and the Walloon Region***Dissemination of information*

132. A brochure “Prostitution in a minor mode” was published and sent to youth care professionals. The brochure, and the research mentioned above, can be downloaded from the website at [www.carrefoursaj.be](http://www.carrefoursaj.be). Soon after, on 15 May 2007, a symposium was held entitled “Prostitution in a minor mode: appropriate social responses”. The proceedings of the symposium can be downloaded from the same website.

133. In the French-speaking community, there are a number of provisions and services designed to inform young people in the broad sense and also to inform them about their rights. Thus, the telephone help lines for children in the French-speaking community which were originally a service for professionals to listen to children experiencing abuse, grew into a more general prevention effort for all young people needing it. For more information on line 103, please refer to paragraph 223 of the third report of Belgium on CRC. The youth information centres, a central player in the Decree on youth centres, are decentralized services which aim to obtain young people’s approval for the information and information tools in order to be pluralist, independent and exhaustive. They carry out two functions: replying to immediate questions; and encouraging young people to become aware of the social, cultural, economic and political factors in their lives. The main goal of the Youth Rights Services (SDJ), recognized as an assistance service in an open environment, is to teach young people and families more about their rights. If necessary, the SDJ take action with institutions, thereby facilitating procedures in or out of court. The SDJ fight for a society that is more respectful of the rights of children, young people and families.

*Education in emotional and sex life*

134. In the Walloon Region, the tasks of the family planning centres in connection with relationships and emotional and sex life include caring for, informing and supporting individuals, couples and families, and the development of a prevention policy.

135. In the French-speaking community, there are currently two programmes covering emotional and sex life:

- The setting-up of teams for education in relationships, emotional and sex life, initiated by three-year pilot projects. The objective was to provide a point of contact in schools so that pupils could address and consider emotional or sexual issues, or topics such as violence between partners (their parents or at school);



- A call for projects was launched jointly by the Walloon Region, Cocof and the French-speaking community with the aim of extending the services provided by the family planning centres to secondary-school pupils. They will address issues such as violence or free choice of partners. Overall, these events will help to develop a positive view of relationships and emotional and sex life. Investments of 165 000 euros have been made in this project.

136. In this connection, a working group was set up to consider a cooperation agreement designed to foster widespread take-up of these events. It is composed of representatives of the ministers concerned: the ministers of the French-speaking community responsible for health, education and equal opportunities, and the ministers responsible for supervising the planning centres for Cocof and the Walloon Region.

137. A series of publications by the unit for coordinating assistance for victims of abuse for the general public look at issues such as sex and emotional life from the point of view of respecting intimacy and distance. Similarly, the book entitled “Talking about sex with children” is a working tool available to professionals working with children.

#### *Children, young people and youth assistance*

138. The Births and Children Office (ONE) of the French-speaking community is launching a major campaign to combat child abuse, through medical and social workers and also SOS Enfants teams; it subsidizes and supervises their work. Together, they form “Action Enfance Maltraitée” (Action against child abuse), coordinated by the SOS Enfants service. The Support Committee for Abused Children (CAEM) is the internal scientific reference point of the ONE for all matters concerning assistance to abused children and the SOS Enfants teams. The data gathered each year by the SOS teams are published in the ONE annual report.

139. The youth assistance services of the Communities take care of minors in danger. In particular, certain pilot projects have been set up specifically to take care of the victims of sexual abuse or minor sex offenders. For example, Groupados is a special unit of the SOS Enfants team of the ULB (Université Libre de Bruxelles) at the Saint Pierre University Hospital set up in 2001 to handle adolescents with sexually abusive behaviour. In view of the importance of the project and the issues for young people, the unit also set up a research facility. The Kaleidos not-for-profit association was founded by the parent association Parole d’Enfants which provides clinical care for child victims of sexual abuse.

#### *Media, internet and education*

140. The unit for coordinating assistance for victims of abuse has published two discussion papers for professionals working on child abuse, which help to understand the consequences of excessive media coverage and the growth of the virtual world on child development. Indirectly therefore, these working tools enable professionals offering assistance to victims of abuse to send out strong messages for preventing the practices proscribed by the Optional Protocol, notably the risks for minors of being exposed to pornographic images or individual or networks of paedophiles. The materials consist of two discussion papers entitled “l’enfant face aux médias: quelle responsabilité sociale et familiale?” (children and the media: our social and family responsibility) and “les dinosaures au pays du net” (dinosaurs in cyberspace).

141. The French-speaking community is implementing measures in the broadcasting and media services to ban the production and broadcasting of material publicizing proscribed practices regarding the sale of children, child prostitution and child pornography. It takes over and strictly applies national, federal and Community rules (articles 9 and 10 of the Decree on broadcasting) regarding the total ban on advertising for child pornography.

142. In line with that policy, Article 7 of the Order of 13 October 2006 approving the management contract of the Belgian French-speaking radio and television company (RTBF) for 2007-2011 provides that “RTBF undertakes in general not to produce, co-produce, buy, programme or broadcast unlawful audiovisual programme content”. It

also stipulates that the *“the authorization and monitoring panel of the Supreme Broadcasting Council shall ensure that broadcasting laws, decrees and regulations are duly complied with and shall prosecute any infringements”*.

143. Following the entry into force on 1 January 2005 of the new television station particulars, in the same year the General Audiovisual and Multimedia Service published *“Les préhistos jouent aux logos”* (The cavemen play at logos), a comic strip for children aged 8 to 12 and accompanied by an information leaflet for use by parents and teachers, and in 2006 *“Les pratiques publicitaires à la télévision – Quelques questions”* (Television advertising practice – some questions), a publication for the general public.

144. The Supreme Broadcasting Council (CSA) is the broadcasting regulatory authority. It also delivers opinions and adopts recommendations. These include the code of ethics for broadcasting advertising to children, intended for both television and radio broadcasting producers, and the recommendation of 21 June 2006 on the protection of minors. In the code of ethics for broadcasting advertising to children, the television stations undertake to abide by certain principles regarding advertising intended for children. In 2007 the CSA’s Opinions Panel adopted a new code of ethics for broadcasting advertising to children. The new provisions of the regulations aim to protect children from certain psychological effects of advertising messages such as those linked to children in sexual poses or attitudes or related to excessively insistent demands. They also stress the importance for certain advertising content or practices (characters, play, sponsorship) of the principle of the separation between advertising and programmes immediately before or immediately after broadcasts for children. They recommend a buffer zone of five minutes on either side for specific advertising messages not intended for children aged under 12.

145. The code adopted has no binding force. It was however debated and adopted by the stakeholders concerned.

146. The protection of minors and the associated concepts vary over time and space. This explains why they are not defined in either the Decree or the Television without Frontiers Directive. It is for the regulator to apply these concepts to resolve the questions and difficulties of service provider. The Recommendation of 21 June 2006 on the protection of minors was issued in that perspective.

147. The French-speaking community has shown a great deal of interest in the issue of protecting children from illegal or harmful information on the internet. It first aimed to develop measures to ensure the education and development of socially responsible and critical attitudes in the use of information and communication technology (ICT) by young people. One example is the ICT passport which has the objective of lower-secondary-school pupils acquiring minimum computer skills. In particular this teaching project offers a learning module entitled *“Adopting a socially responsible attitude to computer tools and data”*. It also focuses on developing its training courses for teachers in new technology. The courses offered include education in the media and the development of socially responsible attitudes on the net. The French-speaking community’s official site ([www.enseignement.be](http://www.enseignement.be)) also offers a wealth of information on the use of these new technologies by young people and teachers. Finally the French-speaking community offers interested schools a powerful filtering system which does not hamper the way young people use the internet. Filtering is one possible response to the issue of protecting young people on the internet, educating them being another.

#### *Research*

148. The Minister for Childhood, Youth Care and Health in the French-speaking community has commissioned a pilot project in cooperation with not-for-profit associations working in the field in order to assess the extent of child prostitution and to obtain appropriate recommendations on the issue. The study, entitled *“young prostitutes and social responses: an inventory”*, was carried out by Myriam. It presented its conclusions and recommendations

during 2006 and is therefore a working tool for improving policy and action on child prostitution (see paragraph 55 above).<sup>29</sup>

149. CODE (see paragraph 87 above), which is subsidized by the French-speaking community, has completed research on the following in particular: a research project on the development of a social response to the issue of child begging in Belgium (Brussels, 2003), and a pilot research project on raising awareness among the public authorities of the Roma community and school integration of Roma children (Brussels, February-July 2004). These two research reports can be downloaded from the CODE website ([www.lacode.be](http://www.lacode.be)) under the heading "Publications". In this context, CODE has looked into the issue of networks in Belgium and the relevance of the existing legislation to combat any use of a child in begging. According to information received in 2003 and 2004 during two research projects conducted by CODE with the competent authorities and grass-roots associations, most minors begging in the French-speaking community and the Brussels-Capital Region are foreign minors accompanied by their parents or family members in the broad sense, originating from central or east European countries or of Roma origin. Some of them are unaccompanied minors from the same countries, but they are a minority. Most of them are not legally entitled to stay in the country and receive no social welfare benefits (or social assistance). Begging is therefore an everyday means of survival for them. Neither of these two research projects was able to demonstrate the existence of child begging networks.

#### *Personnel training*

150. Training of SOS Enfants teams:

- Two training days took place in 2005, two in 2006 and two in 2007, on the theme of diagnosing abuse in very young children in SOS teams;
- Peer supervision by profession: 24 days (4 days per profession) in 2006 and 2007.

151. These working groups had the objectives of exchanging experience on the diagnostic tools each one used and highlighting the clinical signs, knowledge and specialist knowledge on abuse peculiar to each. These exchanges should also enable each professional group to take stock of the developments in each function since the teams were founded, the specific nature of that function within the multidisciplinary team and also to work on each individual's representation, based on his or her place as a member of the SOS Enfants teams.

152. Some 15 training groups were made permanent in 2004, bringing together players in the various structures that have a role in the field of abuse. They are organized in the judicial districts of the French-speaking community. Specifically, it involves setting up multidisciplinary cross-cutting training groups at local or regional level (10 sessions). Alongside the "general" groups described above, other more specific groups are organized:

- culture and abuse;
- theoretical and practical aspects of voluntary assistance;
- working group for professionals in youth care services (SAJ) and SOS-Enfants teams.

153. In 2005, the Agora group, composed of members of associations, representatives of the central administration, a representative of the minister responsible for youth care, delegates of the SAJ and judicial protection services (SPJ), youth-care counsellors and directors, drafted a paper on the first contact between a family and an SAJ. This paper highlights the conditions required to build a forward-looking partnership with families. It was widely

<sup>29</sup> Can be consulted at <http://www.aidealajeunesse.cfwb.be/ajss-pro/les-etudes-soutenuesnbspsanpar-la-direction-generale-de-laide-a-la-jeunesse-span/>.

circulated in the youth care sector after a symposium. It is used as a reference for the seminars that the administration regularly holds with youth care counsellors and directors with a view to harmonizing practices, and as a basic text in training organized for the sector.

154. In 2007, the Agora group continued its monthly meetings focusing essentially on exchanges on the initial contact of young people and families with the judicial protection service.

155. The group discussed the sense of grave danger and powerlessness that parents feel on account of the judicial procedure and the use of force.

156. Lectures and study workshops, along with an annual seminar, have also been organized in the French-speaking community since 2005, in partnership with professional field workers.

### **(c.3) Government of the German-speaking community**

157. The main relevant legislative text in the German-speaking community is the Decree on youth care of 20 March 1995.

158. Article 4 of the Decree of the German-speaking community on broadcasting and cinema performances of 27 June 2005 prohibits *“open-loop television broadcasters, radio broadcasters and providers of services other than television and radio from broadcasting (...) material liable seriously to harm the physical, mental or moral development of minors, notably any containing pornographic scenes or gratuitous violence. This provision also covers other programmes liable seriously to harm the physical, mental or moral development of minors, unless the timing of the broadcast or other technical means are used to prevent minors viewing or listening to this material in normal circumstances. Furthermore, where such broadcasts are transmitted free-to-air, they shall be preceded by an acoustic signal and shall be identified throughout the broadcast by optical means.”*

159. Article 5 of the decree on youth care of 19 May 2008 which will enter force on 1 January 2009 provides for the setting-up of a youth care support committee with the main task of prevention in youth care and holding a forum on youth care every two years. The support committee will be coordinated by a Ministry official working in cooperation with the Ministry’s departments of education, health and youth.

### **(c.4) Government and Colleges of the Brussels-Capital Region**

160. Aware of the need for a public policy for the reception of new arrivals in the Brussels-Capital Region, the ministers of the College responsible for assistance to individuals together commissioned a study on the subject with a view to drawing up an inventory of the existing provisions, assessing needs and making recommendations. The study, conducted by Nathalie de Wergifosse, project leader at CIRE, is exploring a number of avenues to devise approaches that take account of the situation in Brussels and to propose a coordinated public policy for new arrivals. A number of initiatives have already been implemented, and the opening-up of an overall debate on the policy to be adopted for new arrivals will help to coordinate policy for Brussels.

## **B. Special prevention – vulnerable children**

161. Recommendation 30(e)<sup>30</sup> of the concluding observations of the United Nations Committee on the Rights of the Child on the second periodic report of Belgium on CRC is to undertake awareness-raising campaigns in countries of origin and transit. The measures to follow up this recommendation consist of launching several programmes to that end. They are described in paragraphs 163, 164, 165, 166 and 167.

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<sup>30</sup> “Continue to undertake awareness-raising campaigns in countries of origin.”

162. Recommendation 30(f)<sup>31</sup> of the concluding observations of the United Nations Committee on the Rights of the Child on the second periodic report of Belgium on CRC is to expand cooperation with countries of origin and transit. The measures to follow up this recommendation consist in this case of launching several international programmes to that end. They are described in paragraphs 163 and 166.

**(b) Federal level**

**(i) Prevention programmes in countries of origin**

163. In this multilateral context, Belgium has been funding two Unicef programmes for several years by means of a voluntary contribution:

- The West Africa programme to combat child trafficking which targets trafficking in persons in Mali, Niger, Togo and Ghana. The aim is to strengthen national capabilities to prevent child trafficking and make a response to it. Unicef is also endeavouring to devise indicators to help seek and encourage the signature of bilateral agreements in the region. The assessment of this programme will be completed in 2009;
- The project to combat sexual abuse of children in Peru, which began in response to a specific request made by the Peruvian Government in the joint commission of April 2005. The programme aims to stimulate protection for child rights and also deals with the reception of victims of violence and their reintegration into society. This project will be assessed during 2009.

164. In the context of the prevention of child labour, specific programmes have been funded in Morocco and set up by ILO, Unicef and Moroccan NGOs (AMESIP, AKDER). In particular this includes an International Programme on the Elimination of Child Labour (IPEC) which specifically targets children working in Moroccan craft trades. This has enabled several children under 15 years of age to leave the circuit and receive appropriate training.

165. Many minors have been abandoned and hence have become street children in the Democratic Republic of the Congo (RDC). With the help of Belgium, IOM has launched a special programme in RDC to help them return to a family environment on a sustainable basis.

166. The Directorate-General for Development Cooperation (DGCD) has a specific budget line for supporting decentralized bodies. The section on the partnership in RDC relates in particular to setting up civil status registers. The programme is part of the extension of the consolidation of experience acquired in Lubumbashi and Kinshasa. A five-year programme for 2008-2012 is being prepared covering the towns of Kinshasa, Lubumbashi, Kalamu, Kasa Vubu, Massina, Limete, Ngaliema and Mbanza-Ngungu (also the district). At the end of this five-year period, the registers will include 50 per cent of the population of these towns. This programme basically responds to the recommendations made by the Belgian Senate to set up registers to enable the children to benefit from legal recognition and to help combat child trafficking.

167. Support was also given to a programme of common radio rooms that Unicef has launched in several African countries. Its main aim is to provide schooling and promote child rights.

168. The strategic note "Respecting Child Rights in Development Cooperation", presented to the Federal Parliament in 2008, mentions a number of measures and practices for protecting children in Belgian Cooperation partner countries against situations of abuse, whether trafficking, prostitution and pornography, or other forms of exploitation such as dangerous forms of child labour. These measures include registering births, schooling, the right

<sup>31</sup> "Expand cooperation with countries of origin and transit."

to food security, combating impunity, protecting victims of trafficking, combating the recruitment of child soldiers and protecting children in armed conflicts.

169. We would refer the reader to paragraph 616 of the third periodic report of Belgium on CRC for information on Belgium's contribution of 731 000 euros to the IPEC programme between 2001 and 2005.

**(ii) Prevention campaigns designed to consolidate the status of women and children**

170. In accordance with the law of 25 May 1999, the main goal of Belgian international cooperation is to realize sustainable human development by combating poverty.

171. Belgium works by applying the partnership concept and based on criteria of the relevance of development. A specific strategic note was drafted on equal opportunities for men and women. It is looking into possibilities for integrating it into national strategies for combating poverty.

**(c) Federalized institutions**

**(c.1) Flemish Government**

172. "Jongeren tegen onaanvaardbare kinderarbeid" (Young people against unacceptable child labour, [http://docs.vlaanderen.be/ontwikkelingssamenwerking/se\\_projecten.html](http://docs.vlaanderen.be/ontwikkelingssamenwerking/se_projecten.html)) is an education for development project subsidized pursuant to the Decree of 2 April 2004 on education for development (see paragraph 67 of the third report of Belgium on CRC).

173. Staff at the Child rights centre in Alken offer a range of courses in schools and social activities for young people in Flanders. The project targets young people aged 15 to 25 and is aimed especially at young people in risk situations. A travelling exhibition (infomobiel) offered a variety of information and training incorporating the gender dimension. The North-South link takes the form of asking (former) child workers from the South to contribute their experience as experts. Additionally, young Flemings who have worked for long periods in the South have been invited and are prepared to share their experiences and opinions on child labour, in their capacity as eyewitnesses. The project aims to open a debate in Belgium (influence of the policy) on this issue, in cooperation with trade unions and the labour market, giving child workers a face and a voice so as to succeed in implementing ILO Convention No. 182.

**(c.2) Governments of the French-speaking community and the Walloon Region**

174. We would refer the reader to paragraph 72 of the third periodic report of Belgium on CRC for more details of the education campaign on child labour which was sent in 2003 to all teachers working in education in the French-speaking community.

175. In the context of bilateral projects, the French-speaking community is supporting a number of projects on human rights in general and child rights in particular, such as a project in Senegal for training magistrates in child rights and protection and, in Bolivia, a project for drawing up a plan for prevention and monitoring of victims on the issues of domestic and sexual violence.

176. Under their programmes for backing players in indirect development cooperation, the French-speaking community and the Walloon Region are also supporting projects implemented by development NGOs or Walloon and Brussels players in decentralized cooperation. Some of the proposed projects aim to protect children and reintegrate street children, child soldiers and orphans. For instance, co-funding was provided for a project to strengthen in-service education tools on the issue of prostitution and STDs/AIDS in upper-secondary schools in the Democratic Republic of the Congo and for an awareness campaign on slave labour in Mauritania.

### C. Difficulties and future goals

177. The emerging challenges clearly also include the issue of censoring certain websites: banning access to certain sites, taking prompt action and improving education in the media and improving support for parenting to improve supervision for young people.

178. At the invitation of the National Commission on the Rights of the Child, the competent authorities will optimize detection of child trafficking by means of systematic information to all the front-line players, police officers and youth care staff liable to come into contact with victims, and all persons in charge of receiving and supporting unaccompanied minors, especially guardians. Moreover, the existing training and in-service training offered within the police force, notably to investigators specializing in trafficking in persons and border-control officers, will be extended to reference persons for trafficking in persons in other sectors, and to guardians who par excellence have a duty of reporting, in the context of their in-service training.

179. With the perspective of optimizing policy, that training will also be systematically given, on the recommendation of the National Commission on the Rights of the Child, in the context of training for all professionals in contact with minors.

180. On the recommendation of the National Commission on the Rights of the Child, there are plans to expand general access to study grants and to bridging classes for minors who are (alleged) victims of trafficking, whatever their nationality of administrative status. This already happens at certain levels of authority.

181. To offset limited career options in secondary education in the French-speaking community, where necessary the possibility will be considered of issuing pupils enrolled in bridging classes with a certificate of eligibility of the Integration Council. The broader objective is to enable all pupils who have no or insufficient knowledge of the teaching language to begin or continue their education with a success rate comparable to that of native pupils, by spending time to acquire a sufficient command of the teaching language.

182. The competent authorities will also consider equality of opportunities on a routine basis in education. Following that examination, appropriate measures will be taken. Among other things, the examination will cover keeping young people in a lower grade because they are unable to produce a school achievement certificate and refusal of schools to register young people due to be coordinated in a centre in another region.

183. Regarding social integration, the rules for social welfare grants and for guaranteed family allowances for minor mothers with children will be examined notably in the light of the principle of equal opportunities. Moreover, in order to foster constant attention to discrimination and, more generally, in the interest of victims of trafficking in persons and unaccompanied minors, care for this vulnerable group will be better integrated into policy by providing, in each Community, a forum for consultation to enable points of friction to be discussed.

184. In the context of an overall policy of social inclusion, the competent authorities will give sufficient attention to precarious situations such as persons who may have to leave Belgium on account of their administrative status.

185. At the invitation of the National Commission on the Rights of the Child, the competent authorities are to ensure that a phenomenological study is carried out on child prostitution and the meaning of that concept for young people, and on pimps, paying special attention to the situation of Belgian girl or boy prostitutes, focusing on sexual exploitation, but looking also at the various ways in which this experience manifests itself, with a view to making further progress on prevention.

186. In the context of the fight against child pornography, the competent authorities are to establish a legal framework for the application of technology to block websites. The other initiatives announced in the national action plan will be carried out alongside this.

187. At the invitation of the National Commission on the Rights of the Child, the competent authorities will endeavour to establish a partnership with the forums, with a view to exercising tighter control over access to internet chat rooms. In addition, all internet chat rooms will be contacted and asked to put a link on their home pages to a telephone help line: “Kinder- en jongerentelefoon” in the Flemish community (No. 102), the “écoute-enfants” service in the French-speaking community (No. 103) and the “Telefonhilfe” service of the German-speaking community (No. 108 – for adults and children).

188. The competent authorities will take the necessary steps to ensure that users of child pornography are not only punished but also have access to psychosocial support.

189. In combating sex tourism, the competent authorities prefer the tourist industry to take responsibility for its actions and regulate itself, with industry professionals putting pressure on one another and developing good practices in this area. However, the formal ban on taking any part in trips that invest in child prostitution or trafficking in persons is essential. Depending on the effectiveness of the current legal provisions, each level of authority will consider extending this ban. This exercise is already at a very advanced stage at certain levels of authority.

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### **III. Prevention of the sale of children, child prostitution and child pornography, and related issues**

#### **A. Measures taken in criminal matters**

##### **(b) Federal level**

##### **(i) The sale of children**

191. Since the adoption of the Act for the Elimination of Trafficking in Persons of 13 April and child pornography, trafficking in persons may be prosecuted as a criminal offence under Belgian law. Therefore, in accordance with article 3.1(a) of the Optional Protocol, child trafficking has become a criminal offence.

192. The Law of 10 August 2005 (see annex 6) amending various provisions to strengthen the fight against trafficking and smuggling of persons and against the practices of exploiting landlords made the necessary changes to offences relating to trafficking and smuggling of persons to bring national law into line with international standards.

193. The crime of trafficking in persons relates to offences in which a natural or legal person recruits, transports, harbours or receives a person, directly or through an intermediary, in any way whatsoever, using certain means of persuasion or certain characteristic methods, with the aim or consequence of exploiting the person concerned.



194. Exploitation may be sexual (child pornography, exploitation of prostitution) or economic (labour exploitation, begging, forced delinquency or organ trafficking). The offence is punishable by a prison sentence of up to five years and a fine of 500 to 50 000 euros. It was introduced into the Penal Code in 2005 and since then has afforded protection for all victims, of whatever nationality, and no longer foreigners only, as was the case under the old rules.

195. Involving minors in trafficking in persons is now regarded as an aggravating circumstance. Such acts are punishable by a prison sentence of 10 to 15 years and a fine of 1 000 to 100 000 euros.

*Sale of children for sexual exploitation*

196. The Laws of 1995 on trafficking in persons and child pornography and on child sexual abuse laid down penalties for sexual abuse committed against children, in accordance with article 3.1(a)(i) of the Optional Protocol. The Law of 28 November 2000 on the penal protection of minors supplemented this legislative arsenal. We would refer the reader to paragraph 625 of the third periodic report of Belgium on CRC for more detailed information on the provisions relating to better protection of victims, more stringent penalties on account of the introduction of new aggravating circumstances, the introduction of new offences (such as ritual sexual mutilation), the extension of the extraterritorial competence of the Belgian courts and tribunals and the introduction of audiovisual recording of minor victims or witnesses of various types of abuse.

197. In order to be exhaustive, reference should be made in this context to the Law of 10 August 2005 (see annex 6) which punishes child trafficking carried out with the clear intention of sexual exploitation (child pornography, exploitation of prostitution) (see paragraph 192 above).

*Sale of children for economic exploitation*

198. Belgium has a very comprehensive legislative arsenal concerning child labour (up to age 15, i.e. while the child is obliged to attend school full time) and young people (aged 15 to 18 or 21).<sup>32</sup> The general principle is that child labour is prohibited. In exceptional cases, activities forming part of a child's education or training are allowed, i.e. activities for which an exemption is allowed (such as participation of children in cultural performances as actors, extras or singers, etc.). There are specific regulations regarding the duration and conditions of child labour.

199. In order to be exhaustive, the reader is once again referred in this context, to the Law of 10 August 2005 (see annex 6).

200. In March 2007, the Federal State Secretary for public undertakings asked the boards of directors of all public undertakings to conduct an audit with a view to drawing up an action plan on the social responsibility of the undertakings. One area of the study related to the way in which public undertakings select their suppliers and, especially, whether they check that their potential suppliers abide by the rules of the International Labour Organization, notably those prohibiting child labour.

201. The Law of 27 February 2002 on the promotion of socially responsible production provides for the possibility of awarding a social label to businesses offering socially responsible products on the Belgian market. Businesses apply to the Minister for Economic Affairs.

202. The basic criteria for awarding the label relate to compliance with the rules laid down in the basic ILO conventions, including article 3, paragraph 2(5), of the Law on the minimum working age for children (C138, the Minimum Age Convention, 1973) and the prohibition of the worst forms of child labour (C182, the Worst Forms of Child Labour Convention, 1999).

<sup>32</sup> The Law on labour of 16 March 1971 and the Law of 30 June 1971 on administrative fines applicable to breaches of certain social welfare laws.

203. The Law set up a committee on socially responsible production, which takes part in the procedure for awarding the label and carries out the relevant checks. The conditions for the award of the label are laid down in a Royal Decree.<sup>33</sup>

204. A business wishing to obtain a label must commission a social audit company to check its whole production cycle, including subcontractors and suppliers. There is a specification setting out the items to be checked.

205. The social label helps consumers to choose products made without using child labour. In recent years, the federal authority has taken the following steps to promote the social label:

- A manual was drafted to help businesses apply for the social label. This manual not only explains what the label means but also sets out the procedure to apply for it;
- Since September 2005, a support programme has also been set up for businesses applying for a social label for one or more products. It is a financial contribution to the external costs associated with the independent check of the production cycle by a third party. The amount of the contribution is limited and depends on the type of business (small, medium-sized or large) and where the check has to be carried out (Africa, the Caribbean and the Pacific (ACP countries) – least developed countries (LDCs);
- In 2006, an information campaign was also launched on the theme of the social label. The campaign basically targeted businesses but also attempted to reach other players (NGOs, trade unions, students and academics). The campaign consisted of distributing a leaflet and some 30 magazine articles, organizing information days and lectures (about fifteen in total), organizing presentations for business executives (4) and interested organizations (about 15) and teaching courses to university students (4 universities);
- Five Belgian businesses have so far been awarded the social label for one or more of their products. External checks for five other businesses are currently in progress. Several businesses have announced their intention of applying for the social label.

#### *Sale of children for organ trafficking*

206. Article 3.1(a)(i)b of the Optional Protocol provides that the sale of children, offering, delivering or accepting a child for the purpose of the transfer of organs of the child for profit, must be fully covered under criminal or penal law.

207. Pursuant to the Law of 13 June 1986 on organ removals and transplants<sup>34</sup> the removal of people's organs without consent, whether from a minor or an adult, is punishable by a prison sentence of three months to one year and a fine or either of those penalties. The description of the offence of assault and battery (article 398 of the Penal Code) allows for a longer sentence of two years to be handed down where the victim is a minor (article 405 *bis* of the Penal Code). The Law of 10 August 2005 (see annex 6), which punishes child trafficking with a clearly defined intent, such as organ trafficking, is also important. Article 433 *septies* of the Penal Code also provides for a general aggravating circumstance if the victim is a minor.

#### **(ii) Child prostitution**

208. The Laws of 1995 on trafficking in persons and child pornography, and on child sexual abuse laid down penalties for sexual abuse committed against children, in accordance with article 3.1(a)(i) of the Optional Protocol.

<sup>33</sup> Royal Decree of 4 April 2003 implementing certain provisions of the Law of 27 February 2002 promoting socially responsible production.

<sup>34</sup> Article 380 *ter* of the Penal Code (Official Government Gazette, 14 February 1987).

The Law of 28 November 2000 (see annex 7) on the penal protection of minors supplemented this legislative arsenal. All minor victims of prostitution were thus offered better protection, with no distinction as to age. Since then the Penal Code laid down a penalty for anyone instigating, fostering or facilitating prostitution by a minor of a prison sentence of five to ten years and a fine of 500 to 25 000 euros. The younger the minor, the more severe the penalty. If the minor is under 16 years of age, the perpetrator is sentenced to ten to fifteen years' imprisonment and a fine of 500 to 50 000 euros. If the minor is under 14 years of age, the prison sentence is fifteen to twenty years and the fine is 1 000 to 100 000 euros.

209. There are also penalties for anyone who:

- To satisfy the desires of others, recruits, coerces or harbours, whether directly or via an intermediary, a minor (...), even with his or her consent, for immoral acts or prostitution;
- Keeps, whether directly or via an intermediary, a brothel where minors engage in prostitution or immoral acts;
- Sells, lets or makes available rooms or any other premises to a minor, for immoral purposes or prostitution, with the intent of making an undue profit;
- Exploits, in any way whatsoever, immoral acts or prostitution by a minor (...);
- Persuades a minor to engage in immoral acts or prostitution by providing, offering or promising a material or financial advantage (...).

210. Such persons will be punished with a prison sentence of ten to fifteen years and a fine of 1 000 to 10 000 euros. The younger the minor, the more severe the penalty. Where the offences are committed in relation to minors under 16 years of age, the perpetrator is sentenced to fifteen to twenty years' imprisonment and a fine of 1 000 to 100 000 euros.

211. Anyone aiding or abetting immoral acts or prostitution by a minor will also be prosecuted. They may be sentenced to one month to two years in prison and a fine of 100 to 200 000 euros.

212. Persons convicted for any of the above-mentioned offences in respect of a minor or involving a minor, may be banned, for one to twenty years, from:

1. Taking part, in any capacity, in education in a public or private institution catering for minors;
2. Taking part, as a volunteer member, member of the permanent or contract staff, or a member of the administrative and management bodies, of any legal person or de facto association that has a principal activity involving minors;
3. Being assigned to an activity that places the convicted person in a position of trust or authority in relation to minors, as a volunteer member, member of the permanent or contract staff, or a member of the administrative and management bodies, of any legal person or de facto association.

### (iii) Child pornography

213. In view of the definition of child pornography in the Optional Protocol (see paragraph 20 above), Belgium did not want its ratification to restrict the freedom of the printed (written) press. Belgium therefore included a statement in the law of assent of 9 February 2006. According to that statement, "child pornography" means any visual

representation of a child engaging in real or simulated sexual activities, or of a visual representation of the sexual parts of a child primarily for sexual purposes.

214. Article 383 *bis* of the Penal Code sanctions the possession of, trade in or distribution and production of child pornography materials.

215. Anyone showing, selling, renting, distributing, broadcasting or supplying emblems, objects, films, photographs, slides or other visual media representing sexual positions or acts of a pornographic nature, involving or presenting minors, or, for trade or distribution of such items, manufacturing or keeping, importing or having imported, delivered to a carrier or distributor, shall be sentenced to five to ten years' imprisonment and a fine of 500 to 10 000 euros.

216. The above-mentioned offence will be punishable by ten to fifteen years' imprisonment and a fine of 500 to 50 000 euros, where it constitutes an act of participation in the main or accessory activity of an association, whether or not the guilty party is a director thereof.

217. Anyone knowingly possessing such emblems, objects, films, photographs, slides or other visual media will be sentenced to one month to one years' imprisonment and a fine of 100 to 1 000 euros.

218. Any conviction for any of the above acts, perpetrated against or involving a minor, may entail a restriction of the rights referred to in paragraph 208, for a period of one to twenty years.

219. In general, it is clear from the above that Belgian law imposes sentences for the various above-mentioned offences that take into account their grave nature, in accordance with article 4.3 of the Optional Protocol.

**(iv) Penalties for attempting to commit or complicity or participation in the above-mentioned offences**

220. In accordance with article 3.2 of the Optional Protocol, attempts to commit or complicity or participation in the above-mentioned offences are punishable under the Penal Code.

**(v) Advertising to offer sexual services**

221. Article 380 *ter* of the Penal Code refers to four types of illegal advertising: advertising to offer sexual services involving minors (paragraph 1), advertising for sexual services provided by a means of telecommunication (paragraph 2), advertising for prostitution (paragraph 3 (1)) and advertising for sex tourism (paragraph 3(2)).

222. In this case, an offer of sexual services need not necessarily have a direct or indirect lucrative aim, as the nature of the punishable offence takes no account of this factor.

223. Anyone advertising to offer sexual services involving minors will be sentenced to two months to three years' imprisonment and a fine of 200 to 2 000 euros. Where advertising is intended or has the direct or indirect effect of facilitating prostitution or immoral acts by a minor, or exploitation of a minor for sexual ends, the sentence is three months to three years' imprisonment and a fine of 300 to 3 000 euros.

224. If these services are provided via a telecommunications medium, the sentence is one month to one year's imprisonment and a fine of 100 to 1 000 euros.

225. In the case of advertising for prostitution, the sentence is one month to one year's imprisonment and a fine of 100 to 1 000 euros. The same sentences apply to advertising for sex tourism.

226. This provision is designed to protect minors in accordance with article 9.5 of the Optional Protocol. The need to ban any advertising specifically targeting minors or mentioning services offered by minors, is stressed in Council of Europe Recommendation R No. (91) 11 concerning sexual exploitation, pornography, prostitution of, and trafficking in, children and young adults of 9 September 1991. Reference is also made to article 34 of the United Nations Convention on the Rights of the Child, which prohibits the exploitative use of children in pornographic performances and materials.

(vi) **Responsibility of juridical persons**

227. Belgian law satisfies the requirements referred to in article 3.4 of the Optional Protocol since article 5 of the Penal Code lays down the general provision that juridical persons are liable in penal matters, whatever the nature of the offence.

## **B. Measures taken regarding adoption**

228. The provisions of the various levels of authority in Belgium regarding adoption are set out below. They indicate that the Belgian State, in accordance with the requirements of the Optional Protocol (article 3.5), is endeavouring to take the legal and administrative measures necessary to ensure that all adoption procedures take place in line with the applicable international rules.

(b) **Federal level**

229. We would refer the reader to paragraphs 86, 209, 214, 284, 292 and 654 of the third periodic report of Belgium on CRC for general information on the Belgian adoption system and its conformity with the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption.

230. Wherever there is sufficient evidence that an adoption has taken place following the abduction, sale of or traffic in children, the resulting adoption will not be recognized by the Central Federal Authority as it contravenes public order taking account of the best interests of the child and his or her fundamental rights under international law. The prosecution service has to apply for a review of such an adoption. The members of the original family may also apply for a review.

231. Pursuant to the Law of 24 April 2003 reforming adoption, an article 391 *quinquies* was added to the Penal Code, providing that anyone acting as an intermediary to arrange an adoption for another person without being a member of an approved adoption agency or, as a member of an approved agency, attempting to arrange an adoption in contravention of the provisions of the Law will be sentenced to one to five years' imprisonment and a fine of 500 to 25 000 euros or one of those penalties only.

232. Articles 3.1(a) (ii) and 3.5 of the Optional Protocol are complied with.

(c) **Federalized institutions**

(c.1) **Flemish Government**

233. The competent central authority for the Community checks how each intercountry adoption takes place. In this context, the Vlaamse Centrale Autoriteit (the Flemish central adoption authority - VCA) checks that the permits required for an adoption "not ... induced by payment or compensation" are in order (article 361.4 of the Code of Civil Procedure and article 4(c)3 and (d)4 of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption).

234. The Flemish central adoption authority is therefore competent for preparing prospective adoptive parents for adoption, for organizing mediation concerning adoption and for monitoring adoptive families. It is therefore competent for preventing child trafficking in the context of adoption. The VCA is carrying out a detailed study of the system and has to approve it before the adoption services or independent adoptive parents may adopt in a country or origin. The VCA has striven to make a more in-depth analysis of the system and thereby to improve monitoring.

235. Since 2007, the system has been analysed in two main ways:

- An analysis of the general situation in the country and possibilities for local adoption. In this context, a detailed analysis of the legislation is taking place and practice is being monitored on the basis of a clear legal framework by means of a questionnaire filled in by the competent local authorities, other experienced central authorities in certain countries of origin and a number of international NGOs working there in the field of human rights (notably International Social Service (SSI), Unicef and the Red Cross). Likewise, information reported by Human Rights Watch (HRW) and Child Rights Information Network (CRIN) is always consulted in order to check the general situation of child protection;
- An analysis of the specific local contacts who are to play a role in supporting and/or carrying out the adoption. This study is essentially conducted in close cooperation with the Foreign Affairs FPS. Belgian embassies and/or consulates are asked to fill in a questionnaire to give their opinion on the proposed adoption. This opinion is included in the VCA's assessment of the adoption system.

236. The VCA's efforts to carry out analyses of the system are designed to produce an enquiry outcome for each system that ensures compliance with child rights. The VCA can approve adoption systems only if they can guarantee that adoptions are carried out in the best interests of the child and abide by both legal systems. Any new system proposed by an adoption service or an independent adoptive parent undergoes a new analysis carried out as described above, even if an enquiry has already been conducted in the country of origin concerned. Updated information is always requested in order to ensure that any new factors are included in the enquiry. In this way, the VCA takes responsibility for preventing child trafficking as far as possible.

237. For more detailed information, please refer to paragraph 285 of the third report of Belgium on CRC. Note also that, in accordance with the Decree on Intercountry Adoption of 2005, the Flemish Government has approved the not-for-profit association Steunpunt Nazorg Adoptie for one year and has awarded it an optional subsidy. The association will coordinate the provision of post-adoption monitoring.

238. In Flanders, an assessment of the adoption procedure (see paragraph 183 of the assessment of the French-speaking community) is planned during 2009.

#### **(c.2) Government of the French-speaking community**

239. The French-speaking community, via the Adoption Service – Community Central Authority (ACC), is organizing and monitoring the whole adoption process, both intercountry and domestic adoption while the federal authority takes part in the administrative phase of the recognition of adoptions approved abroad. For more detailed information, please refer to paragraphs 286-287 of the third periodic report of Belgium on CRC.

240. In terms of subsidies, the adoption agencies received new support from 2005 which enabled them to carry out their new missions, abide by the ethical priorities of the best interests of the child and not to be too dependent on the

uncertainties inherent in intercountry adoption.<sup>35</sup> Thus, total subsidies granted to the agencies rose from 200 000 euros in 2005 to 588 000 euros in 2006 and 2007 and will further increase to 705 000 euros in 2008.

241. This change is basically designed to recast the current system for calculating subsidies to the adoption agencies.

242. The method of calculating subsidies did in fact lead to too much variability in the subsidies granted, which were linked mainly to the number of adoptions and individual awareness interviews carried out. This created a climate of competition between the adoption agencies, which was totally opposed to the ethical approach taken by the French-speaking community in this respect. The system also proved to be too complex and arbitrary. The proposed changes aim to provide a set amount of funding for the adoption agencies, based on the principle of quality rather than quantity. The system will also provide each agency with optimum professional operating conditions. In this way the adoption agencies will have full discretion to manage the resources provided by the French-speaking community, yet be protected against a fall in the number of adoptions for which they are not responsible (such as after a suspension or sudden interruption in adoptions in the countries they work with).

243. An assessment of preparation for adoption was carried out with applicants for adoption who, for 2006-2007, gave a positive rating to 94.7 per cent of courses preparing people for a first adoption.

### **(c.3) Government of the German-speaking community**

244. Applicants for adoption in the German-speaking community apply to the approved services in the French-speaking community. For more detailed information, please refer to paragraphs 288-289 of the third periodic report of Belgium on CRC.

## **C. Measures taken to seize and confiscate goods and close offices**

### **(b) Federal level**

#### **(i) Seizure and confiscation**

245. The Belgian courts regularly have recourse to the possibility allowed by the law of precautionary attachment of the equivalent of a suspect's assets, even if it cannot be demonstrated that the seized assets are directly connected with the offence. Moreover, there is a wide-ranging system for the confiscation of goods as referred to in article 7 of the Protocol. Similarly, when funds are seized, the courts often grant part of them to the plaintiffs as damages.<sup>37</sup> Furthermore, the victim may also apply to the Commission for assistance to victims of assault. To date, assistance has been granted in two cases to victims of sexual exploitation.

#### **(ii) Provisional or definitive closure of premises**

246. In accordance with article 7(c) of the Optional Protocol, the Penal Code provides that the judge may order the closure of an establishment for one month to three years if certain offences against morality are committed.

247. Regarding trafficking in persons, the Penal Code provides that the judge may order the temporary or definitive closure, partial or total, of a business where such a punishable offence has been committed.

<sup>35</sup> Order of 16 May 2008 amending the Order of 7 October 2005 on adoption, Official Government Gazette, 15 August 2008.

<sup>36</sup> Law of 19 December 2002 extending the possibilities for seizure and confiscation in criminal matters, Official Government Gazette, 14 February 2002; article 43 *quarter* of the Penal Code. See summary of jurisprudence at [www.diversite.be](http://www.diversite.be). See also the Centre for equal opportunities and against racism, Annual report 2006 on trafficking and smuggling of persons, chap. 2, point 2.3.1.

<sup>37</sup> *O.c.*, chapter 3, point 3.5. See summary of jurisprudence at !! HYPERLINK "<http://www.diversite.be>" [www.diversite.be](http://www.diversite.be).

**D. Measures taken in judicial matters**

**(b) Federal level**

248. The territorial competence of the Belgian State is set out in the Penal Code, the civil aviation regulations and the Disciplinary and Penal Code for the merchant navy and sea fishing.
249. An important article 10 *ter* was also added to the Preliminary Title of the Code of Criminal Investigation by the Law of 13 April 1995, as amended by the Laws of 28 November 2000 and 10 August 2005.
250. It provides for extraterritorial competence for the Belgian judge where offences relating to morality and involving trafficking in persons are committed against a minor outside Belgian territory.
251. In other words, the Belgian judge is competent to try cases of sexual exploitation of children, even if no complaint has been lodged or no official notification has been made, where the wrongful acts are not an offence in the State where they were committed and if the person concerned is not of Belgian nationality. The only limit on this universal competence is the condition laid down by article 12 of the Preliminary Title of the Code of Criminal Investigation whereby the person being prosecuted must be found in Belgium.
252. The extraterritorial competence of the Belgian courts for trying obscenity offences thus exceeds the minimum requirements of the Optional Protocol.
253. At federal level, an assessment of several regulations was completed in May 2007. It covers a set of recommendations which will help to improve the existing legal instruments and mitigate the shortcomings of the present system. This set of recommendations relates in particular to the handling and monitoring of adult and minor perpetrators of sexual offences, the problem of reoffenders, professional confidentiality and other procedural rules on protection of minors in penal matters, audiovisual recording of hearings of minor victims and witnesses of offences, etc. This assessment should be given to a working group to help select the best proposals with a view to implementing them. The complete assessment may be consulted on the website of the Crime Policy Service (!! HYPERLINK "<http://www.dsb-spc.be/doc/pdf/Evaluation-lois-1995.pdf>"<http://www.dsb-spc.be/doc/pdf/Evaluation-lois-1995.pdf>).

**E. Difficulties and future goals**

254. The recent phenomena of “grooming” (seduction and incitement of young people) and sexual abuse using information and communication technology (ICT) require the Penal Code to be adapted to help combat these phenomena, notably to allow the resulting situations to be punished, even where there is no direct contact between perpetrator and victim. The competent authority will propose a change in the law to that end.



## IV. Protection of child victims

### A. Legislative measures

#### (b) Federal level

##### (i) Unaccompanied minors – care for victims of trafficking in persons

255. Recommendation 24(d)<sup>38</sup> of the concluding observations of the United Nations Committee on the Rights of the Child on the second report of Belgium on CRC relates to the prevention of secondary victimization of abused children. The follow-up measures for that recommendation consist of a change in the law and the setting-up of specialist services (see paragraphs 216, 218, 219, 220, 221, 223, 225 and 226 below).

256. Recommendation 24(d)<sup>39</sup> of the concluding observations of the United Nations Committee on the Rights of the Child on the second report of Belgium on CRC relates to special facilities for unaccompanied minors. The follow-up measures for that recommendation consist of the opening of specialist centres (see paragraphs 202, 203, 204, 205, 206, 207, 208 and 209 below).

257. Since the entry into force of the Programme Law of 24 December 2002, unaccompanied minors arriving at the Belgian border or on Belgian territory are taken in hand and identified by the Guardianship Service. If the Guardianship Service finds that the conditions are met, a guardian is designated for the person under its protection. All unaccompanied minors within Belgium and all minors whom the Guardianship Service finds to be unaccompanied at the time they present themselves at the border are nevertheless first referred to a federal observation and guidance centre (COO). They are then offered a care package, depending on the young person's circumstances and needs and taking account of the competences of the authorities concerned, in the form either of material assistance (accommodation and support), provided by Fedasil, conventional social assistance, provided by a CPAS, or specialist assistance in the form of support organized by youth assistance.

258. When unaccompanied minors are admitted to one of Belgium's observation and guidance centres, they are registered, identifying him or her and designating a guardian via the Guardianship Service.<sup>40</sup> It is also an acclimatization phase for the young person and an observation phase for the professionals working alongside him or her, during which they carry out a psycho-social assessment.

259. Each (would-be) guardian must follow a basic four-day training course. This training course addresses the issue of trafficking in persons. The not-for-profit association Pag-asa gives a talk on this issue, explaining the indications, reception and support facilities, and the procedure in the event of trafficking in persons. The "trafficking in persons" procedure is also explained. After a certain period of time, guardians who have followed the basic training have to take part in further training on aliens' rights and the asylum procedure.

260. Ever concerned to offer maximum protection to unaccompanied minors, Fedasil (Federal agency for receiving asylum seekers in Belgium) has introduced a number of measures in its two COOs for unaccompanied minors:

<sup>38</sup> "Prosecute in cases of ill-treatment, ensuring that the abused child is not victimized in legal proceedings and his/her privacy is protected."

<sup>39</sup> "Expedite efforts to establish special reception centres for unaccompanied minors, with special attention to those who are victims of trafficking and/or sexual exploitation."

<sup>40</sup> For more information on the guardianship system for unaccompanied minors and the missions of the Guardianship Service, please refer to paragraphs 556-561 of the third periodic report of Belgium on CRC.

The young person is isolated from his or her outside contacts for the first two days. His or her mobile telephone is kept in storage during the stay at the centre and contacts with young people outside are monitored as carefully as possible.

- Visitors are systematically checked before they have any contact with the unaccompanied minor staying at the centre. The staff members are vigilant about anybody loitering around the environment of the centre. If there is the slightest doubt, the police are called to check such persons;
- Upon arrival, the young person is given an initial interview for the intake and to exchange all the necessary information about his or her present circumstances and the following stages. In particular, the young person is given a copy of the centre's regulations. They are available in some twenty languages. Interpreters are also provided to make sure that the young person fully understands the information and how his or her stay in Belgium may develop. In this interview, the centre also endeavours to find out as much as possible about the young person's identity. After intake, a number of interviews are held with the young person to clarify the situation.
- There is a teaching project at the centre to help the unaccompanied minor feel safe and adapt to the structured community life;
- Unaccompanied minors are supervised at all times during the first two weeks of their stay. The centre offers a number of activities to enable them to lead a life as similar as possible to that of a Belgian child. Attendance of these activities is recorded on several occasions.

261. The police are always informed when an unaccompanied minor leaves the centre. The available information is sent to the police in a standardized procedure. If the disappearance is regarded as a matter for concern, the police force comes immediately to the centre to make the necessary enquiries.

262. In-service training is organized for all staff members so as to improve their knowledge and skills in detecting victims' "signals". Where the team of a Fedasil shelter is in the slightest doubt, it contacts one of three specialist centres for victims of trafficking in persons approved by the competent authorities (Pag-Asa, Sürya and Payoke) which may interview the young person and help the team of the COO/or shelter with guidance on reception.

263. The FEDASIL shelters transfer unaccompanied minors who may be involved in trafficking or who are known to be victims of trafficking, in cooperation with the Guardianship Service and/or the guardian, to specialized shelters such as Esperanto, Juna, Joba and Minor N'Dako. Within these facilities, unaccompanied minors can be hosted either in boarding houses or in supervised accommodation where they learn to be independent. In addition to reception, these centres offer tailor-made educational mentoring. For more information on these shelters and other centres offering reception and/or schooling for unaccompanied minors, see paragraphs 202, 203, 204, 205, 206, 207, 208 and 209.

264. Where possible, minors presumed to be victims of trafficking in persons – who are generally intercepted by the police on Belgian territory as illegal residents – are immediately placed under the protection of such centres. In order for the ward to be granted the status of victim, the guardian has to apply to a specialist shelter (Pag-asa, Sürya or Payoke) so that the ward can be received by one of these three centres and apply for a residence permit. In this case, the guardian applies for the ward to be entitled to medical care, education and psychological assistance as appropriate to his or her vulnerable situation. If he or she is involved in trafficking proceedings, the administrative and legal follow-up takes place in cooperation with the centre where he or she lives.

**(ii) Unaccompanied minors – care for victims of trafficking in persons**

265. Articles 61/2 to 61/5 of the Law of 15 December 1980<sup>41</sup> contain the provisions relating to residence referred to in Directive 81/29/CE of April 2004.<sup>42</sup> The Law provides for protection of victims of trafficking<sup>43</sup> or smuggling<sup>44</sup> of persons in the circumstances set out in article 77 *quater*, 1, only as regards the status of unaccompanied minors, to 5, provided that they cooperate with the authorities. The terms for implementing the procedure on trafficking in persons and the type of residence permit issued are laid down in a Royal Decree.<sup>45</sup>

266. The circular of 21 June 2007 contains specific provisions on unaccompanied minors.<sup>46</sup>

267. Articles 61/2 to 61/5 of the Law of 15 December 1980 lay down specific provisions for unaccompanied minors (immediate issue of a residence permit, represented by a guardian, etc.). The circular of 26 September 2008<sup>47</sup> on the implementation of multidisciplinary cooperation on victims of trafficking in persons and/or certain aggravated forms of smuggling of persons was published in the Official Government Gazette of 31 October 2008. The main goal of the circular is to point out certain legal obligations of the various front-line services (such as making allowances for the specific vulnerability of minors) and to promote awareness among the players concerned of specific measures to be applied to unaccompanied minors and the importance of making allowance for the vulnerability of minors.

268. The various professionals concerned are offered training courses to improve the detection of presumed victims and to ensure that the necessary protection measures are taken in respect of victims.

**(c) Federalized institutions**

269. In accordance with recommendation 28(a)<sup>48</sup> of the concluding observations of the United Nations Committee on the Rights of the Child on the second periodic report of Belgium on CRC, which recommends the establishment of special reception centres for unaccompanied minors who are victims, we would point out that these centres are subsidized by the Communities.

*Reception centres for minor victims of trafficking in persons*

270. Esperanto (shelter for minor victims of trafficking in persons) is an open reception centre, a semi-public association co-funded by the French-speaking community, the ONSS fund and the European Refugee Fund (ERF). This centre, set up in 2002, receives, houses, supports and guides 15 unaccompanied minors.

<sup>41</sup> Law of 15 December 1980 on aliens' access to the territory, residence, establishment and departure, as amended by the Law of 15 December 2006.

<sup>42</sup> Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities.

<sup>43</sup> Article 433 *quinquies* of the Penal Code.

<sup>44</sup> Article 77 *bis* of the Law of 15 December 1980.

<sup>45</sup> Articles 110 *bis* and 110 *ter* of the Royal Decree of 8 October 1981 on aliens' access to the territory, residence, establishment and departure, as amended by the Royal Decree of 27 April 2007, Official Government Gazette, 21 May 2007.

<sup>46</sup> Point VII of the Circular of 21 June 2007 on amendments to the regulations for aliens' residence following the entry into force of the Law of 15 September 2006 (Official Government Gazette, 4 July 2007).

<sup>47</sup> This circular replaces the circular of 1 July 1994 on the issue of residence and work permits to aliens who are victims of trafficking in persons, and the directives of 13 January 1997 to the Aliens Office, prosecution services, police forces, social welfare inspection services and the social inspection for assistance with trafficking in persons, as amended by the directives of 17 April 2003.

<sup>48</sup> "Expedite efforts to establish special reception centres for unaccompanied minors, with special attention to those who are victims of trafficking and/or sexual exploitation."

271. Juna (formerly 't Huis) is an open reception centre set up and approved in 1999 in Aalst to house unaccompanied minors who have not applied for asylum. It was approved in the context of youth assistance of the Flemish community and has a capacity of 20 minors. It offers comprehensive emergency reception for foreign minors. It receives children for six to eight months of basic integration. The minors are then transferred to foster families or other reception centres. The subsidy was increased from 33 000 euros in 1999 (15 places) to 635 000 euros in 2002 (20 places) and 1 060 000 euros in 2008 (20 places).

272. Minor Ndako is an open reception and guidance centre for unaccompanied minors who have not applied for asylum or whose application has been dismissed. It was approved in 2002 in the context of youth assistance of the Flemish community. The centre has three departments and a total capacity of 30 places. In 2006, the capacity of Minor N'dako Begeleid Zelfstandig Wonen (supervised independent housing) was increased by 16 places. In 2006, Minor Ndako received 41 000 euros, 278 000 euros in 2007 and 300 000 euros in 2008, as grants allocated by the Flemish community.

*Reception centres for unaccompanied minors*

273. Begeleid Zelfstandig Wonen Joba (Joba supervised independent housing) is a centre, approved in 1999, with a total capacity of 48 places for unaccompanied minors via the BZW Joba and Joba vluchtelingenwerking departments and the Tussenstap-Joba project (approved in 2006). The grant was increased from 100 000 euros (BZW Joba) to 283 000 euros (BZW Joba + Joba project) and then to 300 000 euros (BZW Joba + Joba project).

274. The De Oever NBBM support centre, approved in 2008, has a total capacity of 13 places for unaccompanied minors aged 12 to 18.

275. The not-for-profit association Synergie 14 runs the relais project, a permanent reception and guidance centre mainly for unaccompanied minors, where they can gain confidence and express themselves freely, talk with adults who have also experienced the hard road of exile and the difficulties of reception and integration. It is also a place for unaccompanied minors to develop their personal projects, and a friendly place for the minors to meet their guardians. It offers the following activities and services: reception, guidance, mentoring, workshops, temporary accommodation, access to internet, telephone, bathrooms, laundry, etc. In addition to the subsidies granted by Maribel Social, Synergie 14 also receives subsidies from Fedasil and the French-speaking community.

276. Aïcha is a not-for-profit association which opened in September 2005. Alongside its guardianship activities, Aïcha uses subsidies from the Maribel Social fund to organize a reception service and multi-form creative expression for unaccompanied minors, as a starting point for support and mediation work, to meet the needs and wishes expressed.<sup>50</sup>

277. Mentor escale is a not-for-profit association offering guidance for exiled and unaccompanied minors, whatever their residence status. The association provides the educational and social counselling that unaccompanied asylum seekers need (legal assistance, search for and management of accommodation, school guidance and monitoring, administrative assistance, group activities, psychological help, etc.). In addition to subsidies from the Maribel social fund<sup>1</sup>, Mentor Escale also receives subsidies from Fedasil.

<sup>49</sup> To that effect, the Royal Decree of 26 October 2006 granting a subsidy to the Aïcha not-for-profit association for the budget year 2006 and the Royal Decree of 6 November 2007 granting subsidies to the associations “De Grens Centrum voor Maatschappelijk Werk Brabantia – afdeling” “Caritas Internationaal” “Aide aux Personnes Déplacées” “Aïcha” “Exil” “Rode Kruis Vlaanderen” and “Services de Solidarité socialiste” for the budget year 2006 were adopted.

<sup>50</sup> To that effect, the Royal Decree of 26 October 2006 granting a subsidy to the Aïcha not-for-profit association for the budget year 2006 and the Royal Decree of 6 November 2007 granting subsidies to the associations “De Grens Centrum voor Maatschappelijk Werk Brabantia – afdeling” “Caritas Internationaal” “Aide aux Personnes Déplacées” “Aïcha” “Exil” “Rode Kruis Vlaanderen” and “Services de Solidarité socialiste” for the budget year 2006 were adopted.

*Training*

278. Juna provides training at the request of schools, organizations, etc. In addition to training, Juna, in cooperation with Minor N'dako, the University of Ghent, and the Steenokkerzeel COO (Fedasil), offers structural training normally organized each year. It is basic training for new youth assistance staff working in reception centres for unaccompanied minors, and new staff working at federal asylum centres who are in contact with unaccompanied minors.

279. After years of informing and raising awareness among counsellors (youth prosecution service, police forces, etc.) and other players in reception services, from 2001 and 2006 the Réseau d'Assistance Traite des êtres humains / Netwerk Hulpverlening Mensenhandel (trafficking assistance network) project, in close cooperation with the staff of special centres, has provided around fifty information sessions every year on policy for combating trafficking in persons and social assistance to trafficking victims. Training courses were given to associations and services dealing with (potential) victims, such as reception centres and mobile social services, associations for foreigners or illegal immigrants, CPAS, training and employment initiatives, civil society, the competent authorities and ministerial advisers. From 2001 to 2004, the project targeted services offered in Flanders and Brussels only. Since 2005, it has covered services offered throughout the country.

280. In 2005-2006, Minor-N'dako, Juna and the trafficking assistance network, in cooperation with OSBJ, devised a training course designed to present unaccompanied minors as a target group to non-specialist youth-assistance centres. Three such courses were given for one hundred people working in the sector.

281. There are also other channels for informing and raising awareness: publications, annual reports, websites, active participation in conferences and seminars, etc.

282. The not-for-profit associations Sürya and Payoke, reception centres for victims of trafficking in persons located in the Walloon Region and the Flemish community respectively, organize information sessions on the work of their associations, at the request of secondary- and higher-education establishments or social services.

283. The not-for-profit association Pag-Asa, a reception centre for victims of trafficking in persons in Brussels, organizes tailor-made training sessions on request to keep various national players (police forces, social sector, etc.) informed about trafficking in persons, the offerings of Pag-Asa, legal developments and the psychosocial aspects of assistance to victims.

*Communication of information*

284. In June 2008, the *Kinderrechtswinkel* began to distribute the brochure entitled “t'zitemzo ... si vous êtes étranger en Belgique” for foreigners in Belgium. The brochure contains general information on foreign minors. Moreover, eight detailed information sheets are shortly to be published containing accessible information on residence procedures, expulsion procedures and contact points for information and/or assistance. The aim is to offer these information sheets on a variety of websites of organizations working with foreign minors.

## B. Judicial measures

### (b) Federal level

#### (i) Protection of minor victims during investigation

##### *Prosecution*

285. Pursuant to article 8.2 of the Protocol, proceedings may be initiated without prosecution by a victim, in particular via the principle of automatic proceedings by the prosecution service. Insufficient specialization of the investigating persons or services, or uncertainty as to the age of the child, may not prevent the initiation of investigations.

##### *Protection of victims' identities*

286. In accordance with article 8.1(e) of the Protocol, article 378 *bis* of the Penal Code provides for criminal penalties for anyone distributing information liable to reveal the identity of a victim of sexual abuse (indecenty and rape).

##### *Status of the injured party*

287. We would point out that Belgian law provides for the status of injured party (article 5 *bis*, preliminary title of the Code of Judicial Procedure). Such persons may attach any document to the dossier that they consider necessary. They are informed of the termination of the proceedings, and the grounds for doing so, the initiation of investigations and documents establishing jurisdiction for investigations and trial.

##### *Hearings of minors*

288. Hearings of minor victims in the context of criminal investigations and procedures concerning them offer such children the opportunity to exercise their right to have their opinions respected as per article 8.1(c) of the Optional Protocol.

289. The Law of 13 April 1995 on sexual abuse of minors provides that minors are entitled to be assisted by a trusted adult during a hearing. Minors are to be informed of that right. In some circumstances, the public prosecutor may refuse to allow another person to attend the hearing. The Law of 28 November 2000 also broadened the scope of the regulations to include minors witnessing a number of listed offences.

290. Generally speaking, the Law of 28 November 2000 introduced measures relating to recording of hearings and videoconferencing. Audiovisual recording of hearings and limiting the number of examinations to those strictly necessary are designed to prevent secondary victimization of children through an excessive number of examinations. Videoconferencing is designed to avoid confrontations between victim and accused in a hearing. The Law also provides for the possibility of arranging hearings for children in premises adapted by properly trained professionals.

291. There followed several directives and, finally, a ministerial circular on audiovisual recording of hearings of minor victims and witnesses of sexual abuse or other serious ill-treatment<sup>1</sup>. The circular aims to harmonize current practices and ensure greater consistency by requiring police and magistrates to use a standard method and abide by certain conditions when recording the hearing of a minor.

**(ii) Protecting minor victims during criminal proceedings***Period of limitation*

292. The Law of 13 April 1995 on sexual abuse of minors provides that the period of limitation for sexual offences begins to run only from the date on which the victim attains the age of 18. The Law of 28 November 2000 on the protection of minors in criminal proceedings (see annex 7) added a second subparagraph which provides that, where these offences are indictable, the period of limitation is still ten years (as for crimes). Specifically, this means that the victim may press charges up to the age of 28, i.e. within ten years of reaching majority. The Law of 28 November 2000 also broadened the scope of the regulations to include minors witnessing a number of listed offences.

*Protection of witnesses*

293. In accordance with article 8.1(a), of the Optional Protocol, children and their families may, if appropriate, apply for protected witness status under the Law of 7 July 2002<sup>1</sup>.

*Training of magistrates and lawyers*

294. In accordance with article 8.4 of the Optional Protocol, Belgium has taken measures in the context of the training for magistrates and lawyers organized by the High Council of Justice and the judiciary training service of the Justice FPS. The persons concerned receive training in child rights and sexual exploitation offences.

*Trial in camera*

295. Under article 148 of the Constitution and article 6.1 of the European Convention on Human Rights, the judge may decide that a case is to be tried in camera. Furthermore, articles 190 *bis* and 327 *bis* of the Code of Criminal Procedure provide that videoconferencing may be used to enable a child to take part in a hearing without having to confront an alleged perpetrator in person. In particular, this measure helps to protect child victims from intimidation and retaliation; in accordance with article 8.1(f) of the Optional Protocol.

*Right to information on how a sentence is to be served*

296. The Law of 17 May 2006 on the external legal status of persons sentenced to a term of imprisonment and the rights granted to the victim regarding the means of enforcing the sentence also allows for flexibility relating to the information given to the victim in the context of the means of enforcing a sentence which are laid down by the Minister, the enforcement judge and the enforcement court (see article 8.1(c) of the Optional Protocol).

**(iii) Compensation for damages suffered by minor victims**

297. In accordance with article 9.4 of the Optional Protocol, compensation for damages suffered by child victims of violence may be sought in Belgium by bringing a civil action before the courts or tribunals.

298. Belgium has also set up a Commission to assist victims of wilful acts of violence. Children may apply, via their legal representative, for financial assistance if they are victims of wilful acts of violence perpetrated in Belgium, where they have suffered physical damage or their health is seriously damaged, and the perpetrator of the acts is unknown or insolvent.

299. Moreover, pursuant to the Law of 26 March 2003 (in force since 1 January 2004), anyone who has obtained a residence permit of indefinite duration from the Aliens Office in the context of an investigation into trafficking in persons may, on certain conditions, be granted financial assistance from that Commission.

## C. Measures to assist and support victims

300. The measures set out below are designed to provide appropriate support to child victims throughout the legal process and with a view to their social reintegration and physical and psychological recovery, as provided for by articles 8.1(d) and 9.3 of the Optional Protocol.

301. Recommendation 24(e)<sup>51</sup> of the concluding observations of the United Nations Committee on the Rights of the Child on the second report of Belgium on CRC relates to provision of care, recovery and reintegration for victims. The measures for following up that recommendation are to set up specialist services and arrange training courses and appropriate projects. See paragraphs 231, 304, 312, 320, 321, 322 and 328.

### (b) Federal level

#### (i) Police

##### *Local police*

302. The local police provide basic policing services, including investigations into sexual abuse, and may call upon the federal police for technical assistance<sup>1</sup>.

303. Certain large towns, such as Antwerp and Ghent, have a “youth brigade”. Most areas do not have a specific section, however. As soon as children are contacted, the youth sections and/or a colleague specializing in care of victims are called. They also transfer the child to youth assistance. The minimum operating and organization standard is one officer per unit.

304. The local and federal police currently have over 500 specialists in examining children. The federal police have set up a suitable audiovisual examining room, a control room and a reception room in each judicial district. In addition to these 27 facilities subsidized by the federal level, there are a score of local initiatives, bringing the total number of “settings” to around 50. Each district coordinator organizes quarterly collective supervision sessions for the examiners of children.

##### *Federal police*

305. Operations planned and prepared in cases of economic and sexual exploitation of children, including the production and distribution of child pornography, are conducted by the criminal investigation department of the federal police.

306. The central service for trafficking in persons is part of the federal police criminal investigation department and takes a holistic policing approach to groups of perpetrators of trafficking and smuggling of persons. The service prepares opinions and reports information to the (political) authorities, consultation structures, administrations concerned, target organizations and groups which are active in combating trafficking and smuggling of persons. It is the main contact point for any Belgian police officer in active service, officials of the federal prosecution service, Interpol, Europol and specialist foreign police services who request assistance from Belgium with searches, investigations and information on trafficking and smuggling of persons. The service can call upon specialist investigators in each judicial district.

307. The central service for trafficking in persons assists the local and federal police with police investigations into economic and sexual exploitation. It initiates international enquiries and coordinates national enquiries on child

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<sup>51</sup> “Provide for the care, recovery and reintegration for victims.”



pornography. The details of the investigation are published nationwide using the CETS electronic management system.

308. The central service for trafficking in persons has developed a number of indicators for detecting cases of child trafficking with sexual exploitation. They take the form of a check list in a manual. The central service drafted the manual on the basis of the conclusions of a European project jointly organized by Belgium, in which best practices were exchanged on child trafficking and sexual exploitation.

309. The service also coordinates cooperation with several partners in combating child sexual abuse: the ECPAT organization, tourism schools, travel agencies, Child Focus and *La Défense*. It arranges cooperation agreements with services, institutions and organizations (notably *Plan Belgique*).

310. The Federal Computer Crime Unit (FCCU) is part of the criminal investigation department of the federal police. The FCCU and the 22 regional sections (RCCU) are responsible for combating computer crime. The aim is to protect citizens against all forms of crime also in cyberspace.

311. The FCCU and RCCU offer technical assistance with investigations as specialists in information and communication technology (ICT), for example concerning child sexual abuse on the internet, hacking, sabotage and fraudulent use of computer and telecommunications systems.

312. In the behavioural science department of the federal police, the child hearings section coordinates and assists audiovisual hearings for minors. To date, more than 400 examiners have been trained and now conduct audiovisual hearings.

313. The missing persons team is also part of the criminal investigation department of the federal police. This service makes regular use of the FCCU and central service on trafficking in persons when a minor is reported missing. In this connection, special attention is paid to e-mails received from and sent to chatrooms visited by the missing minor.

314. See paragraph 55 above on the cooperation protocol of 12 November 2008 for locating missing unaccompanied minors.

#### *Training*

315. The need for training and coaching of police officers on trafficking and smuggling of persons gave rise to dedicated training courses for specialists in hearings of children and a specialist training course for investigators into trafficking in persons and children, working for the local and federal police. The course includes a section on trafficking and smuggling of children – especially over the internet. Annual seminars on child pornography are also organized for the local and federal police.

316. The training course planned for operating year 2008-2009 and intended for specialist investigators comprises nine three-day sessions organized at the national research college. Border inspectors receive additional training every year.

317. Reference may also be made to the police public information website and an internal police information website providing any police officer with all check-lists, brochures and documentation on trafficking and smuggling of persons.

(ii) **Justice**

*Reference magistrates*

318. The prosecution service has one or more reference magistrates for certain phenomena. These magistrates are responsible in particular for checking that follow-up by the prosecution service is consistent. Regarding matters covered by the present Protocol, reference magistrates are competent in particular for child abuse and trafficking in persons.

319. Furthermore, each prosecution service has a youth section in which the youth magistrates are responsible for cases involving children or young people who have been victims of certain offences.

*Community justice centres*

320. Each judicial district has a community justice centre. All the parajudicial services which assist the prosecution services and courts in the context of support for victims and monitoring of detainees and internees are grouped together in a single office. Lawyers involved in front-line legal aid are also based in the community justice centre. The community justice centre aims to ensure better cooperation between the bench, lawyers, local authorities and parajudicial workers.

321. The community justice centre has five tasks:

- Its statutory function of judicial information, monitoring and support in the context of care for victims, mediation between perpetrators and victims, support for perpetrators and civil law tasks;
- Reception and communication of information and notices to users of the community justice centre and direction to the appropriate competent authorities;
- Structuring and stimulation of cooperation and consultation with the various players within and outside the judiciary with a view to achieving the objectives of the community justice centre;
- Coordination, promotion and publication of initiatives for alternative arbitration in disputes and alternative measures and sentences;
- Provision of premises for organizing front-line legal aid by lawyers.

*Victim care services*

322. Article 3 *bis* of the Preliminary Title of the Code of Criminal Procedure provides that all members of the judiciary are to treat victims with care and courtesy. To assist court and prosecution staff and magistrates in this task, law clerks responsible for caring for victims have been appointed in each judicial district. Although law clerks responsible for caring for victims are under the authority of the director of the community justice centre, they are always based, as far as possible, in the law courts or prosecution offices.

323. The law clerk responsible for caring for victims contributes to the achievement of the following objectives:

- Preventing judicial action causing secondary victimization that would increase the trauma generated by the offence or cause a second trauma caused by the handling of the case by the police, judiciary or any other player;

– Giving the victim the opportunity to overcome the trauma suffered and regain his or her stability as quickly as possible.

324. The main tasks involved in caring for victims can be described on three levels, namely caring for victims during the investigation, caring for victims while the sentence is being served and finally, structural measures to support the policy on victims in the district.

325. The work of the law clerk consists of the following: specific information, assistance, guidance, coordination and organization. Action is decided on the basis of the needs of the victim and depending on the actual progress of the criminal investigation.

#### *Guardianship Service and guardians*

326. The Guardianship Service and the guardians of unaccompanied minors also play a significant role in identifying cases of exploitation. However, since their role is confined to referral to the competent authorities, it is not described in detail in this report. We would therefore refer the reader for more detailed information to paragraphs 556-565 of the third report of Belgium on CRC.

#### **(c) Federalized institutions**

327. Aside from the specific care for unaccompanied minors who are trafficking victims, the protection of and assistance to victims of exploitation are handled by youth assistance and the (other) bodies competent on ill-treatment issues.

328. In the context of youth assistance, child trafficking, pornography or prostitution are factors which may justify a greater social need for support. All welfare and health structures should definitely provide priority and prompt support for young people in this target group.

#### **(c.1) Flemish Government**

329. The Centra Algemeen Welzijnswerk (General Welfare Centres - CAW) conduct several projects, using federal subsidies, targeting male prostitutes (a minority of whom are minors). Thus the Boysproject (CAW De Terp Antwerpen, see: [www.boysproject.be](http://www.boysproject.be)) succeeded, in 2006 and 2007, in contacting about 50 minors aged 16-17. Those involved in the project spend two nights a week in the red-light district to talk with young people. Boysproject aims to establish cooperation with the boys and young men working in prostitution and the boys most at risk of falling into prostitution, in order to improve their quality of life by setting in motion a process whereby they no longer depend on prostitution to survive. The social workers look for prospects and alternatives in order to create other choices. The basic principles of the project include easy access to care, adapted to boys, so that they develop trust in the project. The young people's social problems are tackled based on the principle that minors have no place in prostitution.

330. Similar projects are being conducted in Ghent and Brussels: Adzon – Bruxelles (see <http://www.adzon.be>), taken over by the Mozaïek CAW<sup>52</sup> and the street-educators project in Ghent (voir [www.jongenskwartier.be](http://www.jongenskwartier.be)).

331. See also paragraphs 203 and 204 regarding the reception centres for unaccompanied minors who are victims of trafficking in persons.

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<sup>52</sup> The Mozaïek project will close down early in 2009. Special attention will nevertheless be given to raising awareness of prostitution among street educators in Brussels and the municipalities around Brussels.

**(c.2) Government of the French-speaking community**

332. See also paragraphs 203 and 204 regarding the Esperanto reception centres for unaccompanied minors who are victims of trafficking.

**(c.3) Government of the German-speaking community**

333. Anyone affected by this issue, including children, may contact the youth assistance service in Eupen. If the youth assistance service deems appropriate, notably where an offence has been committed in this field, it informs the prosecution service of any situation it is aware of.

**D. Difficulties and future goals**

334. Recommendation 30(c)<sup>53</sup> of the concluding observations of the United Nations Committee on the Rights of the Child on the second periodic report of Belgium on CRC recommends that Belgium recruit more female police officers to improve communication and contacts with foreign girls and women working in prostitution. Each police service currently has one female officer who handles the first contact with female victims, minors or otherwise, and also attends their hearings. Various initiatives have been taken to increase the number of women and ethnic-minority police officers.

335. Belgium has not so far complied with article 9.5 of the Optional Protocol which provides that States parties are to take appropriate measures aimed at effectively prohibiting the production ... of material advertising the offences described in the present Protocol. This means advertising for:

- Offering sexual services;
- Transfer of organs of the child for profit (article 3.1(a)(i)(b) of the Protocol);
- Engagement of the child in forced labour (article 3.1 (a)(i)(c) of the Protocol);
- Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption (article 3.1(a)(ii) of the Protocol).

336. The first item, namely advertising “to offer services of a sexual nature”, i.e. advertising specifically mentioning minors or services for prostitution, immoral acts or misconduct by minors, is punished under article 380 *ter* of the Penal Code.

337. The other items are not punished, however. To meet its obligations under the Optional Protocol, the competent authority will take the necessary steps to bring its legislation into line with its international obligations.

338. The objectives for the future set out below and stated in paragraphs 683 and 684 of the third periodic report of Belgium on CRC (see also equivalent paragraph 657) will be achieved:

339. “The competent authorities will ensure that an appropriate proposal of assistance (medical and psychological support) is formulated for victims of the sale of children, child prostitution or pornography, so as to avoid unnecessary action. They will also check that the police, who are often the first point of contact, are applying the proper rules regarding information on the available assistance. The authorities will also ensure that, where a child

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<sup>53</sup> “Continue to recruit female police officers to improve communication and contacts with foreign girls and women working in prostitution.”

has to take part in a hearing, investigation methods are used which prevent the same child being questioned several times". The police are already working in the right direction by using the social identity card.

340. "The competent authorities will consider what measures are needed to combat the disappearance of unaccompanied minors. The large number of minor in this category reported missing is indeed a matter for concern and is in stark contrast to the number of minors found. These minors are in a particularly vulnerable situation which increases the risk of their being exploited (for instance they may be victims of trafficking in persons or end up in prostitution)."

341. The present report summarizes several operations designed to prevent secondary victimisation (see paragraphs 219, 220, 221, 222, 223, 225, 231, 241 and 242 above). Current good practice regarding video recording of hearings will nevertheless be made more systematic and optimized, in line with the relevant general recommendations in the "Assessment of the laws of 1995 and other related instruments" (SPC – <http://www.dsb-spc.be/doc/pdf/Evaluation-lois-1995.pdf><sup>L</sup>). The recommendations for hearings set out in titles 5.1 and 12.2 of the Unicef guidelines on the protection of child victims of trafficking and in the UNMIK document "Let's talk. Developing effective communication with child victims of abuse and human trafficking" will also be widely circulated and complied with.

342. For more information on the initiatives for improving protection of victims, see paragraphs 73, 92 and 93 above.

343. As part of the planned assessment of the new law on shelters, special attention will be paid to minors taking account of their specific circumstances (special care for victims and guardianship system enabling guardians and the petitioning authority to apply to a special reception centre to have their ward admitted under the procedure for trafficking in persons). In addition, at the invitation of the National Commission on the Rights of the Child, the competent minister will entrust this specific assessment to external researchers.

344. Furthermore, again at the request of the National Commission on the Rights of the Child, the various care facilities for all unaccompanied minors living outside the conventional care network will be assessed at all the levels of authority concerned.

345. The National Commission on the Rights of the Child is inviting the Interdepartmental Coordination Unit for combating trafficking and smuggling of persons, in implementation of the national action plan against trafficking and smuggling of persons, to finalize the draft Royal Decree on conditional approval and funding of special reception centres for trafficking victims, which could provide a solution to the problem of space and differing internal quality standards. This invitation also includes a suggestion, in the context of that work, to consult the existing centres which receive (presumed) victims in order to safeguard the specific characteristics that distinguish centres receiving victims only from (open) centres which accept a broader group of young people. The competent community authorities will also be invited to solve the problem of space and differing internal quality standards. It will be necessary to check that there are no contradictions between the approval systems devised at federal and community levels.

346. In the context of the assessment, planned to take place in two years' time, of the circular of 26 September 2008 on the implementation of multidisciplinary cooperation concerning victims of trafficking in persons and/or certain aggravated forms of trafficking in persons, the competent authorities will carry out a specific assessment of its effect on minors.

347. The competent authorities will conduct a systematic risk assessment before repatriating unaccompanied minors, regardless of the type of return (voluntary or forced). When carrying out returns, there will be systematic cooperation with the public bodies and NGOs (international and local) who are familiar with the channels in the return countries, as far as possible and depending on the situation of the NGOs in the country. Where such

cooperation does not prove possible, the IOM will be systematically involved in the return. Moreover, contacts with the countries of origin will be stepped up to guarantee protection and care appropriate to the minor and his or her circumstances. Steps will be taken to ensure that the return takes place within a reasonable time.

## **V. International assistance and cooperation**

### **A. Multilateral/regional/bilateral agreements concluded for prevention, investigation, prosecution and punishment of offences**

#### **(a) National level**

##### *International conventions*

348. Supplementing CRC and in accordance with article 10.4 of the Optional Protocol, the following international and multilateral conventions improve the legal position of children in Belgium:

(a) Convention No. 182 of 17 June 1999 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, ratified by Belgium on 8 May 2002;

(b) The Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption, ratified by Belgium on 26 May 2005. The important provisions are article 4 (consent may not be induced by payment or compensation), article 29 (no contact between the prospective adoptive parents and the persons who have to authorize the adoption) and article 32 (no improper financial or other gain from an adoption.);

(c) The Optional Protocol of 25 May 2000 to the Convention on the Rights of the Child on the involvement of children in armed conflict, ratified by Belgium on 6 May 2002;

(d) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, ratified by Belgium on 11 August 2004;

(e) The Convention of 19 October 1996, which is in the process of ratification, on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children;

(f) The Council of Europe Convention of 16 May 2005 on Action against Trafficking in Human Beings. The ratification procedure will be completed shortly. Belgium chaired the working group set up in September 2003 by the Council of Europe with a view to drafting a Convention against Trafficking in Human Beings, strengthening the rights of victims of trafficking in human beings;

(g) The Council of Europe Convention of 25 October 2007 on the protection of children against sexual exploitation and sexual abuse. This Convention is the first international instrument to make sexual abuse of children an offence, even when they are at home or within the family, by the use of force, coercion or threats. The preventive measures mentioned in the Convention include the selection, recruitment and training of persons working in contact with children, raising children's awareness of the risks and education of children to teach them to protect themselves, and measures for monitoring delinquents and potential delinquents. *In addition to the offences most found in this area – sexual abuse, child prostitution, child pornography, forced participation of a child in pornographic performances, the text also deals with gaining children's trust for sexual ends (grooming) and "sex tourism". This Convention has not yet entered force.*

*European Union*

349. In this context, we would stress that attention to child rights has been reinforced at European Union level through the following provisions of the Convention which will in principle enter force early in 2009.

350. The new Article 3 of the Treaty on European Union provides in particular that the Union “shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child” and “In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens”. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter” (emphasis added).

351. Article 79 of the Treaty on the functioning of the EU specifically provides that: The Union shall develop a common immigration policy aimed at ensuring, at all stages, (...) and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures in the following areas: (...) (d) combating trafficking in persons, in particular women and children.” (emphasis added).

352. Article 83 of the Treaty on the functioning of the EU provides that: The European Parliament and the Council may, by means of directives adopted in accordance with the ordinary legislative procedure, establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis.

353. These areas of crime are the following: terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime. (...)” (emphasis added).

354. The Charter of Fundamental Rights also contains a specific article on the rights of the child: “Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration. Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests.” (emphasis added).

355. The Charter of Fundamental Rights, which was approved in December 2000 at the European Council of Nice as a “political” declaration, is not part of the new Lisbon Treaty. The Charter does, however, have the same legal force as the Treaties by dint of a reference to it in Article 6 of the Treaty on European Union. As soon as the Lisbon Treaty enters force, the Charter will be legally binding on the institutions and bodies of the Union and Member States when the latter implement the European legislation.

356. In order to supplement the existing legislative and judicial arsenal, Belgium is also behind a framework decision on the recognition and enforcement of prohibitions arising from convictions for sexual offences committed against children. This important issue is still being discussed in the European Union.

357. The following European Union framework decisions are also applicable:

- Framework Decision of 19 July 2002 on combating trafficking in human beings, which entered force on 1 August 2002;
- Framework Decision of 22 December 2003 on combating the sexual exploitation of children and child pornography, which entered force on 20 January 2004;
- Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, which entered force on 1 January 2004.

358. Finally, we would refer to European Parliament Resolution 2007/2093 of 16 January 2008 “Towards an EU strategy on the rights of the child”, which in particular calls upon Member States to carry out awareness campaigns (points 52 and 82), take aggravating circumstances into account when a child is a victim of sexual exploitation or abuse (point 54), introduce a system of access to information on convictions to ensure that convicted people can be excluded from key occupations (point 72), compile statistics (point 57), take action against sex tourism (point 77), train the professionals concerned (point 87), take initiatives for safe use of the internet (points 61 and 63-67) and place the fight against trafficking in persons in the broader context of the fight against poverty (point 99).

*Council of Europe*

359. Belgium attaches particular importance to the following Council of Europe instruments:

- Resolution 1307 (2002) on sexual exploitation of children: zero tolerance, adopted by the Assembly on 27 September 2002;
- Recommendation 1596 (2003) on the situation of young migrants in Europe, adopted by the Assembly on 31 January 2003;
- Recommendation 1703 (2005) on the protection and assistance for separated children seeking asylum, adopted by the Assembly on 28 May 2005;
- Recommendation (87) 21 on assistance to victims and prevention of repeat victimisation, updated in March 2006.

*Organization on Security and Cooperation in Europe*

360. Belgium placed the fight against trafficking in persons among its priorities when it chaired the Organization on Security and Cooperation in Europe (OSCE) in 2006. Belgium took part in the drafting of an initiative for combating sexual exploitation of children. The Decision of the OSCE Ministerial Council which was adopted at the meeting held in Brussels in December 2006 calls on the participating States of the OSCE and institutions to take the necessary measures to eradicate the various forms of sexual exploitation of children.

*United Nations*

361. Belgium has also advocated the introduction of a resolution on crime prevention and criminal justice that will deal with effective measures for combating the sexual exploitation of children in the United Nations Commission on Crime Prevention and Criminal Justice. This Resolution calls in particular for the organization of training courses, information campaigns and close cooperation with civil society.



362. In the United Nations General Assembly, Belgium formally gave its support, with its European Union partners and member countries of the Latin American and Caribbean group (GRULAC), to several resolutions on child rights, the content of which broadly relates to the situation of children in armed conflicts and violence against children.

363. Belgium also worked closely with the independent expert, Professor Pinheiro, on the drafting of a United Nations study on violence against children. This cooperation resulted among other things in a financial contribution to the drafting of the study (100 000 euros) and the organization of a conference in cooperation with UNICEF in Brussels on 6 December 2006. This conference provided an opportunity to debate the study in the presence of professor Pinheiro.

364. In the context of the Third United Nations Commission in New York, Belgium co-sponsored a resolution acknowledging the need to encourage the dissemination of the study and its recommendations and call upon the States, United Nations organizations and civil society to follow up the study.

365. The conclusions of Professor Pinheiro's study are addressed to the international community. They imply each State taking measures and setting up national mechanisms designed to prevent and combat all forms of violence against children. Belgium is currently studying the recommendations of the study, in consultation with the players concerned.

## **B. Promotion of international coordination and cooperation between competent authorities and between those authorities and non-governmental organizations**

### **(a) National level**

366. See paragraphs 262-271 above, notably relating to the ILO, EU, Council of Europe, Organisation for Security and Cooperation in Europe and the UN.

### **(b) Federal level**

367. The Law of 9 December 2004 on mutual international legal assistance in criminal matters, amending article 90 *ter* of the Code of Criminal Procedure, brought Belgian law into line with the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between EU Member States and complies with article 10 of the Optional Protocol.

368. We would also mention the EU Council resolution of 27 September 2001 on the contribution of civil society in finding missing or sexually exploited children, which was adopted following a Belgian initiative. This is a crucial resolution as the Council of the European Union thereby recognizes the importance of civil society in combating sexual exploitation of children.

369. The resolution also provides for the States to take action on the socio-economic causes of the vulnerability of children, by stepping up international cooperation and offering mutual financial and technical cooperation.

### **(c) Federalized institutions**

#### **(c.1) Flemish Government**

370. In accordance with article 10 of the Decree of 22 June 2007 on development cooperation, the Flemish authority has paid special attention to the cross-cutting topics of sex, AIDS, child rights, sound management and sustainable development in all political initiatives and action taken in the fields of development cooperation. On the

basis of the Flemish Decree on youth policy of 2002, during the reporting period the Flemish Government subsidized humanitarian projects that raise international awareness of young people and encourage solidarity with young people in countries hit by disasters.

371. In the context of its bilateral development cooperation, the Flemish Government focuses attention on vulnerable target groups in the South, notably children and young people. It operates mainly in South Africa, Malawi and Mozambique on AIDS (in cooperation with UNAIDS), food security, children involved or at risk of being involved in crime, etc. General, reducing the vulnerability of this target group inevitably reduces their exposure to sexual exploitation.

### (c.2) Governments of the French-speaking community and the Walloon Region

372. For the North American Desk two projects are worthy of note in the Wallonia-Brussels/Quebec bilateral cooperation initiative for the period 2005-2007:

- Projet Divers-1 “Third international francophone conference on sexual assault”, a project devised by the Institut Philippe Pinel of Montreal and the Wallonia-Brussels Delegate for child rights;
- Projet Divers-2 “Caring for Minors Committing Sexual Assault” (same cooperation partners).

See paragraphs 175 and 176 above for more information on development cooperation projects run by the French-speaking community.

## C. International extradition agreements

373. As a precondition for extraditing a person by Belgium, Belgian extradition law requires there to be an international treaty laying down the rules for extradition between the member countries of that treaty. For Belgian citizens there is an exception to the extradition rules. A refusal to extradite on the grounds of that exception is offset to a certain extent by the principle “**aut dedere, aut judicare**”: there is no obligation to prosecute but the case must be submitted to the *prima facie* competent prosecution authority. If the requirements regarding the extraterritorial judicial authority, dual criminal liability and periods of limitation (dual indictment) are met, proceedings may then be initiated against the offending national.

## D. Support for international cooperation on assistance for physical and psychological rehabilitation, social integration and repatriation of victims and support for relevant activities and programmes run by NGOs and others.

374. Recommendation 30(g)<sup>54</sup> of the concluding observations of the United Nations Committee on the Rights of the Child on the second periodic report of Belgium on CRC advocates continued cooperation with the International Organization for Migration. The measures for complying with that recommendation are described in paragraph 375 below.

### (a) National level

375. Regarding international cooperation to assist child victims in their physical and psychological recovery, social reintegration and repatriation. (see article 10.2 of the Optional Protocol), Belgium cooperates closely with the International Organization for Migration (IOM) and certain NGOs to ensure that foreign victims are cared for if they are returned to their country of origin Where the presumed victim is a minor and wishes to return to his or her country

<sup>54</sup> “Continue to cooperate with the International Organization for Migration.”

of origin, the special reception centre, in consultation with the guardian, contacts one of these authorities with a view to organizing a voluntary return. When preparing the return and during the actual return operation, specific account is taken of the minor's vulnerable circumstances. The minor must be guaranteed an appropriate reception. When drafting the third periodic report of Belgium on CRC, the Belgian State stated the goal of further intensifying close cooperation with the IOM, as governed by the circular of 17 November 2006.

**(c) Federalized institutions**

**(c.1) Flemish Government**

376. In September 2008, the Flemish Government took part in the conference "Building a Europe for and with children: towards a strategy for 2009-2011", organized in Stockholm under the auspices of the Swedish Presidency of the Ministerial Committee of the Council of Ministers. The conference also tackled the eradication of all forms of ill-treatment of children, introducing a three-year action plan and taking special measures against the sexual exploitation of children.

**E. Contribution to international cooperation for combating the underlying causes of children's vulnerability to sale, prostitution and pornography**

**(a) National level**

377. Please refer to paragraph 43 of the third periodic report of Belgium on CRC for more information on participation in the preparations of the global action plan, the drafting of the European white paper on youth and the European Youth Information Charter. Belgium also took part in the Third World Congress against Sexual Exploitation of Children and Adolescents, in Brazil in November 2008.

378. These various initiatives demonstrate Belgium's commitment to addressing on the international scene the root causes contributing to the vulnerability of children, as described in article 10.3 of the Optional Protocol.

**(b) Federal level**

379. Please refer to paragraphs 615-616 of the third periodic report of Belgium on CRC, *regarding the first report of Belgium on the worst forms of child labour (June 2006) and Belgium's contribution to the IPEC programme for the elimination of child labour, through its support for projects in Morocco* (see paragraphs 164 and 139 above).

380. Two programmes, conducted in cooperation with the OSCE and the IOM, had the objective of training the Georgian police on investigating trafficking in persons and reforming the Georgian civil status system.

## Annexes

### A. RECORD OF THE APPROVAL OF THE REPORT BY THE NATIONAL COMMISSION ON THE RIGHTS OF THE CHILD

#### 1. Introduction

The draft report was presented.

The Chair pointed out that it was the result of broad consultation within the National Commission on the Rights of the Child.

The members of the Commission with a consultative vote and representing civil society and the grass roots met in a working group with representatives of several ministers competent in the areas concerned who were also members of the Commission.

This work produced some recommendations. The various Belgian Governments (federal and federalized institutions) took note of the recommendations and agreed to a number of them. They are stated as “future goals” in the draft report.

The relationship between the original recommendations of the working group and the future goals stated in the draft report was discussed.

#### 2. Preliminary remarks concerning the draft report submitted for approval

##### (a) Remarks concerning the report proper

Mr Johan Vangenechten, working for the not-for-profit association Minor-Ndako, a reception and support centre for unaccompanied minors, who took part as an expert in the activities of the working group, regretted that the report did not contain the figures of the Aliens Office, Fedasil or the Guardianship Service on registrations of unaccompanied minors. These figures were nonetheless available from all three bodies, even if they did not appear to tally. There was a difference of more than 400 children between the figures of the Aliens Office and of the Guardianship Service. But that did not mean that the data records were irrelevant.

Comparing the data, it appeared that at least 240 children, registered as unaccompanied minors, had not been handled by Fedasil. Where were these minors cared for? How many unaccompanied minors disappeared before being assigned a guardian?

The figures also reveal that 220 children aged 0 to 12 were registered by the Guardianship Service. The youngest ones did not end up in the Fedasil network. Where were they cared for? If a family offered to foster the child, what procedure was applied to determine their suitability? When was a child under one year old a foundling and when was it an unaccompanied minor?

A lot of basic information was missing from the report. The figures raised new questions. Important aspects had not been mentioned and so had not come to light”.

The Chair noted that some figures were missing from the report partly because it had been found that the figures of the services concerned did not always tally. This observation had been discussed at a meeting of the working group at which the competent services were invited to consult. This did not lead to the desired result, however.

Despite this partial explanation the Chair, like all the members present, regretted the important side effect of the missing figures.

At the proposal of the Chair, the members with voting rights agreed to tackle the problem of the figures no later than the submission of the present report to the United Nations Committee on the Rights of the Child, in the context of a future working group “coordination of data collection for the Committee”.

Before the report was approved, some further changes were made, on the advice of certain members and with the agreement of all members present.

For instance, competence for care of unaccompanied minors was reworded in a way that was acceptable to all the members present.

Moreover, the reference to the Sürya not-for-profit association which organizes information sessions on the work of the association (reception centre for victims of trafficking in persons) was supplemented by a reference to the Payoke not-for-profit association.

Finally, the reference to the cooperation agreement concluded between a number of bodies in the autumn of 2008 on the issue of the disappearance of foreign minors was moved to the passage in which all cooperation agreements between the public services and Child Focus were discussed.

**(b) Remarks on the future goals**

Mr Lucien Nouwynck, representative on the Commission of the College of Principal Public Prosecutors, informed the other members that it was not necessarily a realistic goal to improve the statistics. Not only would this involve adapting the whole computer system, the feasibility of which had to be considered. But also certain data requested (such as the age of the perpetrator or the age of the victim in the case of internet pornography) were as yet unknown.

Finally, a linguistic correction was made to one of the future goals, for reasons that were not clear to everyone.

### **3. Approval of the report**

The members of the Commission with voting rights approved the report as amended, by a show of hands.

The Chair reminded the members that this approval involved several future goals and that the Commission would monitor implementation in a cross-cutting manner, as no doubt would each member of the Commission each for his or her field. The Commission secretariat would begin by sending an e-mail reminder of the various future goals to each minister, as relevant to each. In addition to the above-mentioned working group on the coordination of data collection for the Committee, the Secretariat planned to carry out regular follow-up, in cooperation with the child-rights coordinator of each body.

### **4. Differing opinions**

There were no differing opinions

There was a consensus on the report. A German-language version of the report would be made available as soon as possible to the German-speaking members of the Commission and any other interested members.

**The meeting on the approval of the initial report of Belgium on the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography was closed.**

## **B. Information annexes**

1. Police statistics;
2. “Assessment report 2006-2007” of the support committee on the cooperation agreement for the support and treatment of sex offenders;
3. The Law of 15 September 2006 amending the Law of 15 December 1980 on aliens’ access to the territory, residence, establishment and departure;
4. National plan of action against trafficking in persons;
5. Ministerial directive of 1 February 2007 on policy for detecting and prosecuting trafficking in persons (Col 01/07);
6. Law of 10 August 2005 amending various proposals for stepping up the fight against trafficking and smuggling of persons and against the practices of exploiting landlords;
7. Law of 28 November 2000 on the protection of minors in criminal matters;
8. Circular COL 2/2002 of 13 March 2002 of the College of Principal Public Prosecutors at the Court of Appeal concerning the Ministerial directive of 20 February 2002 organizing the duties, cooperation and integration between the local and federal police relating to the missions of the police criminal investigation department;
9. Ministerial directive of 16 July 2001 on audiovisual recording of hearings of minor victims or witnesses of offences.

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