



Convention on the Rights of the Child

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Written replies by the Government of Belgium to the list of issues (CRC/C/OPSC/BEL/Q/1) to be taken up in connection with the consideration of the initial report of Belgium submitted under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/BEL/1)

[Replies received on 20 April 2010]

1. Reply to paragraph 1 of the list of issues to be taken up (CRC/C/OPSC/BEL/Q/1)

Federal Government

1. Belgian legislation is in line with the Optional Protocol. Note that a reference to a child or a minor always means a person under the age of 18 years.

Sale of children

2. Since the adoption of the Act of 13 April 1995 containing provisions on the elimination of trafficking in persons and child pornography, trafficking in persons may be prosecuted as a criminal offence under Belgian law. Therefore, child trafficking has become a criminal offence.

3. The Act of 10 August 2005 amending various provisions to strengthen the fight against trafficking and smuggling of persons and against the practices of exploitative landlords made the necessary changes to offences relating to trafficking and smuggling of persons to bring national law into line with international standards. The Act now affords protection for *all victims* regardless of nationality, age or the like. When trafficking in persons involves minors, this is now regarded as an aggravating factor.

Sale of children for sexual exploitation

4. The Acts of 1995 on trafficking in persons and child pornography and on child sexual abuse laid down penalties for sexual abuse committed against children. The Act of 28 November 2000 on the penal protection of minors supplemented this legislative arsenal. For the sake of completeness, reference should be made in this context to the Act of 10 August 2005, which punishes child trafficking carried out with the clear intention of sexual exploitation (child pornography, exploitation of prostitution).

Sale of children for economic exploitation

5. Belgium has a very comprehensive legislative arsenal concerning child labour. The general principle is that child labour is prohibited. In exceptional cases, activities forming part of a child's education or training are allowed, such as activities for which an exemption is allowed (for example participation of children in cultural performances as actors, extras or singers, etc.).

6. There are specific regulations regarding the duration and conditions of child labour. Reference should again be made in this context to the Act of 10 August 2005, which punishes child trafficking carried out with the intention of economic exploitation.

Sale of children for organ trafficking

7. Pursuant to the Act of 13 June 1986 on organ removals and transplants, the removal of a person's organs without their consent, whether from a minor or an adult, is punishable by a prison sentence of three months to one year, and/or a fine. 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 Act of 10 August 2005, which punishes child trafficking with a clearly defined intent, namely 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.

Child prostitution

8. The Acts of 1995 on trafficking in persons and child pornography, and on child sexual abuse, laid down penalties for sexual abuse committed against children. The Act of 28 November 2000 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.

Child pornography

9. Article 383 bis of the Penal Code punishes the possession of, trade in or distribution and production of child pornography materials. 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, will be punished.

10. For further information, see the initial report of Belgium concerning the Optional Protocol to the Convention on the Rights of the Child, the sale of children, child prostitution and child pornography.

Flemish Government

11. Decree of 12 February 2010 on harmonization with the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, adopted in Lanzarote on 25 October 2007.

12. The adoption procedure will be handed over to professionals as a matter of priority in the interests of the child and in conformity with the provisions of the Hague Convention.

13. Actions due to be carried out in this context.

14. An electronic tracking system is to be set up to enable persons wishing to adopt and the Flemish central authority to initiate and monitor the administrative processing of adoption applications.

15. A general debate on adoption is to be organized in 2010 with a view to formulating political responses to current problems and thereby determining the main thrust of future policy.

16. A new decree on national adoption will also be issued.

17. The decree includes a clear description of the tasks and subsidy regulations of the adoption services and the conditions for proper adoption mediation on the basis of the rights of the child being adopted. In this context, the focus is on the preparation, the right of access to files and the subsequent support of the adoptive families, adopted children and biological parents.

Government of the French Community

18. The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse was adopted in Lanzarote on 25 October 2007 and signed on the same day by Belgium.

19. The French Community is directly affected by:

- Article 4 establishing the principle that each Party shall take the necessary legislative or other measures to prevent all forms of sexual exploitation and sexual abuse of children and to protect children

- Article 5 requiring Parties to encourage awareness of the protection and rights of children among persons who have regular contacts with children
- Article 6 according to which educational measures should be taken to ensure that children receive information on the risks of sexual exploitation and sexual abuse
- Article 7 on the provision of access, on a voluntary basis, to programmes or measures designed to evaluate and prevent the risk of offences being committed
- Article 8 on the conduct of awareness-raising campaigns aimed at the general public and providing information on the phenomenon of sexual exploitation and sexual abuse of children
- Article 9 encouraging children, the private sector, the media and civil society to participate in the elaboration and implementation of policies to prevent sexual exploitation and sexual abuse of children
- The Government of the French Community is finalizing the process of approving the Convention, which will be promulgated by decree by June 2010

2. Reply to paragraph 2 of the list of issues to be taken up

(a) The number of documented cases of the sale of children, illegal adoption and child pornography, the type of follow-up provided, including prosecution, decisions to discontinue or terminate the proceedings, and sanctions and remedial measures for perpetrators.

Federal Government

(a) Convictions for article 383 bis 1 (child pornography):

1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
3	13	11	12	14	13	9	21	17	27	24	30	33	21

(b) Documented cases of crimes related to child sex tourism involving Belgian citizens and residents, and the type of follow-up provided on the outcome of the cases, including prosecution, decisions to discontinue or terminate the proceedings, and sanctions for perpetrators;

(c) The number of child victims provided with physical and psychological recovery assistance and compensation for damages in accordance with the provisions of article 9, paragraphs 3 and 4, of the Protocol.

Flemish Government

20. Article 3 relates to assistance given to young victims of child trafficking, prostitution, pornography, sexual abuse, forced labour and illegal adoption. In the event of a problem with reporting and indictment, the counsellor can designate some of the above-mentioned categories in the Domino database. On this basis, it is possible to determine the number of children brought before the BJB¹ and in respect of whom a violation of the OPSC is suspected.

¹ *Bijzondere JeugdBijstand*: Youth Special Assistance.

Table: number of reports and indictments in 2008 where, apart from other reporting and indictment issues, one or both of the following problems were noted:

<i>Reporting/indictment issues</i>	<i>Number of reports/indictments</i>
Prostitution	14
(Suspected) incest or sexual abuse of children/young persons within the family	289
Total	303

3. Reply to paragraph 3 of the list of issues to be taken up

Federal Government

21. It is impossible for the Statistics Department to disaggregate extraditions by type of offence. The Federal Government is therefore unable to reply to this question.

4. Reply to paragraph 4 of the list of issues to be taken up

Federal Government

22. Activities related to the implementation of the Protocol are not only divided among all federal public services but also the basis for the work of a large number of field officers such as judges, social workers in the public and private sectors and the like. It is therefore impossible to quantify these efforts in budgetary terms.

Flemish Government

23. The Flemish Government does not have a budget allocation specifically for the implementation of the Protocol.

5. Reply to paragraph 5 of the list of issues to be taken up

Federal Government

24. In 2007, the Guardianship Service signed a partnership agreement with the not-for-profit association Solentra, which has been attached to the outpatient psychiatric department for children and adolescents at Brussels University Hospital (UZB) since 2001, and specializes in caring for and monitoring unaccompanied foreign minors. The programme is intended to enable guardians to understand minors better (culture, family, background, etc.), to present themselves and explain their role, to conduct interviews, to identify a minor's suffering, to network and to handle crisis situations.

Flemish Government

25. The Flemish public authorities subsidize the VIPJeugd not-for-profit association (Flemish youth information point), which coordinates and directs policy in the area of youth information. Every two years, VIP publishes informative guidebooks for children (ages 8 to 12), those in the 12–15 age bracket, and young people (15 and over), along with parallel websites. These editions address the subjects dealt with in the Protocol.

VIPJeugd budget: 636,000 euros and information guidebooks (2010 budget): 340,000 euros (including 280,000 euros for those under 18), and the corresponding websites: 70,000 euros.

Government of the French Community

Level	4/C PMS
Training code start	44
	6
Title	Neglected or abused children: our role as a psychomedical social (PMS) centre
Aims	<ol style="list-style-type: none"> 1. Work on own preconceptions of the subject. 2. Analyse the decree on abuse. 3. Identify the telltale signs of abuse in a real-world situation. 4. Identify actions required in light of the terms of reference for agents in all three disciplines and management. 5. Promote networking in a context of shared professional confidentiality.
Recommendations for trainers	<ul style="list-style-type: none"> • Identify available resources, particularly Yapaka (www.yapaka.be) • Identify all partners who receive information, and determine how they follow up on it • Identify telltale signs of violence against girls (female genital mutilation, forced marriages, honour-related violence), and violence in the context of romantic relationships among young persons
Key points to be addressed during training	Trainers should endeavour to establish long-term relationships with partners and create conditions that promote effective cooperation. In this respect, the decree on assistance to abused children (12-05-2004) should be mentioned and analysed in its entirety. Reference should be made to the decree concerning the missions, programmes and activity reports of psychomedical social centres (14-07-2006), and particularly article 13 of this decree as well as the decree on assistance for youth (04-03-1991).
Target audience	<ul style="list-style-type: none"> • PMS agents, all duties • School managers in the elementary (ordinary and specialized) education sector • School ombudsmen
Duration	2 days
No. of sessions planned	2
No. of sessions ordered	2

Training operators

YAPAKA

No. of persons registered for ordered sessions 38

6. Reply to paragraph 6 of the list of issues to be taken up

Flemish Government

26. Through the *eindtermen* (final objectives) and *ontwikkelingsdoelen* (development objectives) (ET/OD), schools have a strong starting point for the discussion and/or prevention of sexual exploitation/trafficking or abuse of children.

27. The list of ET/ODs for children's rights (see annex 1) includes the new overall final objectives for secondary education (decree of 30 April 2009 sanctioning the Flemish Government's order of 13 February 2009 concerning the final objectives and development objectives in elementary and secondary education). The new final objectives form a solid basis for classroom discussions of the mechanical and emotional aspects of relationships and sexuality.

28. Alongside these final objectives and development objectives, there are also various cooperative projects including one carried out together with Child Focus (in 2009: "De juiste Click" (the smart click) for elementary education and "Connected" for secondary education) and Sensoa. The promotion of relationship and sexual skills in schools and other organizations is an ongoing mission of the Sensoa not-for-profit organization.

29. As regards teacher training, a list of the core competencies expected of a teacher in the elementary education sector is reproduced, as an example, in annex 2. The competencies in question are general ones that should enable, inter alia, certain signs to be detected at a sufficiently early stage. Moreover, teachers can also count on the support of CLBs (pupil guidance centres) for any children who show signs of being (sexually) abused. Teachers can also take relevant refresher courses.

Government of the French Community

30. School curricula do not include a specific component on raising pupils' awareness of sexual exploitation. However, the secondary-level moral education programme covers a series of skills that reflect these kinds of issues, namely:

- Learning to grasp the ethical dimension of a problem or situation; learning to resolve moral dilemmas
- Learning to reject injustices and resist
- Learning to make commitments (taking a stand in the major ethical controversies of the day)

One value taught as a fundamental component of secularism is the defence of the right of all to pursue happiness while respecting the dignity of others.

Annexes

Annex 1

ET/OD (Flemish Community)

At the *pre-primary* level, the link between development objectives and the rights of the child tend to be implicit. For example, in the discipline “Openness to the World” (*Ouverture sur le monde*), the subjects “people” and “society” include the following components:

Young children

(3.8) can stand up for their interests by sending out signals that can be understood and accepted by others;

(3.9) know and understand the types of interaction, rules of life and conventions that are important for successful coexistence in a group;

(4.4) recognize responses that convey rejection or approval of the differing behaviour patterns of individuals;

(4.6) can give concrete examples of how people who live together organize themselves using rules that everyone must follow;

(4.7) know that there are people who are responsible for ensuring that rules are obeyed in any society.

At the *elementary* level, final objectives are found in the discipline “Openness to the World” under the subjects “nature” and “society”, as well as in the interdisciplinary final objectives “information and communication technologies (ICT)” and “social skills”.

Pupils

(1.20) can ask an adult for help in an emergency situation;

(4.13) can give examples of the importance of fundamental human rights and the rights of the child, and realize that rights and duties are complementary;

(4.15) can give examples of how international organizations aspire to promote well-being and/or world peace;

(2) use ICTs appropriately, efficiently and safely;

(8) can use ICTs to communicate appropriately, efficiently and safely;

(1.7) can stand up to peers and adults by sending out signals that can be understood and accepted by others.

At the *secondary* level, the current interdisciplinary final objectives (valid until 31 August 2010) explicitly reprise human rights and the rights of the child in the final objectives of citizenship education (second degree):

Pupils

(1) can explain human rights substantively using examples drawn from the International Bill of Human Rights and particularly the Convention on the Rights of the Child;

(2) can explain, in their own words, how human rights are interdependent;

- (3) can demonstrate the universality of human rights;
- (4) can give examples of how human rights require attention and continuous support by all and are dynamic;
- (5) recognize violations of human rights;
- (6) recognize when they are the victims of prejudice and discriminatory acts on the part of others and the media;
- (7) are interested in and respect human rights, and are ready to commit themselves actively and constructively to defending their own rights and those of others;
- (8) have an interest in, and can be critical of, the way human rights issues are dealt with in the media.

In the *new interdisciplinary final objectives of secondary education* (valid from 1 September 2010), the following final objectives directly or indirectly address the issue of sexual exploitation:

Curriculum – critical thinking – pupils

- (11) can discuss information, behaviour and reasoning on the basis of relevant criteria.

Curriculum – media savviness – pupils

- (14) use media guardedly;
- (15) engage in thoughtful participation in public media forums.

Curriculum – self-image – pupils

- (21) can identify their own strengths and weaknesses;
- (22) develop their own identity as genuine individuals belonging to a variety of groups.

Curriculum – autonomy – pupils

- (24) use appropriate channels to draw attention to their questions, problems, ideas or opinions.

Context 2 – pupils

- (3) recognize problematic situations and ask for, accept and offer assistance;
- (4) accept and assimilate their sexual development and the changes occurring during puberty;
- (6) can stand up for themselves.

Context 3 – pupils

- (8) spontaneously and constructively express their wishes and feelings in the context of their relationships, and both set and accept limits.

Context 5 – pupils

- (3) demonstrate the importance and dynamic nature of human rights and the rights of the child;
- (4) get actively and positively involved in the defence of their own rights and those of others;
- (12) demonstrate the importance of international organizations and institutions.

ICT – first grade – pupils

- (2) use ICTs appropriately, efficiently and safely;
- (8) can use ICTs to communicate appropriately, efficiently and safely;
- (10) are willing to alter their behaviour after reflecting upon their use of ICTs, whether alone or interactively.

Annex 2

Core competencies of teachers in elementary education

Function set 1

The role of teachers as adults accompanying the learning and development process

1.2 Teachers can set and formulate objectives.

1.2.7 For pupils with special needs, teachers can select objectives in consultation with colleagues, within the context of the workplan, and in the light of an assessment of the pupil's current condition.

1.9 Teachers can observe and evaluate both process and outcome in order to correct, remedy and differentiate.

Teachers can:

1.9.1 continuously and systematically compile observation data and use it to correct their own approach or respond to the development needs of young children.

1.12 Teachers can cope with group diversity.

Teachers can:

1.12.1 adjust the educational learning process to suit the specific needs and abilities of young children, within the framework of strengthened supervision management and the workplan, by determining the differences between children, providing customized learning assistance, making available the means needed to achieve the desired goal, and replacing unrealistic teaching objectives with clearer or more achievable ones.

Function set 2

The role of teachers as educators

2.5 Teachers can choose a different approach tailored to young children experiencing social or emotional difficulties or those with behavioural problems.

Teachers can:

2.5.1 recognize behavioural problems and articulate young children's requests for help, with the support of colleagues or external experts;

2.5.2 in the event of problems arising, provide duly planned assistance to children as part of a team, if necessary together with experts.

Additional knowledge is required to handle a variety of situations characterized by social or emotional difficulties, the detection of signs in the behaviour of young children, the causes of behavioural problems, and the possible actions and support services such as the pupil guidance centres (CLBs).

2.6 Teachers can promote the physical and mental health of young children.

Teachers can:

2.6.1 focus on promoting pupil health, physical development and an awareness of the importance of values such as health and safety;

2.6.2 ensure a good general physical state of health of young children and provide basic care;

2.6.3 deal appropriately with young children who have health problems or physical limitations;

2.6.4 attend to the general well-being of children.

Additional knowledge required relates to the parameters of physical well-being of young children and the basic principles of first aid, including basic actions to be taken in the event of recurring health problems.

Function set 6

The role of teachers as partners of parents or guardians^a

6.2 Teachers can communicate with parents or guardians regarding the schooling of their children, in consultation with colleagues or external experts.

Teachers can:

6.2.1 provide, with the assistance of colleagues, information on the progress of a child's schooling;

6.2.2 enter into dialogue with colleagues or external experts and with parents or guardians regarding home support issues.

6.2.3 put parents or guardians in touch with support structures, in consultation with the multidisciplinary team.

Additional knowledge required includes pedagogical concepts of communication between schools and parents, and the available supporting agencies and persons.

Function set 8

The role of teachers as partners of external experts

8.1 On the basis of consultations with colleagues, teachers can establish contacts, communicate and cooperate with external agencies that offer teaching-related initiatives.

Teachers can:

8.1.1 establish contacts, communicate and cooperate with teaching-related initiatives aimed at children and young people, in consultation with colleagues.

^a The term "guardian" denotes any person who, in *loco parentis*, is responsible for a student.