



Convention on the Rights of Persons with Disabilities

Distr.: General
5 August 2014
English
Original: French

Committee on the Rights of Persons with Disabilities

Twelfth session

15 September–3 October 2014

Item 5 of the provisional agenda

**Consideration of reports of States parties to the Convention
under article 35 of the Convention**

List of issues in relation to the initial report of Belgium

Addendum

Replies by Belgium to the list of issues* **

[Date received: 22 July 2014]

* The present document is being issued without formal editing.

** Annexes can be consulted in the files of the secretariat.

GE.14-10225 (EXT)



* 1 4 1 0 2 2 5 *

Please recycle A small graphic of a recycling symbol, consisting of three chasing arrows forming a triangle.



Contents

	<i>Paragraphs</i>	<i>Page</i>
A. Purpose, definitions, general principles and general obligations (arts. 1 to 4)	1–22	3
B. Specific rights.....	23–190	9
Equality and non-discrimination (art. 5)	23	9
Women with disabilities (art. 6).....	24–32	9
Children with disabilities (art. 7).....	33–42	12
Awareness-raising (art. 8)	43–60	15
Accessibility (art. 9)	61–92	19
Equal recognition before the law (art. 12).....	93–98	24
Access to justice (art. 13)	99–102	25
Liberty and security of the person (art. 14).....	103–108	26
Freedom from exploitation, violence and abuse (art. 16).....	109–116	27
Protecting the integrity of the person (art. 17).....	117–121	28
Living independently and being included in the community (art. 19).....	122–143	30
Education (art. 24).....	144–156	35
Work and Employment (art. 27).....	157–186	38
Participation in public and political life (art. 29).....	187–190	45

A. Purpose, definitions, general principles and general obligations (arts. 1–4)

- 1. The State party's report (CRPD/C/BEL/1) refers to the criteria for recognition of the existence of disability without describing them. The Committee wishes to know what criteria are used in Belgium for recognizing the existence of disability.**

1. A variety of criteria are employed for the purpose of recognizing the existence of disability, depending on the type of assistance or measure requested. In most cases, if a disability is recognized by one service, other services will accept this. Although some measures (integration and income-replacement allowances, for example) remain based on the "medical" definition of disability, the broader definition based on the Convention is increasingly applied. An overview of the various criteria applied is provided at annex 1.

- 2. The report addresses the issue of reasonable accommodation without detailing the measures taken in this regard. The Committee wishes to know whether Belgium recognizes the concept of reasonable accommodation.**

2. Belgium does indeed recognize the concept of reasonable accommodation, at both federal level and at the level of the communities and regions:

- The federal act of 10 May 2007¹ is designed to combat certain forms of discrimination, and applies to many areas of public life.² The act requires that reasonable accommodation should be provided for persons with a disability and stipulates that denial of reasonable accommodation may also be considered a discriminatory act;³
- The different communities and regions also recognize the concept of reasonable accommodation;⁴

¹ Act of 10 May 2007 on combating certain forms of discrimination.

² Employment, the goods and services sector, all economic, social, cultural or political activity, social security and social protection.

³ See the initial report of Belgium (CRPD/C/BEL/1), para. 15.

⁴ **In Flanders**

See articles 15 and 19 of the Decree of 10 July 2008 on the Flemish policy framework for equal opportunities and treatment, according to which the denial of reasonable accommodation is considered a form of discrimination. The decree further establishes that a person with a disability is denied reasonable accommodation in cases in which the adaptation that is needed does not represent an excessive financial burden or the cost can be adequately offset by existing measures. Adaptation means any specific measure, whether material or nonmaterial which counteracts the restrictive impact of an environment that is not amenable to the participation of persons with disabilities.

As far as education is concerned: see the Decree of 21 March 2014 amending a number of provisions relating to higher education in order to facilitate the organisation and supervision of education and reduce implementation and planning costs (the "M" Decree), which is based on the existing legal frameworks arising out of the Convention on the Rights of Persons with Disabilities and the Flemish Framework Decree equal opportunities and equal treatment. The "M" decree transposes these basic principles into the legislation on education, by incorporating the right to reasonable accommodation, and, in identifying students with specific educational needs, it is more closely based on the social model of disability and takes into account the barriers in the educational environment, by focusing on educational needs as well as on functional limitations, and boosting legal protection.

For the French Community

Reasonable accommodation takes the form of a specific measure that makes it possible to alleviate, as far as possible, the negative impact of an inappropriate environment on an individual's participation in society. In the sphere of education, reasonable accommodation for a student with a disability may

- Agreements have also been signed between the federal State, the Flemish Authority, the French Community, the German-speaking Community, the Walloon Region, the Brussels-Capital Region, the Common Community Commission and the French Community Commission. The agreements are designed to secure the social and vocational inclusion of persons with disabilities. One way of achieving that is by bringing about reasonable accommodation. The agreements describe the concept of reasonable accommodation and the criteria must be met; indicators are suggested as a way of assessing the reasonable nature of the accommodation.⁵

3. The State party is requested to provide analytical and comparative data on the effectiveness of the specific measures taken to combat discrimination against persons with disabilities and on the progress achieved towards ensuring the exercise of all the rights set forth in the Convention.

At federal level

3. The statistics currently available are, in essence, compiled for very specific purposes and, basically, to take evaluate the effectiveness of the various services responsible for a particular facet of disability (the number of persons in receipt of an allowance, for example). There are no, or very few, comprehensive statistics concerning the population of persons with disabilities. Statistical tools of that nature could, however, contribute to the implementation of policy decisions and to decision-taking. For that reason, the Inter-ministerial Conference on Persons with Disabilities⁶ decided to set up an expert working group on the management of existing databases, centred on the establishment of statistics on persons with disabilities. The working group drew up a response framework, which was sent to the various bodies, and a range of responses have been collected, but it has not yet been possible to analyse the responses, and a decision has yet to be taken on the next steps (data aggregation, how the data is to be used and for what purpose, etc.).

take a variety of forms: it may be physical or nonmaterial, educational or organizational in nature. Accommodation therefore consists of all measures taken in the light of the needs of a student with a disability to enable that student to have access (to school, classrooms, the canteen and the learning process), to participate (in classes and school activities) and to progress on an equal footing with children who do not have a disability. The object is not to favour students with a disability but to compensate for the disadvantages that result from disability and inappropriate environment. As far as possible, reasonable accommodation fulfils the following criteria:

- It meets the student's needs;
- It enables the student to take part in the same activities as his or her fellow students, depending on that individual's own capabilities;
- It makes it possible for the student to work in the classroom and move around the school as independently as possible;
- It guarantees the safety and respects the dignity of students with disabilities.

For the German-speaking Community

Material support is included in the provisions of the "Buch der Regelungen": (www.dpb.be/Downloads/BuchderRegelungen0512.pdf).

For the French Community Commission

See the Decree of the French Community Commission of 9 July 2010 on combating certain forms of discrimination and implementing the principle of equal treatment (*Moniteur belge* of 3 September 2010).

⁵ Agreements concluded on 19 July 2007 – www.ejustice.just.fgov.be/cgi/article_body.pl?language=fr&pub_date=20070920&numac=2007023335&caller=summary.

⁶ The Interministerial Conference provides a forum for negotiation and concerted planning between the federal State and the federated entities (communities and regions) and brings together all of the ministers with responsibility for the subjects under discussion.

4. The “Handilab” project was launched in 2012.⁷ It is designed both to analyse the socio-economic profile of persons who are unable to work⁸ and to evaluate the effectiveness of the financial assistance provided to persons with disabilities.⁹ According to the survey,¹⁰ current allowances do not adequately cover the additional costs linked to disability.¹¹ In the past, the poverty risk to persons with disabilities was underestimated: 39 per cent of the individuals surveyed were in receipt of an income below the European poverty line. Another finding underscores the need for an integrated approach in order to promote participation in life within society. From that perspective, greater consideration should be given to the particular situation of persons with disabilities in the context of poverty-prevention policy.

Flanders

Gelijke Kansen in Vlaanderen (Égalité de Chances en Flandre (Equal Opportunities in Flanders) – GKV)

5. Flanders attaches great importance to monitoring the position within society and the participation of persons with disabilities. For that reason, under the outgoing government, a preliminary study¹² was conducted to establish a set of indicators¹³ incorporating both the framework of indicators of the United Nations and that of Flanders relating to disability,¹⁴ as well as the quality of life conceptual framework (developed by Dr. Robert Schalock et al.). That set of indicators was designed as a basic set which could later be supplemented but initially covers all of the most important aspects of the quality of life paradigm. A quality component has been developed in conjunction with that set of indicators, based on a survey of individuals in (semi-) residential care. A number of actors from the political sphere and from civil society have been involved. This phase of development should be fully completed during 2014.

Education

6. Here too, there is currently a lack of data on the effectiveness of the specific measures to combat discrimination in education against persons with disabilities. In accordance with the “Education 2009–2014”, policy paper, as part of the process of monitoring the quality of educational facilities, possible approaches to compiling information on compliance with the prohibition of discrimination in the Syntra and Centra

⁷ See www.socialsecurity.fgov.be/docs/persconferenties/pb_061212_fr.pdf and www.belspo.be/belspo/fedra/proj.asp?l=fr&COD=AG/KK/154.

⁸ That objective was achieved using an analysis of administrative data provided by Datawarehouse Emploi et Protection sociale. The analysis is prepared by the research team of the Centrum voor Sociologisch Onderzoek under the guidance of Professor Berghman.

⁹ That objective is met by (1) reviewing the financial position and living conditions of the target group and (2) a feasibility study on linking that data to the data of the Agence intermutualiste on the use of medical care.

¹⁰ As part of the Handilab survey, 1,118 individuals between the ages of 21 and 65 benefiting from an income replacement and/or integration allowance from the federal administration were surveyed.

¹¹ European poverty statistics do not in fact take into account the additional costs which these individuals have to meet.

¹² The preliminary study revealed that developing a solid and reliable set of social indicators was no easy matter, particularly in terms of definitions, as the target group was above all a group of individuals who are not directly eligible for support or assistance and who are not registered.

¹³ The Steunpunt Gelijkekansenbeleid (support unit for equal opportunities policy) was tasked with this, as the study was relevant to the issues of equal opportunities.

¹⁴ The crosscutting objectives relating to disability were translated into a framework, in accordance with the open method of coordination for the period 2010-2014. Further information is available at: www.gelijkekansen.be/Wiewerktmee/BinnendeVlaamseoverheid/OCM.aspx.

voor Leerlingenbegeleiding (student guidance centres – CLBs) educational establishments were explored. The feasibility of those approaches is being reviewed in detail. There is also the new “M” Decree,¹⁵ the implementation of which is accompanied by a process monitoring its impact. That monitoring process may in future furnish information that will provide a picture of the effectiveness of the policy and of the measures taken.

Walloon Region

7. The inclusive approach taken to persons with disabilities in life’s different aspects, as reflected in the articles of the Convention, covers a range of factors and involves, either directly or indirectly, a number of actors in the Walloon public arena. In the interests of consistency and efficiency, a decree of 2013 has sought to encourage consideration of persons with disabilities in the management contracts or notification requirements of public-interest bodies answerable to the Walloon Region.¹⁶

8. The management contract concluded for the period 2012–2017 between the Walloon Agency for the Integration of Persons with Disabilities (AWIPH) and the Walloon Government provides that the Walloon Government is to support the implementation of a cross-cutting policy on disability, pursuant to the Convention, by way of the following measures:

- By incorporating the disability dimension in the development and implementation of its policies in order to promote the inclusion of persons with disabilities in the community;
- By including the disability dimension in the management contracts of the public-interest bodies and the business plans of the directors-general of the Walloon public service;
- By introducing a system of monitoring and of control measures geared to the inclusion of persons with disabilities, in the form of a management reporting system to be developed and monitored by AWIPH.

9. The management contract is in the process of being implemented. In terms of the statistical data, the relevant indicators are currently being finalized.

French Community Commission

10. Precise statistical data will be available in 2015, based on the 2014 annual report.

- 4. The Committee would appreciate details of the involvement and participation of persons with disabilities in decision-making processes, in particular in the Flemish Region, where there is no regional council.**

At federal level

11. Working with the offices of the National Higher Council for Persons with Disabilities (CSNPH) and the Belgian Disability Forum (BDF), it has been decided that, at federal level:

- Civil society will be principally involved through CSNPH and BDF. CSNPH must be consulted immediately a measure is developed in order to guarantee that the

¹⁵ See footnote 3.

¹⁶ The decree is intended to ensure that every public interest body takes the disability dimension into account on the basis of specific measures. It also requires bodies with a management contract to include in it measures designed to include persons with disabilities.

“disability” dimension is taken into account in all legislation and that there is an effective dialogue in which the disability dimension is constantly borne in mind by all policymakers and in which civil society plays a real part in the process of policy development;¹⁷

- As well as consulting with CSNPH and BDF, the designated officials in all of the federal administrations must, within their policy areas, involve the relevant actors from civil society.

12. The opinions issued by CSNPH of its own initiative, or at the request of the ministers responsible, are to be transmitted for information to the coordinating service which will forward them to the officials in the relevant federal administrations, in the light of the subject-matter of the individual opinion.

13. As regards the involvement of civil society in the area of *public transport*, a specific consultation has been set up on the basis of regular meetings between CSNPH, Infrabel and Belgian National Railways (SNCB).¹⁸ That system of cooperation is regarded as highly constructive.

Flanders

14. *GKV*: In 2012, a group bringing together more than 20 organizations of persons with disabilities in Flanders drew up a proposal to give it an enhanced role in policymaking. Its report and recommendations were forwarded to the Flemish Government which supports the idea and recognized its significance. In July 2013, the Flemish Government approved a concept paper setting out the principles of a consultative council of that nature and of the political participation of persons with disabilities in Flanders. The legal basis for setting up structures for participation in relation to issues of equality of opportunity, particularly as regards disability, was included in the Framework Decree on equal opportunities and equal treatment, by means of an amending decree dating from March 2014. It will be for the new Flemish Government to make them a reality on the basis of a decree.

15. *Vlaams Agentschap voor Personen met een Handicap* (Flemish Agency for Persons with Disabilities – VAPH): within VAPH, user organizations are specifically represented on the consultative committee and in the various standing working groups.

16. *Employment*: in the employment and social economy field, the role of the Diversity Commission of the Social and Economic Council of Flanders is to discuss with the social partners the participation in the labour market, on a proportional basis, of certain at-risk groups (particularly the group of persons with an occupational disability). It also advises political players in the field. The organizations for persons with disabilities are also involved through the forum bringing together the relevant actors, and there is ongoing consultation on occupational disabilities within the Flemish Employment and Vocational

¹⁷ Decisions of the Council of Ministers of 20 July 2011 and 11 May 2012.

¹⁸ CSNPH meets every quarter with Infrabel/SNCB. During their consultations, they review specific cases in which the REVALOR standards — general guidelines for the organization of stations and reception facilities — are not complied with or are complied with only with difficulty. At issue are, for instance, proposals relating to a listed station building, where it is not possible simply to carry out the desired works; proposals in regard to which local factors make it impossible to comply with the standards, etc. Infrabel/SNCB will then generally draw up a counterproposal that is jointly discussed at meetings of these working groups. CSNPH then issues a general nontechnical opinion, which is not binding, but is followed as far as possible. Given that CSNPH has no in-depth technical expertise in relation to the construction of stations, stops or reception facilities, it often relies on technical experts from accessibility services (such the Collectif Accessibilité WallonieBruxelles (WalloniaBrussels Accessibility Coalition) and the Vlaams Expertisecentrum Toegankelijkheid).

Training Office, more specifically the GebruikersOverleg Handicap en Arbeid (Platform on Disability and Work).

Walloon Region

17. The Walloon Commission for Persons with Disabilities has been in existence since 1 May 2009;¹⁹ it has:

- A general remit which consists in providing the Walloon Council for Social Welfare and Health with opinions and/or reports relating to the latter's functions, in order to provide it with material for debate in the performance of its duties;
- A specialist remit which involves providing the Government with a technical opinion, in line with the general guidelines set by the Walloon Council for Social Welfare and Health, on subjects which the Government itself selects.

18. The decision-taking body of AWIPH is the management committee whose members specifically include representatives of the disabilities' sector.²⁰ The management committee is assisted by three advisory councils,²¹ responsible for:

- Education, training and employment;
- Reception, accommodation and support;
- Assisting individual inclusion.

19. The three advisory councils consider, at an initial level and for those subjects falling within their individual remits, proposals which will then be submitted to the management committee. At the latter's initiative, three working groups covering the three main programmes mentioned above have been set up to propose reforms to the legislation, based on an analysis of specific situations.

20. At the reception and accommodation services, persons with disabilities have the opportunity to express their views at meetings of the user councils. A statutory body, the user council takes part in the service's medical, social and educational project. The user council and service consult on changes to the internal regulations and significant changes to the general support and living conditions.

¹⁹ The Commission replaces the Walloon Advisory Council for Persons with Disabilities. Like the five other advisory councils for the family, the elderly, etc.), it is overseen by the Walloon Council for Social Welfare and Health, and is made up of 15 permanent members and 15 alternates including, in addition to the representatives of associations and experts, 2 representatives of workers' organizations and 2 representatives from the management of the accredited services.

²⁰ As well as a chairperson and deputy chairperson, it is made up of:

- 3 members and 3 alternates appointed on a proposal from the minister responsible for policy on persons with disabilities;
- 4 members and 4 alternates appointed on a proposal of the associations recognized as representing persons with disabilities or their families;
- 2 members and 2 alternates appointed on a proposal from the Economic and Social Council for the Walloon region;
- 4 members and 4 alternates appointed at the suggestion of the associations representing the sector.

²¹ The advisory councils are made up of representatives of the associations for persons with disabilities, representatives of the authorities which organize services for persons with disabilities, as well as, except for one of the councils, organizations of workers involved in those services. The councils are chaired by a member of the management committee and have a maximum membership of 12 appointed by the Walloon Government.

French Community Commission

21. Persons with disabilities are involved and participate in the decision-taking process within the Department for Persons with Disabilities of the Francophone Brussels Advisory Council for Personal Support and Health. The council's membership includes representatives of persons with disabilities, and its remit is to provide opinions on all issues relating to persons with disabilities.

22. Its opinion is required for draft decrees and their implementing orders, as well as when a provision requires that the opinion of an advisory body must be sought on a service or centre accredited by the Board in one of the above-mentioned sectors. The Assembly may seek its opinion on draft decrees.²²

B. Specific rights

Equality and non-discrimination (art. 5)

5. What is the situation of foreign children with disabilities, and what action has been taken to assist them?

23. In the majority of cases, the conditions of nationality and/or residence giving entitlement to a benefit or support are laid down by the federal State or the departments of the Communities and Regions. There are, however, various forms of flexibility and special measures for foreign children with disabilities. A list is provided at annex 2.

Women with disabilities (art. 6)

6. Young girls and women with disabilities are reportedly twice as likely to be victims of sexual violence and abuse as women without disabilities. The Committee requests the State party to indicate what strategy has been adopted to address the problem?

At federal level

24. The vulnerability of women with disabilities is taken into account in the different legislative texts.²³ Reference should be had in particular to the Act of 26 November 2011 amending and supplementing the Criminal Code to make the abuse of vulnerable persons a criminal offence (art. 442 quater of the Criminal Code) and to expand the protection of vulnerable persons against abuse under the criminal law. The act has introduced into all of the provisions relating to the relevant offences²⁴ the element of aggravating circumstances

²² Legal basis: Decree of 5 June 1997 establishing the Francophone Brussels Advisory Council for Personal Support and Health, published in the *Moniteur belge* of 9 July 1997. The decree and its implementing orders may be consulted on the website of the French Community Commission's PHARE service: www.phare.irisnet.be under the heading *Textes légaux*.

²³ Article 433 septies, para. 2, of the Criminal Code, on trafficking in human beings, provides that the punishment is increased where the vulnerability of the victim has been abused, particularly if the victim has a disability. Article 77 quater, para. 2, of the Act on foreigners of 15 December 1980 provides for a similar form of aggravating circumstance. Finally, under article 433 decies of the Criminal Code, it is a criminal offence to be a slum landlord, and the abuse of vulnerability is a central factor in this context. Moreover, as regards women with a disability, regard should be had to article 376 of the Criminal Code which provides for the penalty to be increased if a person with a disability, a sick person or a pregnant woman has been indecently assaulted or raped.

²⁴ The factor of aggravating circumstance has, for instance, been inserted in the following provisions: article 376, subparagraph 3377, subparagraph 1, of the Criminal Code (rape and indecent assault);

if the offence was committed against “a person who is vulnerable because of their age, pregnancy, illness, infirmity or physical or mental disability which was evident or known to the perpetrator”. The act is not limited to offences concerning violence or sexual abuse but covers several other offences.

25. Article 43 of the act of 26 November 2011 provides for the right to bring litigation in the case of any public-service utility or association tasked with protecting the victims of sectarian practices or preventing violence against or abuse of any person who is vulnerable “because of their age, pregnancy, illness, infirmity or physical or mental disability”. In addition, article 458 of the Criminal Code provides that persons bound by professional confidentiality may, in certain circumstances, report to the Crown Prosecutor certain offences²⁵ committed against a minor or person who is vulnerable “because of their age, pregnancy, domestic violence, illness, infirmity or physical or mental disability”. In addition to these changes to the law, measures have been taken to combat more effectively violence and sexual abuse against women with disabilities, among others.²⁶

Flanders

26. In Flanders, the “abusive conduct contact point” has been up and running since October 2012 for those structures recognized by VAPH. All structures must report any instance of abusive conduct concerning a user, which is alleged to have taken place in the context of the support relationship and where the perpetrator was another user, a member of staff or a third person intervening at the request of the facility. In 2012, 81 such incidents were reported. Sexual harassment is the most common form of abusive conduct, followed by physical violence and psychological abuse. In 77 per cent of cases, the criminal conduct occurs between users. In 20 cases, the user and/or his or her legal representative, whether or not supported by the facility, made an official complaint to the police.

Walloon Region

27. The Walloon Region tackles the issue of violence and the sexual abuse of women with disabilities within the context of a general approach to combating such violence and abuse, and avoids stigmatizing the victim on the ground of her disability. That form of discrimination is combated either within a global framework of equality between men and women, or as part of the process of integrating persons with disabilities. This does not,

article 378 of the Criminal Code (prohibition, following a conviction on the basis of the abovementioned articles, of exploiting a place or activity involving vulnerable persons); article 380, § 3, subparagraph 2, of the Criminal Code (vice and prostitution); articles 405 bis and 405 ter of the Criminal Code (intentional homicide not categorized as murder and intentional bodily harm); article 417 ter of the Criminal Code (torture); article 417 quater of the Criminal Code (inhuman treatment); article 417 quinquies of the Criminal Code (degrading treatment); article 433 septies of the Criminal Code (human trafficking).

²⁵ Articles 372 to 377, 392 to 394, 396 to 405 ter, 409, 423, 425 and 426 of the Criminal Code.

²⁶ Including, in particular:

- Circular COL 10/2005 on the Sexual Aggression Set (SAS), a specific tool making it possible to gather evidence more effectively and reduce the process of secondary victimization in cases of sexual aggression;
- Circular COL 13/2013 on research and prosecution policy in relation to discrimination and hate crimes, including discrimination based on gender and/or disability;
- The 2012-2015 national security plan which provides that offences in which serious bodily harm is inflicted — against women in particular (rape, etc.) — will always be given priority; The 2010-2014 action plan on combating domestic violence and other forms of violence within the family will, in future, be expanded to cover sexual violence so as to include rape and treat it from the perspective of “genderbased” violence (violence against women). Finally, there is an awareness-raising campaign to encourage rape victims to go to the police (www.aideapresviol.be).

however, imply that a review of situations in the field indicates [the existence of] discrimination against women aggravated because of their disability, and the same applies to men. Faced with any given situation in the field, the specific response may be a combination of measures based on both a plan for the integration of persons with disabilities and a plan for equality between men and women.

28. In 2011, the Walloon Government approved the global plan for the promotion of equal opportunities; it approved the related action plan on 6 December 2012. The action plan turns on four main themes including equality between men and women and the integration of persons with disabilities.

29. In the broader context of family and marriage counselling, a decree of 2014 provides that family-planning centres may include in their activities persons with disabilities, contingent on the local situation and user needs.

30. The management contract signed between AWIPH and the Walloon Government for the period 2012–2017, provides for:

- The inclusion of the relationship, emotional and sexual issues of persons with disabilities in the educational project of the services accredited and subsidized by AWIPH, working with the family-planning centres;
- The introduction of training/awareness-raising sessions about the concepts of good treatment/ill-treatment in the services accredited and subsidized by AWIPH.

German-speaking Community

31. The German-speaking Community is not currently aware of violence against or the sexual abuse of girls and women with disabilities in its institutions. Nonetheless, prevention and in-service training to enable the SENS support service²⁷ to identify such cases is included in the action plan of the German-speaking Community in Belgium for the purpose of implementing the Convention, in relation to both professionals in the field and persons with disabilities and their families.

French Community Commission

32. A strategy based on information, listening to persons with disabilities, and therefore women with disabilities, of supporting the latter and bringing such issues to the attention of persons without disabilities is currently being supported by the French Community Commission by means of:

- A partnership with the activities of the Resource Centre for Sexuality and Disability;
- The organization of a fair on “Pleasure, sexuality and disability: you and me and emotion?” held on 25 March 2014;
- The creation of an advisory committee on third-party intervention in the relationships, emotional and sexual life of persons with disabilities in the Brussels Region, funded by the French Community Commission.²⁸

²⁷ The SENS service is a department of the “Dienststelle für Personen mit Behinderung” (Agency for Persons with Disabilities (the DPB) which provides counselling and support to persons with disabilities and their relatives, in response to their questions about friendship, love, relationships, emotions and sexuality.

²⁸ Legal basis: Decree 2009/389 of the Board of the French Community Commission of 14 May 2009 concerning the establishment of an advisory committee on third-party intervention in the relationships, emotional and sexual life of persons with disabilities in the Brussels Region, published in the *Moniteur belge* of 10 July 2009.

Children with disabilities (art. 7)

7. **To what extent can children with disabilities freely express their views on all issues affecting them and, in order to exercise this right, receive adequate assistance, suited to their disabilities and age?**

At federal level

33. Under the new article 1004/1 of the Judicial Code,²⁹ all minors have the right to be heard by a judge in regard to the issues concerning them and pertaining to parental authority, the right to accommodation and the right to personal relations. They also have the right to refuse to be heard (§ 1). The minor's opinions are taken into consideration in the light of his or her age and maturity (§ 6, subpara. 2). There is no distinction according to whether or not the child has a disability, and the interest of the child is the crucial element to be taken into account in any decision affecting that child (Belgian Constitution, art. 22 bis, § 4). The same applies in the field of criminal law which does not distinguish between children according to whether or not they have a disability.³⁰ However, disability will always be taken into account when judgment is handed down and, consequently, children with mental disorders who have committed an offence will be placed in a children's psychiatric facility.³¹ It should be emphasized that, whether or not they have a disability, children may, in principle benefit from legal aid and legal assistance entirely free of charge.³² For other measures and provisions designed to secure effective access to the justice system for vulnerable persons, including persons with disabilities, please see the report of Belgium.³³

²⁹ Introduced by the Act of 30 July 2013 setting up a family and youth court, which will enter into force on 1 September 2014.

³⁰ Act of 8 April 1965 on the protection of young people.

³¹ Act of 26 June 1990 on the protection of persons with mental illness, and article 43 of the abovementioned act of 8 April 1965.

³² Article 1, § 1, subparagraph 8, of the Royal Decree of 18 December 2003 establishing the conditions for the award of fully or partly free second-line legal aid and legal assistance.

³³ Those measures include the following:

- All persons with disabilities benefit from access to first line legal assistance in legal advice centres. In addition, persons with disabilities who are in receipt of an income replacement allowance may benefit from second-line legal assistance (that is to say the assistance of a lawyer) and free legal assistance (exemption from procedural costs);
- During detention proceedings, the assistance of a lawyer is mandatory on the basis of the Act of 1 July 1964 on the social protection of the mentally handicapped and repeat offenders and the Act of 21 April 2007 on the detention of persons with mental disorders. Pursuant to these texts, expert advice and observation reports may be requested to assess the mental state of the individual concerned, and these are added to the case file on the basis of which the judge takes a decision on detention;
- The regulations on sworn interpreters and translators in court proceedings provide for the use of sign language and Braille translations. Other rules provide for coverage, for example, of the travel expenses of a person accompanying an individual with a disability;
- Special arrangements are made for minors, pursuant to chapter VII bis of the Code of Criminal Procedure on interviewing minors who are victims or witnesses of certain crimes, and pursuant to the ministerial circular of 16 July on the audiovisual recording of such interviews. In addition, the law provides that minors cannot decline the assistance of a lawyer, unlike adults who may, in principle, do so.

Flanders

VAPH

34. The Decree on comprehensive youth support confirms and clarifies the right of minors to express their views and participate in all of the forms of youth services included in the decree and also clarifies the legal position of minors in the context of youth support.³⁴ There is also provision for:

- Monitoring the exercise of this right of minors;
- Three-yearly reports on the monitoring process;
- Targeted measures to guarantee the exercise by minors of their rights.³⁵

Education

35. Many schools and CLBs take a practical approach to student support. This method of working, which is based on cooperation and has its focus on the ground, is founded on a number of principles, including ongoing and systematic cooperation between the student, parents, teachers and the individuals providing student support. Based on realistic advice, the work is carried out with a view to the objectives to be achieved. The starting point is always the request for support and the expectations of all concerned. CLB support is provided, in accordance with the various decrees,³⁶ with the maximum input from students and their parents or those responsible for their upbringing. Students also have access to their CLB case-files in which all relevant data are recorded. In the context of compulsory education, there is a regulation on the legal position of students, and this applies also to students with disabilities.

Walloon Region

36. All reception and accommodation services must set out, in their house rules, the procedures whereby persons with disabilities, including children who are in their care, may make complaints or suggestions.

37. The views of children with disabilities can also be voiced through their parents and close helpers. In this way, AWIPH has enabled parents and close helpers better to perform

³⁴ Articles 45 and 46 in particular:

- Article 45. Youth support shall enhance the participation in the youth support services of the target group. In order to achieve this:
- 2. Youth support shall encourage the participation of the minor, the minor's parents, where appropriate, those responsible for the minor's upbringing, as well as relevant individuals in the wider family context, in the youth support services available to the minor, by entering into a joint commitment;
- Article 46. Youth support shall guarantee the minor, the minor's parents and, where appropriate, those responsible for the minor's upbringing:
 - 1 Access to the minor's case file;
 - 2 The right to a periodic evaluation of the youth support services provided to the minor and involvement in that evaluation;
 - 3 The right to participate in the youth support services offered by the providers of youth support and in any change to those youth support services.
 - 4 The right to participate when youth support is specified and in regard to the arrangements set in place.

³⁵ Decree of the Flemish Government of 21 February 2014.

³⁶ CLB Decree (1 December 1998), Decree on comprehensive youth support (12 July 2013); Decree on the legal position of minors in youth support (7 May 2004).

their parental and family duties by setting up discussion groups and training groups in line with the customized child-care plans.

38. AIWPH and the Birth and Childhood Office have produced a survey of the needs of children with disabilities from birth to 3 years of age. If their needs are better understood, then it is likely that the opinions expressed by children with disabilities will be taken better into account.

39. To enable children with disabilities to express their views, it is important to raise the awareness of the staff caring for them. With the support of AWIPH, support mechanisms in early childhood reception centres have continued to expand their activities, and they worked with 1,446 reception facilities in 2011, rising to 1,658 in 2013.

French Community

40. Various provisions of law provide for the participation, particularly of young people, in youth support.³⁷ Turning specifically to young people with a disability, a cooperation agreement has been concluded between, on the one hand for the Walloon Region, the Directorate-General for Assistance to Young People and AWIPH, and PHARE for the French Community Commission.

German-speaking Community

41. When social and material support is provided, children with disabilities are invited by the relevant service to express their views, in order to ensure that the support is tailored to their needs. When other benefits are accorded, it is the parents or legal guardians who decide how best the child's views can best be heard.

³⁷ More specifically:

- Article 50 quinquies of the Decree on youth support of 4 March 1991, amended on 29 November 2012:

“Article 50 quinquies. The accredited services, the youth support and legal protection services and the public institutions shall arrange, on a continuing basis, for the participation of the persons referred to in article 1, subparagraphs 1 to 4.

This must enable any person referred to in article 1, subparagraphs 1 to 4, freely to express his or her opinion and to be heard regarding his or her perception of the support provided and its impact.

Every year, each education advisory council shall review the process of participation set in place by the accredited service with the persons referred to in article 1, subparagraphs 1 to 4, of this decree, the resulting findings and the way in which they have been taken into account to improve the practices of the approved service”.

- Article 6, § 1 et § 2, of the Decree of 15 March 1999 on accrediting and subsidizing services has recently been amended and now includes provisions on consulting young people in the education advisory councils set up by the accredited services; this will enter into force on 1 January 2015:
“Article 6, § 1. An education advisory council made up of management and staff shall be set up in each accredited service. In accredited residential services, young people shall be consulted at least once a month.

§ 2. The education advisory council shall review at least once a year:

- 1 the application of the code of conduct
- 2 the programme of training and educational supervision
- 3 the process of participation set in place by the accredited service and referred to in article 50 quinquies of the decree (...).”

French Community Commission

42. There is a user council in every day centre and accommodation facility, including for children. The council meets at least twice a year and, if necessary, weekly.³⁸

Awareness-raising (art. 8)

8. **The Committee wishes to obtain information on the strategy that is to be implemented to raise awareness of the situation of persons with disabilities and to promote respect for their rights and dignity.**

At federal level

43. Following the ratification of the Convention on the Rights of Persons with Disabilities, policies developed in this field are now based on the principle of “handistreaming”, according to which it is necessary to take account of the “handicap” dimension in all policy areas. The Convention calls on policymakers to be aware and to evaluate, as the impact of any policy measure on the daily life of persons with disabilities must be taken into account at the earliest possible juncture. In order to lend substance to the process of raising awareness, the Federal Government’s Council of Ministers decided, on 20 June 2011, to structure and integrate the process of mainstreaming disability into all of its activities, at both an administrative and at a policy level. Every ministerial private office and every federal institution (Federal Public Service, Federal Public Planning Service, scientific establishments and State social security institutions) has designated a “disability liaison officer”, and all measures and actions capable of underpinning the integration of persons with disabilities must be coordinated with CSNPH and/or the independent body (the Interfederal Centre for Equal Opportunities).

44. The Federal Public Service for Social Security (responsible for allowances to persons with disabilities) produces various leaflets on the allowances and benefits for persons with disabilities. It also carries out specific awareness-raising activities such as, for instance, “Touché” (Touched).³⁹

Flanders

GKV

45. Based on the principle of equality of opportunity, Flanders endeavours to raise social awareness of the rights set out in the Convention in a variety of ways. For example, 2012 saw the establishment of the Steunpunt voor Inclusie (Inclusion Support Unit)⁴⁰ which is

³⁸ Legal basis: article 17 of Decree no. 2006/554 of the Board of the French Community Commission of 21 September 2006 on accrediting and subsidizing day centres and accommodation facilities, published in the *Moniteur belge* of 20 November 2006.

³⁹ On 3 October 2013, the Directorate General for Persons with disabilities organized an event, called “Touché” that brought together 250 persons with disabilities, public servants and professionals in the sector. The goal, which was to provide a better service to persons with disabilities, made it possible to establish a link between the participants. Individuals who generally have little direct contact were able to share their ideas and experiences throughout the day. It was the ideal opportunity to get to know each other, to put a face to the individuals behind the case files and to listen to their concerns. That type of initiative enables those taking part to put themselves in each other’s shoes, encourages mutual understanding and, consequently, alerts officials to the situation of persons with disabilities.

⁴⁰ Since 2012, the equal opportunities policy has been providing structural support to the Steunpunt voor Inclusie working alongside the not-for-profit association Ouders voor Inclusie (Parents for inclusion). The unit seeks to support parents and their children on the “pathway to inclusion” by providing information, coaching, intermediation and awareness raising. Parents frequently encounter various

designed to support parents on the pathway to inclusion. Meantime, the Steunpunt Inclusief Hoger Onderwijs (Support Unit for Inclusive Higher Education) organizes awareness-raising films and study days called “TZAL WEL”.⁴¹ The principle of equality of opportunity also underpins a policy participation project for persons with a mental disability through the not-for-profit association Onze Nieuwe Toekomst, as these individuals often encounter problems and serious obstacles in getting their voices heard.⁴²

46. Various initiatives have been undertaken in recent times with Dovengemeenschap in Vlaanderen (Community of deaf persons in Flanders) to advance their push for full participation. A CD-ROM and a DVD *Mijn baby is doof* (“My baby is deaf”) have been produced in collaboration with the Federatie van Vlaamse Dovenorganisaties (Federation of Flemish organizations for the deaf)⁴³ and greater interaction between the sign language communities and wider society has been encouraged.⁴⁴

47. During the summer of 2013, a media campaign *Mensen met een handicap zijn gewoon mensen, zie ze niet anders* (“Persons with disabilities are people too: don’t see them differently”) was launched in collaboration with the public broadcasting service⁴⁵ and, at present, a campaign is under way to combat the illegal use of reserved parking places.⁴⁶

48. The media naturally have an important role to play in shaping the image of persons with disabilities. In the case of the public broadcasting service, the strategic objectives in relation to diversity have been taken up in the management contract with the Flemish Authority, with particular focus on persons with disabilities. The management contract also includes endeavours and aspirations designed to make broadcast material fully accessible (through subtitling, audio description and the use of signing). As its role is to set an

obstacles as they try to access inclusive education and are often faced with the same questions. The support unit provides them with practical information; organizes evening information sessions; produces leaflets and handbooks; teaches parents and students about their rights in relation to inclusive education; and seeks to influence education policy and those responsible for schools and the CLBs.

⁴¹ The films use the medium of entertainment to demonstrate the opportunities for inclusive study in higher education and the range of reasonable accommodation on offer.

⁴² Persons with intellectual disabilities often encounter two types of obstacle: they do not generally have the best access to information and often face prejudice and discrimination. For that reason, as of October 2011, a project was launched within Onze Nieuwe Toekomst to reinforce and systematically develop the political participation of persons with mental disabilities. Through the project, Onze Nieuwe Toekomst is trying to persuade the individuals concerned to get their voices heard, while, at the same time, raising others’ awareness to the interest in this initiative. The association has produced a range of leaflets and handbooks to support the project, and to inform the local authorities; it works with a number of coaches and volunteers to put political participation into practice via local units and advisory councils.

⁴³ Tools of this nature inform parents of the possibilities open to them. The documentary contains very useful information for the parents and wider family circle of a deaf baby. The information is provided on the basis of the experience of parents and young deaf people, as well as the expertise of scientific researchers.

⁴⁴ With the support of an international network and the international conference accompanying it, devoted to sign language, equality of opportunity and sustainable development, organized by the University of Ghent (Centrum voor Lokale Politiek — Local policy centre — at the Faculty of Social and Political Sciences).

⁴⁵ The campaign consisted of awareness raising televised ads broadcast by the Eén and Canvas channels. In addition, Flemish television and radio have drawn attention to persons with disabilities in their editorial programming. Persons with disabilities were systematically involved in the approach taken in the campaign. The objective was to stimulate and positively influence the image of persons with disabilities in Flanders.

⁴⁶ The campaign is to be launched by GKV on 23 September 2014.

example, the public broadcasting service must act as a trail blazer, and the commercial broadcasters are expected to follow this example.

49. VAPH is conducting an awareness-raising campaign on the social integration of persons with disabilities by means of a revue, themed information leaflets and information sessions.⁴⁷ VAPH is relying on a (pro)active media policy to help create a positive image.⁴⁸ It also encourages, in a variety of ways, initiatives which contribute to an inclusive society and are founded on the principle of “as much social and normal participation as possible and as few exceptions and distinctions as possible”, and that in itself helps raise awareness.⁴⁹

Walloon Region

50. Under the arrangements for disability advocacy, everyone can have direct access to counselling and information support services, including via a telephone network (free phone number). Moreover, every person with a disability is provided with a service tailored to his or her needs in terms of the information provided. As a result of being decentralized in seven regional offices, AWIPH takes part in disability advocacy by being represented at symposia, fairs and shows.

51. AWIPH provides financial support for the advocacy measures which it has itself developed or developed in collaboration with partners, or which have been developed by other operators.⁵⁰

52. During the second half of 2012, AWIPH issued an invitation to tender to services interested in the development of socially aware activities, in securing the development and well-being of volunteers and in supervising them. Since early 2013, 13 services have been offering activities on site or externally, or coordinating the activities of volunteers on an individual or group basis. This is an activity which is both useful and gives the individual taking part a sense of self-worth. Volunteers devote their time and skills freely and free of charge to help a not-for-profit association, a private foundation, a municipality, a public social welfare centre, a public-interest body or a business association with a social purpose, etc. In return, that activity enables the volunteer to have contact with others, to feel useful and to interact.⁵¹

⁴⁷ The quarterly *Sterk* publishes poignant accounts for and by persons with disabilities. Themed information leaflets for persons with disabilities. Information sessions for secondary schools, universities and other bodies.

⁴⁸ This takes the form of collaboration in media programming or initiatives of its own, as during Disability Day (3 December) in 2013 when a spotlight was cast on the persons with disabilities who volunteer. The underlying concept was that persons with disabilities often voluntarily enter into commitments for others by working as volunteers in connection with various activities, in schools, centres for the elderly, etc. The campaign thus contributed to a positive new image and was carried by the different channels.

⁴⁹ To provide a typical example: in 2011/2012, a Dienst Ondersteuningsplan (Support service plan) was established in each province. These services consider, together with the person with a disability and his or her immediate family circle, how that person's support can be organized as inclusively as possible, based on the individual's own capabilities.

⁵⁰ Some examples:

- The number of AWIPH initiatives geared to the general services rose from 108 in 2012 to 114 in 2014;
- The number of initiatives in early childhood care facilities rose from 1,731 in 2011 to 2,196 in 2013.

⁵¹ The number of persons benefiting from social awareness activities was 192 for the period from 1 January 2013 to 15 November 2013.

53. An invitation to tender funded by AWIPH was issued in March 2009 for the purpose of supporting the normal (community- or family-based) reception facilities that take in children with specific needs. The projects⁵² offer mobile support units which travel to the different reception centres to support the professionals working there in developing inclusion initiatives (team support); to raise the awareness of children, families and staff in order to promote admission to normal facilities; to equip staff to develop their skills in relation to disability; and, finally, to help organize the coordinated provision of (local) and general specialized services for care in early childhood.

54. In the educational context, at a teacher's request, AWIPH organizes an obstacle course, entertainments, games, discussions and meetings on the issue of the integration of persons with disabilities. This initiative helps to make children without a disability more understanding of the situation of children with disabilities.

55. In 2013, AWIPH launched the annual "Wippy d'or" competition which is designed to reward projects capable of being restaged which encourage the integration of persons with disabilities into society,⁵³ and, in 2014, it launched "Wikiwiph", a website accessible to all which provides information on a range of disability-related issues. The website is designed on a collaborative model allowing users to respond and exchange information.

56. In 2014, 86 per cent of municipalities are covered by an active network of information points called "Handicontacts". The main purpose of a "Handicontact" is to inform persons with disabilities and their family circle of the services appropriate to their needs and to steer them towards those services. It passes on information on the initiatives promoting the integration into, and full participation of, persons with disabilities in life in their municipality. Its role is also to inform local authorities about the problems of disability.

German-speaking Community

57. In the German-speaking Community, the DG Inklusiv initiative is designed to increase the disability awareness of the different players in society in the German-speaking Community, to encourage them to open up their activities to persons with disabilities and to promote their inclusion in the German-speaking Community by introducing changes over the long term. DG Inklusiv involves advocacy by persons with disabilities; it is tailored to the target public and based on three pillars (experience, theory and exchange). In addition, the Dienststelle der Deutschsprachigen Gemeinschaft für Personen mit Behinderung (Agency of the German-speaking Community for Persons with disabilities – DPB) has produced a more comprehensive publication which seeks to explain the Convention and relevant concepts to a wider public (both to persons working with individuals with disabilities and with the latter, as well as their family members, etc.). The publication is also produced in an easy-to-read version, and is accompanied by roll-up banners to provide information on the Convention which is visual and accessible to all.

⁵² To carry through the project, genuine collaboration has been established between AWIPH and the Birth and Childhood Office. The nine projects which have been approved are distributed geographically by province and according to population density.

⁵³ By way of example, the first prize was awarded for choreography involving a male and a female dancer in wheelchairs; the second will be awarded for an animated film and the third for a theatre performance.

French Community Commission

58. Currently, raising public awareness of the situation of persons with disabilities takes place via the PHARE⁵⁴ website which, among other things, makes the text of the Convention available to the public.

59. An easy-to-read version of the Convention, designed for persons with disabilities who have learning difficulties is also available on the website.

60. The Decree of the French Community Commission of 13 February 2014 on the inclusion of persons with disabilities, which is due to enter into force in 2015, establishes training services on the specific aspects of disability (art. 31 of the decree).

Accessibility (art. 9)

9. What positive achievements have been made in the area of accessibility in Belgium, particularly within the framework of the strategic plan for 2008–2012?

At federal level

61. In principle, all renovation and new construction projects for which planning permission is sought are in principle in strict compliance, nothing more or less, with the regulations in force. Those regulations do not currently provide for full accessibility and vary slightly from region to region. It is worth mentioning, however, that the Buildings Authority is improving access beyond the statutory minimum, at the Tour des Finances in Brussels, for example, where the Directorate-General for Persons with Disabilities is housed.

62. Moreover, when buildings are initially fitted out for rental, the Buildings Authority now ensures that they comply with the regulations in force.

63. Restoration projects for listed buildings are all individual, and the specific circumstances may mean that it is not always possible to bring them completely into line with the regulations.

64. As regards train travel, the management contracts for the period 2008–2012, which were drawn up in 2008 between the federal State and the companies forming the old SNCB group⁵⁵ (Infrabel, SNCB and SNCB Holding) contain a chapter on accessibility. A variety of objectives, with time-frames extending to 2012, 2018 and 2028, have been included in those contracts.⁵⁶

65. The companies' efforts have achieved the following positive results,⁵⁷ and it is anticipated that SNCB and Infrabel will continue along this path.

⁵⁴ The Brussels PHARE (Person with disabilities seeking autonomy) service is an administrative directorate of the French Community Commission which provides information, guidance and financial support to persons with disabilities in the Brussels region. Website: <http://phare.irisnet.be/>.

⁵⁵ As of 1 January 2014, the SNCB group ceased to be formed of three companies — Infrabel, SNCB and SNCB Holding — and now consists of Infrabel and SNCB.

⁵⁶ Objectives:

- To make station buildings, stations and stopping points accessible;
- Raise platforms;
- Install lifts and access ramps;
- Install special train seats for persons with reduced mobility;
- Provide assistance for persons with reduced mobility at stations and stopping points.

⁵⁷ See the table at annex 3.

66. In terms of assistance at stations and stopping points, SNCB applies the principle that assistance must be requested 24 hours in advance through the call centre or the SNCB website, etc. Although SNCB is fulfilling requirements⁵⁸ in this way, discussions with the sector⁵⁹ have revealed the need to make this rule more flexible and more practical from a customer perspective.⁶⁰ This issue will be taken up during the negotiations on the next management contracts.

Flanders

67. In the context of the horizontal equal opportunities policy concerning accessibility, all areas of Flemish policy are designed to put into effect strategic and functional objectives in the framework of the Open Method of Coordination⁶¹ for accessibility. Those objectives are translated into specific measures.⁶²

68. Following the entry into force of the Flemish Regulation on town planning and accessibility (2010), access for persons with disabilities has to be guaranteed whenever buildings with public access are newly constructed or undergo major refurbishment if planning permission is to be granted.

69. The independent external agency Toegankelijk Vlaanderen (Accessible Flanders) has been set up to implement a professional and uniform accessibility policy in Flanders. The remit of the agency is to promote a society that is fully accessible and inclusive so that everyone is able to participate fully, on an equal basis, in all aspects of life.

70. The website www.toegankelijkvlaanderen.be helps persons with disabilities to obtain information on the accessibility of public and other buildings.

Walloon Region

71. In 2011, the minister responsible for supervising the public social welfare centres in the French-speaking region issued a circular drawing the municipalities' attention to the problem of the lack of accessibility to ticket machines. It also recommended that persons holding a disabled parking permit should be exempt from charges. As regards the dog licence, including for guide dogs, the circular recommends that there should be total exemption for individuals living alone, the elderly and persons with disabilities.

72. In 2013, the training conditions for and definition of what constitutes a guide dog were improved. This has made it possible to develop animal training under real conditions, that is to say in establishments and facilities which are open to the public.

73. In 2013, the Walloon Government adopted a decree requiring all parking areas on motorways to provide sanitary facilities accessible to persons with disabilities.

74. Set up by AWIPH in 2012, the platform *Bien Vivre Chez Soi* (Live comfortably at home) is designed to enable people with restricted capabilities to continue to live at home in good conditions. Its activities include:

⁵⁸ See Regulation 1371/2007 on the rights and obligations of train passengers, which requires at least 24 hours' notice.

⁵⁹ Including the CSNPH and a number of accessibility services/offices.

⁶⁰ Made more flexible for certain types of disability and on busy routes/at the main stations.

⁶¹ The Open Method of Coordination is a non-compulsory method of coordinating public policy in the different member States of the European Union.

⁶² The framework of "accessibility" objectives, developed in accordance with the Open Method of Coordination and the related action plans may be consulted on the following website: www.gelijkekansen.be/Wiewerktmee/BinnendeVlaamseoverheid/Doelstellingenkader.aspx.

- Informing people, via its website, about the advice, assistance and services that will help them remain independent in Wallonia;
- Enabling people who request this to be visited free of charge by a counselling service. The service will suggest alterations.

Brussels

75. The Government of the Brussels-Capital Region has adopted a regional regulation.⁶³ Title IV of the regulation is entirely devoted to buildings' accessibility for persons with reduced mobility. It introduces provisions concerning access and certain types of equipment within buildings to assist persons with reduced mobility and enable them to become better integrated into modern life. Its main stipulations concern access routes, ramps, stairways, lifts, corridors and doors, etc.⁶⁴

76. As regards more specifically the strategic plan for 2008-2012 of the Société des transports intercommunaux de Bruxelles (STIB), in operational terms, the latter is pursuing its efforts to improve accessibility in everyday life. Provision for persons with reduced mobility consists of a range of initiatives designed both to improve the accessibility of regular services and to provide a specific on-demand transport service.

77. Metro stations are equipped with 75 lifts, making 33 of the 69 stations fully accessible to persons with reduced mobility. In their management contract, STIB and the Brussels-Capital Region have committed to continuing their programme of investment to equip metro and connecting stations with lifts at a rate of at least five per annum, with a commitment to equip all metro stations by 2018. As part of the plan to automate metro lines 1 and 5, all of those stations will be accessible to wheelchair users. Arrangements for assistance from STIB staff are also in place. A total of 270 staff members have been specifically trained to provide this service.

78. All metro trains have a system of voice announcements informing passengers of the next station. Tactile directions (maps in Braille, line guides, etc.) are provided in all metro stations.

79. Above ground, new vehicles are fitted with low floors. Of a total fleet of 615 vehicles, 399 buses are equipped with a kneeling device, as well as retractable access ramps. The 172 new buses which will replace the oldest buses, making it possible to expand the current fleet, are all equipped with this system. They will start to come on stream in September 2014 and the process will continue till the end of the year. As the reliability of the ramps continues to be a problem, STIB has decided to allocate additional resources to their maintenance.

80. With the exception of some old tramways, all STIB vehicles have spaces for persons with reduced mobility. The new buses expected in September 2014 have six special seats reserved for pregnant women and persons with reduced mobility.

81. Working with the Brussels-Capital Region, STIB maintains an updated reference system for accessibility, including standards which must be complied with for all new vehicle purchases and all new infrastructure projects, and, where possible, when converting existing infrastructure. In that regard, stops above ground are being selectively improved to meet the needs of persons with reduced mobility. Every year, 35 small-scale conversions are programmed to make basic stops accessible, as well as 5 full-scale conversions. These

⁶³ Regulation on town planning of 21 November 2006 (published in the *Moniteur belge* of 19 December 2006), which entered into force on 3 January 2007.

⁶⁴ http://urbanisme.irisnet.be/pdf/RRU_Titre_4_FR.pdf.

proposals are submitted for an opinion to the Department for Persons with Reduced Mobility of the Regional Mobility Commission, which STIB consults on such issues.

82. Aware that accessibility for wheelchair users cannot be provided separately, STIB has developed and introduced, working with the relevant part of the third sector, the Accessibus concept, a system of information about the degree of accessibility of bus routes which is geared specifically to wheelchair users. Launched by STIB in 2012, the system is also being introduced in Wallonia.

83. In line with the arrangements set in place on the other Belgian public transport networks, STIB allows persons accompanying individuals with disabilities to travel free of charge in the same conditions as its counterparts. Similarly, as guide dogs contribute greatly to their owners' independence, STIB allows persons training them to travel free of charge.

84. Like the 2008–2012 management contract, the 2013–2017 management contract demonstrates the increased determination of STIB to work for inclusion. According to the management contract, “[a]dopting the principles of the Convention on the Rights of Persons with Disabilities, ratified by Belgium on 2 July 2009, STIB and the Region shall work together to move towards universal accessibility on the Brussels public transport network, in compliance with the principles of non-discrimination, individual autonomy, full and effective participation in society and equality of opportunity.”

85. Finally, the specialized on-demand transport service for persons with disabilities, which was introduced in 1978, has undergone far-reaching reform, as a result of which it is able, in partnership with the Brussels taxi services, to provide customers with greater flexibility in the use of transport, in terms of both being able to book transport and timetable availability.

86. All drivers have been given special training about the attention they must pay to persons with reduced mobility. This now forms part of their induction course. A specific department is devoted to policy on persons with reduced mobility; it works closely with the third sector and regards listening to and supporting individuals as its prime objective.

French Community Commission

87. The French Community Commission makes subsidies for any buildings-related project (purchase, construction or conversion projects) relating to the installation of day centres and accommodation centres for persons with disabilities (or other persons), subject to the grant of a certificate issued by the specialist services for the accessibility of social spaces to persons with disabilities, accredited by the PHARE service. At a practical level:

- The buildings of the Brussels Observatory for Autism, for example;
- A handbook called “How to design an accessible building” has been prepared by the Wallonia-Brussels Accessibility Coalition and is available to developers and builders and architects;
- A guide entitled “Brussels in a wheelchair” which lists accessible sites;
- A list of leisure activities accessible to children and adults;
- A booklet on accessible holidays in Flanders and Brussels.⁶⁵

⁶⁵ Legal basis:

- Decree 2011/149 of the Board of the French Community Commission of 14 July 2011 laying down the criteria and procedures for according subsidies for the purchase or construction of buildings for the installation of day centres or accommodation centres, of supported accommodation and recreation facilities for persons with disabilities cared for by the support services, as well as for the

10. What measures have been taken to promote access for persons with disabilities to new information and communications technologies and systems, including the Internet, for a reasonable cost?

At federal level

88. In essence, the measures taken to promote access for persons with disabilities to sites hosted and maintained by Fedict require acquisition of the AnySurfer label.⁶⁶

Flanders

89. On 11 June 2004, the Flemish Government took the decision that all of the Flemish Authority's websites had to meet the AnySurfer requirements. The rule is that whole of the Internet must be accessible.

Walloon Region

90. AWIPH offers 13 socioprofessional workshops which are entirely free of charge and designed to provide real answers to the issue of the integration at the workplace of persons with disabilities, based on a practical and participative approach. AWIPH has adapted its website in line with AnySurfer,⁶⁷ and, since 2003, the Walloon Government has undertaken to make the majority of the Walloon Region's websites accessible. The Government has made it compulsory for the websites of institutions and subject-specific web portals to obtain the AnySurfer quality label. Easi-Wal funding has enabled institutions subject to that requirement to be supported by AnySurfer as they look to obtain the label by means of audit, supervision or training.

Brussels

91. The regional websites comply with the AnySurfer requirements.

French Community Commission

92. A variety of measures have been put in place:

- The assistance provided to persons with disabilities by the support services, in this area in particular;
- The specific training arranged, inter alia, by Ligue braille and CTV Média, training centres jointly funded by the European Social Fund and Bruxelles Formation, and specifically tailored to persons with disabilities;
- Adjustments to workstations and computer equipment to make them accessible to persons with disabilities are funded by the PHARE service.

extension, conversion, major repair, improvement of access for persons with reduced mobility, the fitting out and initial furnishing of such buildings, published on 3 October 2011;

- Decree 2009/139 of the Board of the French Community Commission of 28 May 2009 on the certification of specialist services for the accessibility of social spaces to persons with disabilities, published in the *Moniteur belge* of 5 August 2009.

⁶⁶ Belgian quality label guaranteeing that Any Surfer guidelines are adhered to in the creation of websites and that sites are accessible to all, including persons with disabilities. This involves websites or electronic documentation being accessible to persons with disabilities. The label is consistent with the Web Content Accessibility Guidelines of the World Wide Web Consortium (W3C). All practical information on the accessible Internet sites may be found at www.anysurfer.be.

⁶⁷ Any Surfer requires that the websites and electronic documents must be accessible. Accessible means able to be used by everyone, including persons with disabilities, whatever their disability or the equipment used.

Equal recognition before the law (art. 12)

11. Is the new law reforming legal incapacity regimes and establishing a new protection status that is consistent with human dignity, which will enter into force on 1 September 2014, in conformity with the Convention?

93. The autonomy of individuals whose mental state means that they lack capacity is now established under the new act of 17 March 2013.⁶⁸ The reform was necessary to remedy the previous arrangements for protecting persons who lack capacity, which were deemed to be out of date and incomplete, and was also needed in order to fulfil as well as possible the requirements of international instruments.⁶⁹ The principle of equality of persons who lack capacity was the focus of the preparatory work on the act. The view was taken that there was no longer any justification for making people with mental illnesses or mental disabilities subject to a different legal status, even if their medical situation is different. In point of fact, their legal situation is the same in terms of their inability to express their wishes. Consequently, adults whose state of health means that they are completely or partially unable properly to manage their pecuniary and non-pecuniary interests,⁷⁰ without assistance or another measure of protection, may be placed under a protection regime. While standardizing the rules for the protection of adults within a single status, the new system takes account of the particular situation of each individual with a disorder and, above all, enables individuals to continue to exercise their human rights.

94. Since the situation and nature of disorders varies from one person to the next, the supervision proposed by the justice of the peace must, in effect, be personalized. It must also cover both protection of the person who is incapable and the management of that person's assets.⁷¹

95. As far as the management of assets is concerned, the new article 497 of the Civil Code emphasizes the principle of autonomy. Similarly, from now on, unless a court order specifies that the person subject to protection does not have the capacity to perform specific legal acts, that person has the right to do so.⁷² Nonetheless, the act lays down an exception to the principle of autonomy: it empowers the King to draw up, subject to approval by the Order of Physicians and CSNPH, a list of conditions which are regarded as seriously and persistently affecting the capacity of an individual suffering from any such condition properly to manage his or her pecuniary interests. In such cases, the person lacking capacity will always be represented, although the court always enjoys discretion in practice.⁷³ The royal decree on this issue is in the process of being prepared.

96. In addition, both the new act and the preparatory work set out that the methods of protection must be proportionate to the infringement they could constitute to the right to autonomy of persons lacking capacity. Since the 2013 reform, representation and assistance depend no longer on the incapacity regime to which the adult has been made subject, but on that person's individual situation.

97. According to the new rules, however, as of 1 September 2014, assistance will take the place of representation: unless the court specifies in its order that the individual is to be

⁶⁸ Act reforming the incapacity regimes and establishing a new protection status consistent with human dignity. The act is to enter into force on 1 September 2014.

⁶⁹ Such as the Convention on the Rights of Persons with Disabilities or the Council of Europe's Recommendation of 9 December 2009 on principles concerning continuing powers of attorney and advance directives for incapacity.

⁷⁰ New article 488/1 of the Civil Code.

⁷¹ Article 492/1 of the Civil Code.

⁷² New article 492/1 of the Civil Code.

⁷³ New article 492/5 of the Civil Code.

represented, that person will in fact simply be assisted by his or her administrator. In addition, both representation and assistance for the individual can be arranged only in relation to those acts which the court sets out in its order.⁷⁴ Finally, the legislation lists a range of acts which cannot be the subject of assistance or representation because of their highly personal nature.⁷⁵ These systems of protection will then be replaced, inter alia, by an authorization-based⁷⁶ or an opinion-based regime.⁷⁷

98. Finally, the principle is to leave the protected individual free to appoint one or more administrators, and that person can decide differently at any time.⁷⁸ If the individual does not make a decision, the court will appoint the administrator, the preferred option being the parents or close relatives of the individual to be protected. The court will, however, have to take that person's view into account in its decision.⁷⁹ The trusted individual⁸⁰ may be selected by the protected person and, in those circumstances, the justice of the peace must approve the choice.

Access to justice (art. 13)

12. What training programmes are available for all judicial and prison system personnel with regard to the content of the Convention?

At federal level

99. There is no special training for prison system personnel concerning the Convention on the Rights of Persons with Disabilities. However, staff are given more general training on the issues of diversity and human rights, with the focus on, among other things, respect for the principles of human dignity, the prohibition of torture and ill-treatment, as well equality and non-discrimination. The same applies to those working in the judicial system (judges, registry staff and the prosecution service) who are given more general training in human rights, including a specific module on non-discrimination.

Flanders

100. The Flemish Decree of 8 March 2013 on organizing the provision of assistance and services to prisoners envisages the preparation of a renewed strategic plan on assistance and other services for prisoners and detainees. Prisoners and detainees with disabilities are also covered by the plan, and VAPH is closely involved in determining the vision, the strategic and operational objectives and the specific measures to be taken under the plan. The Flemish Authority contributes directly to the basic training of prison staff, as well of managerial staff with policy responsibility in the relevant penal establishments. Close cooperation is being developed with the training centre for the federal public justice service. A recent specific outcome of this cooperation has been the in-service training *Werken met gedetineerden met een verstandelijke handicap* ("working with prisoners with mental disabilities").

⁷⁴ New article 492/1 of the Civil Code.

⁷⁵ New article 497/2 of the Civil Code.

⁷⁶ As regards permission to marry, for instance: new article 145/1 of the Civil Code.

⁷⁷ For consent to recognition, for instance: article 329 bis, § 1/1, of the Civil Code.

⁷⁸ New article 496 of the Civil Code.

⁷⁹ New article 496/3 of the Civil Code.

⁸⁰ New article 501 of the Civil Code.

13. The Committee wishes to know whether any complaints relating to the accessibility of court buildings have been lodged with the Buildings Authority

101. The only “complaint” which has come to the notice of the Buildings Authority to date was from the district of Nivelles and dates from February 2014. It is worth pointing out that to do their best to prevent other complaints, various services are — very gradually — taking the initiative to consult the contact officer for respect for the rights of persons with disabilities within the Buildings Authority.

102. The buildings of the prison authorities comply with the statutory requirements regarding accessibility. The various external services have been consulted, and no complaint has been recorded on this issue.

Liberty and security of the person (art. 14)

14. What guarantees are in place to ensure access to justice prior to detention for persons with disabilities who are accused of having committed an offence?

103. Articles 1 to 6 of the Act of 9 April 1930 on social protection relate to the placing of accused persons under observation – the stage prior to a decision on detention. During this period, the accused person may always be visited by the physicians of his or her choice who can give their opinion as to whether or not placement under observation is appropriate. The accused person may appeal decisions taken by the judge in chambers or criminal court ordering or rejecting placement. Placement is time-limited and may not, in any event, exceed six months. According to article 28 of the act of 9 April, the individual must be assisted by a lawyer.

104. In addition, the Act of 5 May 2014 on the detention of individuals⁸¹ further extends the rights of the individual during this period prior to detention: multidisciplinary specialist psychiatric evaluation; formal inclusion in the legislation of the notion that the specialist evaluation may be challenged; a person who is the subject of a forensic psychiatric evaluation may, at any point, be assisted by a trusted individual or lawyer. That person may also provide the legal experts, in writing, with any information helpful to the evaluation that has been provided by the physician or psychologist of his or her choice. The latter will be informed of the outcome of the specialist psychiatric evaluation.

105. When a person suspected of committing a crime is first interviewed, rights, including the right to consult a lawyer and be assisted by that lawyer, are accorded to any individual questioned or held in custody.⁸²

106. In addition to the rights to prior consultation and to be assisted by a lawyer during questioning, the act provides for mandatory communication prior to the hearing.⁸³ When a

⁸¹ Due to enter into force on 1 January 2016.

⁸² Act of 13 August 2011 amending the Code of Criminal Procedure and the Act of 20 July 1990 on pretrial detention. The entry into force of that act, on 1 January 2012, was accompanied by the adoption of two circulars by the College of Prosecutors General (COL 8/2011 and COL 12/2011 for minors).

⁸³ When persons are being interviewed, in whatever capacity, the following information must in fact be provided : (1) At the beginning of any interview, the person concerned is given a succinct account of the offences about which he or she is to be questioned, and is informed (a) that he or she may ask for all the questions put and answers given to be recorded verbatim; (b) that he or she may request that a particular investigative measure or hearing be carried out; (c) that his or her statements may be used as evidence; (d) that he or she may not be compelled to incriminate him or herself. That information is precisely recorded in the minutes of the hearing, and is additional to the guarantees under article 47 bis, § 1(2) to (5) of the Code of Criminal Procedure: right to use the documents in his or her

person is interviewed about the offences with which he or she may be charged, the act requires that more extensive information be provided to that person, with additional information furnished prior to the interview.⁸⁴ The act requires that individuals are to be given a written statement of their rights before they are first interviewed.⁸⁵

107. Where individuals are held in detention, the act has introduced supplementary rights: the right to inform a trusted individual about the arrest⁸⁶ and the right of anyone held in detention to medical assistance.⁸⁷

108. In the case of minors, the act provides that they may not waive the right to be assisted by a lawyer, unlike adults who may, in principle, do so. This does not, however, apply to adults who are to be interviewed but who are deemed to be fragile or vulnerable (because of a mental disorder, for example).⁸⁸

Freedom from exploitation, violence and abuse (art. 16)

15. What action has been taken on the recommendations of the Committee against Torture concerning the cruel treatment and abuse faced by persons with disabilities, particularly women and girls?

109. The Committee against Torture has not made any particular recommendation to Belgium on this subject, either in connection with its consideration of the second periodic report of Belgium (CAT/C/BEL/2), or following its recent consideration of the third periodic report of Belgium (concluding observations of the Committee against Torture, adopted in November 2013, CAT/C/BEL/CO/3).

110. During its consideration of the third periodic report of Belgium, however, the Committee against Torture did reiterate a previous recommendation to Belgium concerning the conditions of detention of detainees.

16. When does the State party intend to outlaw the use of chemical, mechanical and physical restraint in psychiatric institutions?

111. The Act of 22 August 2002 on patients' rights, which came into force on 6 October 2002 (and applies in psychiatric hospitals, prison psychiatric units and social protection

possession; right to read the minutes and correct or add to the statements made; right to an interpreter; and right to record the statement in the preferred language of the person concerned.

⁸⁴ Persons who may be charged with offences must be given a succinct account of the offences about which they are to be interviewed and must be informed: (1) that they may not be compelled to incriminate themselves; (2) that they have the option, after stating their identity, to make a statement, to answer the questions asked or to remain silent; (3) they are entitled, prior to the first interview, to speak in private with a lawyer of their choice or with a lawyer appointed for them.

⁸⁵ The written statement of rights comes in two forms depending on whether or not the person to be questioned is being held in custody. They have now been translated into 47 languages and are held in electronic form by the police and prosecution services and by examining magistrates so that they can be easily printed and made available to interviewees.

⁸⁶ It is possible to derogate from this rule, on a case-by-case basis, by means of a reasoned provisional decision of the Crown Prosecutor or examining magistrate.

⁸⁷ The individual concerned may also request to be examined by a physician of his or her choice but must then meet the cost.

⁸⁸ Circular COL 8/2011 of 23 September 2011 explicitly provides that: "If the police establish that the adult to be interviewed is fragile or vulnerable (because of a mental disorder, for example), the rules pertaining to minors shall be applied". It follows that the additional guarantees provided in the case of minors, and set out in Circular COL 12/2011 of 23 November 2011, also apply in regard to these individuals.

institutions) clearly defines the rights of a patient in the context of that patient's individual relationship with a medical practitioner. One of the act's provisions establishes the duty of practitioners to obtain the freely given and informed consent of patients to treatment before it takes place. This implies that the practitioner must have clearly informed the patient of the nature of the proposed treatment, namely:

- The purpose of the treatment, the degree of urgency, duration, side-effects, risks, aftercare, etc.;
- The financial cost (doctors' fees, patient's contribution, supplementary charges, etc.);
- Possible alternatives.

112. When it is not possible to establish the wishes of the patient or the patient's representative (in an emergency, for instance) the practitioner provides all necessary treatment and records the circumstances in the patient's case-file.

113. Consent must be given verbally by the patient or inferred by the practitioner from the patient's behaviour.

114. The following persons are recognized as lacking capacity to exercise these rights:

- Minors who, in the practitioner's opinion, are not capable of a reasonable understanding of their interests;
- Adults in a state of incapacity;
- Adults who, in the practitioner's view, are not in a position to express their wishes (for example a person in a coma).

115. When patients are incapable of exercising their patient's rights, those rights are exercised by the representatives designated in the Act on patients' rights. Adults under protection exercise their rights themselves, so long as they are capable of expressing the wish to do so. In addition, if practitioners consider that minors are capable of a reasonable understanding of their interests, they are able to exercise their rights independently.

116. The new Act of 5 May 2014 on the detention of persons⁸⁹ defines the detention of persons with mental disorders as a preventive measure intended both to protect society and to ensure that detainees receive the treatment their condition calls for with a view to their reintegration into society. Detainees will be offered the care they need to live a life consistent with human dignity, and treatment will be given, where necessary and practicable, through a programme of care tailored to their needs. The expert evaluation which is a prior condition of detention must, if possible, specify what treatment a detainee should be given.

⁸⁹ *Moniteur belge* of 9 July 2014, due to enter into force on 1 January 2016.

Protecting the integrity of the person (art. 17)

17. Please inform the Committee in which cases and under what conditions treatment or institutionalization may be imposed, despite the refusal of the person concerned, and whether any remedies are provided.

At federal level

117. The legislation makes it a principle that any restriction of individual freedom in the diagnosis and treatment of mental disorders is illegal.⁹⁰ That is why the legislation imposes very strict conditions on when hospitalization can be ordered (either for observation or as an inpatient) against the wishes of the individual. Accordingly, the measures of protection provided for by the act can be taken by the judge in relation to mentally ill persons, when there is no other appropriate alternative, only if their condition requires it, either because they are gravely endangering their own health and safety or because they pose a serious threat to the life or person of others. Moreover, being out of step with moral, social, religious, political or other values cannot in itself be considered a mental illness. All the following conditions must therefore all be met before a decision can be taken to place a person under treatment in hospital against their wishes:

- The person concerned must have a mental illness;⁹¹
- The state of the person must constitute a grave danger to his or her own health and safety or a serious threat to the life or person of others;⁹²
- Finally, a person may be placed in hospital for treatment only if there is no other, more appropriate treatment.⁹³

118. Placement under observation lapses after 40 days, but can be extended.⁹⁴ Patients, including minors, their legal representative or lawyer, as well as any other party to the case, can appeal the judgments handed down. Finally, it should be stressed that representation for patients who lack capacity to exercise their patients' rights, including in particular the right, in principle, to give informed consent to any treatment, is provided for by the Act of 22

⁹⁰ Article 1 of the Act of 26 June 1990 on the protection of persons with mental illness.

⁹¹ In order to confirm the illness, a detailed report must be appended to the request for placement under observation, setting out, on the basis an examination conducted no more than two weeks previously, the condition of the person whose placement under observation is requested and the symptoms of their illness, and establishing that placement under observation constitutes a measure of protection, either for that person's health and safety or for the safety of others. The report may not be prepared by a physician who is related by blood or marriage to the patient or person requesting placement or who is associated in any capacity with the psychiatric service dealing with them. The act also specifies that placement in hospital cannot be justified solely on the basis that the patient fails to conform to values, particularly social values.

⁹² In accordance with the right of the person concerned to respect for their physical integrity, the person applying to have the latter placed under treatment must prove a causal link between the illness and the danger or threat it represents. This measure must, in fact, always be exceptional, since the right to autonomy means that a mentally ill person is in principle free to refuse treatment, provided that refusal is free and informed.

⁹³ The principle of a valid alternative is being applied. It is then necessary to establish that there is no better alternative to depriving patients of their liberty and compelling them to be treated.

⁹⁴ If the condition of the patient justifies keeping them in hospital after the period of observation, the director of the establishment must forward to the judge, at least two weeks before the placement under observation expires, a detailed report by the physician in charge confirming the need for continued hospitalization. The judge then determines the duration of the extension which may not exceed two years.

August 2002 on patients' rights. The act ensures that patients are involved in the exercise of their rights as far as possible and in the light of their capacity to understand.

Walloon Region

119. In the services recognized by AWIPH, the care of persons with disabilities takes place on a voluntary basis agreed between the persons concerned, their legal representatives and the services providing care.

18. The Committee wishes to know when the State party will prohibit the sterilization of women and young girls with disabilities without their informed consent.

120. As regards possible cases of forced sterilization of women with mental disabilities, it should be noted, at the outset, that the National Council of the Order of Physicians has issued opinions⁹⁵ on several occasions stressing that systematic sterilization of people with mental disabilities is unacceptable, that each case must be considered and discussed individually with reference to extremely strict criteria, and that decisions should be made by a minimum of three physicians.⁹⁶

121. It should also be recalled that the Act of 22 August 2002 on patients' rights establishes the right to give or withhold informed consent to any treatment. It follows that, if a woman with a disability is capable of expressing her wishes about her health, she can choose whether or not to give consent to a procedure such as sterilization. If, on the other hand, the person with a disability is not able to express her wishes, the consent of her representative (her parent or guardian) will be needed. The representative is under an obligation to act on behalf of the patient and in her best interests. The act further requires that patients must be involved in the exercise of their rights as far as possible and in the light of their capacity to understand.⁹⁷

Living independently and being included in the community (art. 19)

19. In Flanders, the number of urgent requests for personal assistance has doubled in the last five years, with increasingly lengthy waiting lists. The Committee would appreciate information on the solutions envisaged in response to this situation.

122. The Flemish Authority has taken measures on several fronts to respond to the growing demand for personal assistance budgets (BAPs).

New BAPs in 2012–2013

123. See the figures at annex 3.

⁹⁵ Opinions of 13 June 1981 and 15 January 1994.

⁹⁶ For the sterilization of a person with a mental disability to be authorized, there must be indisputable evidence (in relation to heredity and the ability to bring up children); it is further required that normal forms of contraception must not offer a satisfactory alternative and that the patient's legal representative, after being fully informed of the irreversibility of the procedure and of the problems that may subsequently arise, freely consents in writing. The decision on permanent sterilization must be recorded in a report, and signed by a committee composed of three physicians, including a gynaecologist, neurological psychiatrist or general practitioner.

⁹⁷ Hospital statistics from the *Résumé Hospitalier Minimum* for 2011 recorded 8,891 sterilizations for the entire male population and 16,796 for the female population. More specifically, while there were 11,322 hospital admissions of persons with mental disabilities in 2011, 5,561 of them men and 5,761 women, 7 men were sterilized and 22 women.

Introduction of the working capital system

124. The working capital system was introduced across the board in 2013,⁹⁸ making it possible to provide a budget of €4.5 million for additional BAPs. Under the new system, budget holders receive an amount of working capital equivalent to five-twelfths of the annual budget. The amount of working capital is set in such a way that budget managers always have a financial margin sufficient to provide BAP resources. Under the working capital system, budget managers must first establish and report costs, which are then reimbursed.

Integration of the BAP with the central registry of applications for assistance (Centrale Registratie van Zorgvragen (CRZ))

125. The regulations governing the BAP and those dealing with the system of support were amended at the beginning of 2012 to standardize arrangements for targeting the various forms of support provided by VAPH (including both the BAP and assistance in kind). Since then, applications for the BAP have been treated in the same way as applications for assistance from an institution. The aim is to steer people with disabilities to the appropriate support in a simple, fair and transparent fashion. Accordingly, all BAP applicants must have their application registered in the CRZ databank.⁹⁹

126. Since 2012, BAP applications, like applications for assistance from an institution, have been considered by a committee responsible for establishing priorities (there is at least one in each province). The committee decides whether or not the BAP application will be approved, based on need and urgency. If BAP applicants consider that they need personal assistance immediately or in the very near future, they are able, in consultation with the contact person, to make to the committee an application called an “application for priority assistance”, which must be accompanied by a completed questionnaire. The contact person will help the applicant with the questionnaire and submit it to the committee.

Walloon Region

127. Through AWIPH, the Walloon Region has increased both the number of people benefiting from the BAP and the size of the budgets themselves. The numbers benefiting from the BAP are continually increasing, and rose from 175 in 2011 to 351 in 2013.

20. The Committee would like to know what steps have been taken to pursue a policy of deinstitutionalization.

Federal

128. Belgium has made progress in implementing the 2002 joint declaration¹⁰⁰ on future policy for mental-health care. The reform offers alternatives that could make an impact on

⁹⁸ In other words, on 1 January 2013, budget managers moved from a system based on advances to working capital arrangements, as an alternative way of disbursing the BAP. Previously, BAP managers received four advances a year. The sum unspent during the year was repaid, based on a budget review. This meant that VAPH was recovering large amounts of unused resources in arrears, following the budget review, with the consequence that use of part of the resources available for personal assistance was being blocked. The working capital arrangements avoid this problem.

⁹⁹ To have a BAP application registered in the CRZ databank, the applicant can call on the help of a contact person. The data in the register must be updated regularly by the contact person. The contact person is obliged to inform BAP applicants of any changes in relation to their registration.

¹⁰⁰ See the text of the Declaration at http://www.health.belgium.be/filestore/7508402_FR/20020602420020624 Déclaration commune – future politique Ssm_7508402.fr.pdf (.PDF) and of an amendment of 24 June 2004 at:

the number of compulsory admissions. Through the reform of mental-health care¹⁰¹ and pilot projects agreed with the federated entities and financed by a freeze on beds in hospitals, the supply of psychiatric beds in Belgium is being transformed into the provision of a range of care that is differentiated according to patient needs in their everyday surroundings. A guide to the reform of mental-health care has been prepared, in separate versions summarizing the current position and progress with the reform in Wallonia, Brussels, the German-speaking Community and Flanders. The general objectives are common throughout the country and aim to improve mental-health care by establishing care facilities and networks. The reform therefore focuses on patient needs and on enabling them to remain in their everyday surroundings. The main benefits are:

- A comprehensive approach integrating hospital resources and services developed within the community;
- The development of networks which are structured to bring mental-health care providers together with other essential partners including housing, culture, employment and education;
- The role of patients' representatives and families with the initiative on the "participation of patients' representatives and families", and their involvement in setting up the process;
- Progress fostered by ongoing intergovernmental consultation;
- Taking each project forward on the basis of its specific features and creativity at the local level;
- The "bottom-up" nature of each project;
- The exchange of experience and good practice between networks.

129. Nineteen projects are included in the current exploratory phase, already covering 70 per cent of the national territory.¹⁰² When it comes to constructing the network, each project may have a coordinator, who works with partners to build up the local network. Each network will have a set of resources based on the five following functions.

- Prevention, promotion of mental-health care, early detection, screening and diagnosis.
- Mobile teams for the intensive treatment of both chronic and acute psychiatric conditions;
- Rehabilitation teams working on reintegration and social inclusion;
- Intensive residential-treatment teams for both chronic and acute psychiatric problems when hospitalization is essential;
- Specific residential arrangements allowing care to be given when this cannot be provided at home or in an equivalent setting.

http://www.health.belgium.be/filestore/7478426_FR/2004120620041206_Task_Force_Ssm_Amendement_d%C3%A9claration_d%27intention_-_juin_2002_2?_7478426_fr.pdf.

¹⁰¹ Article 107 of the Hospitals Act.

¹⁰² For example, projects under articles 107 and 103 for the creation of a mental health care network in the district of Louvain and the healthcare catchment area of Tervuren.

Flanders

130. The concept note *Perspectief 2020* ("Perspective 2020") establishes a conceptual framework and medium-term vision for the development of support services for persons with disabilities which promote their inclusion in society. There is a strong emphasis on giving mainstream services and establishments responsibility for expanding the support they provide to this target group, not only in the field of residential mental-health care and psychiatry, but also in childcare, in the *algemeen welzijnswerk* (general welfare service) and the services assisting families and providing supplementary help in the home. The focus is also on projects specifically designed to stimulate community building, and thus strengthen circles of support in the immediate vicinity of persons with disabilities.

131. The image of a Flanders where help and support for people with disabilities was mainly provided by large residential establishments set apart from society no longer reflects reality. There is now a wide range of accommodation providers and arrangements, often on a smaller scale, providing housing of various kinds specifically for people with disabilities. The Flemish Authority is also supporting initiatives by the parents and families of people with disabilities to allow housing and day care to be delivered on a smaller scale, and is promoting social enterprise in this area.

132. The approval of the Flemish Decree on financing the monitoring of personal care (*persoonsvolgende financiering*) also represents an important step forward towards the development in the near future of an approach which is increasingly geared to customer demand. Accordingly, there are 26 accredited services that support families affected by disability, enabling the individual concerned to remain within the family for longer. There are 41 home support services providing assistance to persons with mild mental disabilities. For persons with major physical disabilities, there are 27 day-to-day living assistance service providers providing help in the home. There are many schemes providing inclusive living arrangements (where support is provided for housing on a small scale or in individual apartments), for which they receive specific subsidies. But traditional schemes also are increasingly prioritizing a flexible approach with the emphasis on small-scale units.

Walloon Region

133. The BAP is a budget which is available in certain circumstances to improve the quality of home life. Recipients receive support in their everyday life and the BAP gives those around them the possibility of support in fulfilling their professional or family responsibilities. Additional budgetary resources are regularly released to meet growth in demand.

134. In 2012, as regards day-to-day living assistance service providers, the Walloon Government made improvements to: the procedure for applying for initial accreditation, the period of validity of the accreditation once accorded and the process for evaluating services. It also reinforced the levels of experience and training required, the principles governing the admissibility of costs, the specific rules governing staff costs and pay scales.

135. In relation to residential and day care for persons with disabilities, the Walloon Government took steps in 2012 and 2013 to clarify the position of the residential services for adults, requiring them to convert some of their residential provision by 31 December 2013 at the latest into places in supported housing services.

136. In 2013, the Walloon Government consolidated the amount of the subsidies paid to the early intervention services and to the support services for adults with disabilities. It also issued a decree designed to provide a regulatory framework and set levels of subsidy, both for services authorized to provide care for persons with disabilities and for services organizing activities for them.

137. In 2014, the Walloon Government took measures to help the services organizing respite arrangements for people with disabilities and their close carers. The number of users rose from 737 in 2011 to 974 in 2013.

138. In 2010, AWIPH issued an invitation to tender for projects designed to support people with intellectual disabilities in their wish to live independently in the home of their choice.¹⁰³

German-speaking Community

139. For about 20 years (since 1994), the German-speaking Community has been taking fresh approaches to housing for people with disabilities. In addition to the two kinds of nursing homes, which, in comparison with those in the rest of Europe, are smaller community structures with functions which are clearly defined and structured around individual needs, there is a whole range of housing provision for people with disabilities: housing resource workers, half-way-house accommodation on the way to independent living, shared households, supported independent housing and other forms of independent housing. Respite arrangements are available in the form of short stays or leisure packages. In the German-speaking Community, housing opportunities for people with disabilities have been gradually diversified and redesigned taking into account the individual capabilities and needs of the people concerned. Those close to persons with disabilities are also asked for their contribution here.

Brussels

140. The Housing Code of 17 July 2003 provides that the management contract between the Region and the Housing Association for the Brussels-Capital Region (Société du logement de la Région de Bruxelles-Capitale) is to determine “the objectives of accessibility and adaptability of buildings and dwellings for persons with disabilities”, to give priority housing allocation to people with disabilities in the event of transfers when new dwellings are built by their social housing provider, and to guarantee that tenancies will be for an indefinite period and that there will be no discrimination on grounds of disability.¹⁰⁴

141. Article 19 of the management contract for 2010–2015¹⁰⁵ sets minimum standards to be observed in connection with:

“... the care of persons with disabilities in all new-build projects and in all major renovation projects subject to technical feasibility. Taking account of the estimated percentage of people with disabilities in Brussels, the ageing population, the requirements of the Regional Planning Regulations and the nature of the shortages which need to be addressed, future projects must provide dwellings of which:

- 75 per cent are accessible;
- 20 per cent are adaptable; and
- 5 per cent are adapted. Attention will be paid to dwellings covered by day-to-day living assistance service providers.”

¹⁰³ These are projects for “Innovation in Assisted Housing”, distributed across the provinces according to population density. Although each has a different methodology, they all have an essential aim: to allow the person concerned to acquire the skills needed to live independently. Though the projects had undertaken to work with 59 people a year, 121 had already benefited during the first quarter of 2013 and waiting lists had to be introduced for some projects.

¹⁰⁴ See article 44(8), article 140 (7), article 142, § 3 and articles 192198 of the Housing Code.

¹⁰⁵ Implementing article 44(8) of the Housing Code.

142. The Region provides a subsidy, the day-to-day living assistance allocation,¹⁰⁶ for adapting dwellings to the needs of people with disabilities. Funding is also provided to the SLRB for onward allocation to public-service housing associations to compensate for the revenue lost owing to rent reductions for tenants with disabilities:

- Renovation grants for adapting dwellings to disabilities;
- Housing benefit grants paid on a permanent basis to recipients with a disability.

French Community Commission

143. A number of measures are being taken:

- The provision of assisted dwellings to persons with disabilities, along with assistance designed to make them more independent in dealing with everyday tasks;
- Increasing the number of accredited and subsidized support services which provide help to people with disabilities to allow them to continue to live in their normal surroundings;
- The organization of specific training for the home-help services in delivering assistance which is tailored to the needs of their clients with disabilities, with the aim of enabling them to stay in their homes.
- The accreditation of inclusive housing services.¹⁰⁷

Education (art. 24)

21. What measures have been taken to implement inclusive education and to adopt regulations on reasonable accommodation?

Flanders

144. The Decree of 21 March 2014 on measures for pupils with specific educational needs (the “M” Decree) is based on the existing legal framework in the Convention and the Flemish Framework Decree on equal opportunities and equal treatment. The “M” decree transposes these basic principles into the legislation on education by incorporating the right to reasonable accommodation, and, in identifying students with specific educational needs, it is more closely based on the social model of disability and takes into account the barriers in the educational environment by focusing on educational needs as well as on functional limitations, and boosting legal protection. The Decree also provides a structural basis for developing teachers’ skills, and gives educational establishments a new framework for addressing diversity in the school population. The principles of the Convention have also recently been introduced into the regulations governing higher education (the right to reasonable accommodation and a procedure for legal protection).

Walloon Region

145. The cooperation agreement between the French Community and the Walloon Region on support at school for young people with disabilities was renewed for three years in 2012. Ten projects to help young people aged 16–25 make the transition from school to the world of work (activities adapted to the needs of these young people in relation to

¹⁰⁶ An annual transfer of €40,000 by the Housing Association for the Brussels Capital Region to public service housing associations with services providing day-to-day living assistance to reimburse incremental costs linked to tenancies of persons with disabilities.

¹⁰⁷ Provided for by the Decree of the French Community Commission of 13 February 2014 on the inclusion of persons with disabilities, due to enter into force in 2015 (art. 64 of the decree).

finding employment, volunteering, independent living and the coordination of activities through networking arrangements) have been selected for support for a three-year period and came on stream in 2011.

French Community

146. A variety of measures are being taken:

- Measures to promote integration are included in chapter X of the Decree of 3 March 2004 on special education, which focuses on integration. Timetabled teaching hours are provided (basic allocation of teaching hours);
- An additional budget to provide 900 additional hours for total temporary integration;
- The distribution of a leaflet on reasonable accommodation;
- Many information sessions delivered by the various education networks on measures to promote integration;
- Regular amendment of the chapter dealing with integration to improve the inclusion of students with special needs;
- Requests for help from the “Cap 48” fund, which can finance structural adaptations such as ramps and lifts;
- Involvement of the services providing assistance with integration (SAI – AWIPH Phare).

German-speaking Community

147. In May 2009, the German-speaking Community adopted a Decree on the Centre for Support Teaching and Special Teaching, with the aim of improving special support teaching in ordinary and special schools and as a means of encouraging support for pupils with specific needs or adjustment or learning difficulties in ordinary and special schools. The decree applies to ordinary and special education organized or financially supported by the German-speaking Community.

148. Special support teaching is needed when the requisite support cannot be provided through general teaching methods. That is the case where intensive measures to support a student’s development and education are needed and the nature of the disability calls for specific measures to be provided by teachers, therapists and carers with the proper technical training. The aim of special support teaching is to allow pupils with special needs and who have adjustment or learning difficulties to live, study and act both independently and with others, taking account of their individual abilities. It supports and stimulates these students to acquire the skills they need at school, in social life and as members of society, and helps them with and teaches them values, attitudes and behaviours.

149. These values include equivalence in diversity, solidarity and the search for identity. Special support teaching includes the support given to students in need of a special support teaching in accordance with an individual support plan in ordinary and special schools. The amount and content of the special support teaching are determined by need in the particular case and by conditions relating to staffing, resource and organization. Those conditions, and the student’s individual needs are also decisive in determining where the support should be provided, namely wherever the child’s needs can best and most quickly be met, and where the child can best progress both within and across disciplines and in terms of that child’s development objectives.

French Community Commission

150. Various measures are being taken:¹⁰⁸

- A cooperation agreement on integration and inclusion has been signed between the French Community Commission and the French Community;
- A leaflet entitled “Reasonable Accommodation in Education - With a Disability at the School of Your Choice”, published by the inter-federal Centre for Equal Opportunities in consultation with the federated entities, was widely distributed in September 2013.

22. **The Committee wishes to be provided with data, disaggregated by area of residence (rural or urban) and by gender, on the percentage of children and adolescents with disabilities who attend special schools, those who attend reasonably accommodated mainstream schools, and those who are unable to attend school as a result of their disability.**

151. These data are at annex 3.

23. **The Committee requests information on the formalities to be observed in the event of a refusal to enrol a child with disabilities in a mainstream school and on the available remedies and procedures.**

Flanders

152. The “M” Decree gives pupils who, if reasonable accommodation is provided, are able to take part in normal teaching programmes, unrestricted entitlement to enrol in ordinary education. Students with an assessment report which gives them access to special education are enrolled provisionally in mainstream schools. The school must consult the parents, the class council and the pupil guidance centre on the adaptations necessary to include the student in the normal teaching programmes, or to allow the student to be taught on the basis of a programme adapted to individual needs. As the student’s school career progresses, the same procedure is followed if the requirement for reasonable accommodation changes significantly. If the accommodation needed is considered unreasonable, the school’s management may terminate the student’s enrolment on the basis of an opinion setting out the reasons. In weighing up whether this is proportionate, the criteria set out in the Protocol of 19 July 2007 on the concept of reasonable accommodation in Belgium should be applied.

153. Parents can complain to the Commission on Students’ Rights, which includes representatives of persons with disabilities. The Commission will closely consider the appeal and the reasons given for terminating the enrolment. The Commission may suggest a sanction to the Flemish Government, and/or, if the parents agree, refer the case to the inter-federal Centre for Equal Opportunities.

French Community

154. A student’s disability cannot be cited as a reason for refusing enrolment; the following reasons only can be given for refusing to enrol a pupil in mainstream education, whether basic or secondary:

- The student’s parents (or the student if no longer a minor) refuse to agree to the pastoral or educational approach taken by the establishment;

¹⁰⁸ The cooperation agreement and leaflet may be consulted under the heading *Textes légaux* at: www.phare.irisnet.be.

- The student does not meet the general admission requirements;
- The establishment has its full complement.

155. If enrolment is refused, the parents or student can contact the Directorate General for Compulsory Education of the French Community (for compulsory education) or the Directorate General for Non-compulsory Education and Scientific Research (for higher education). Following an appeal to the inter-federal Centre for Equal Opportunities,¹⁰⁹ appeals can also be addressed:

- To a conciliation process with the assistance of the education networks which can nominate teaching advisers who will act as third parties and promote the dialogue needed to establish arrangements for the student's integration;
- To an advisory commission,¹¹⁰ which can issue a reasoned opinion on the scope for transferring a pupil from a special education establishment to a mainstream establishment when requested by any of the following: the head of the family, or a member of the schools inspectorate of the French Community, or the head of a special education establishment.

German-speaking Community

156. When the issue of the enrolment of a child with a disability in a mainstream school arises, the Support Commission becomes involved.¹¹¹ If a case conference does not reach a unanimous view on the matters dealt with in article 93.13, paragraph 1(1) to (5), the head of the mainstream school must send the documents in the case, by registered post and within one week of conclusion of the case conference, to the Support Commission mentioned in article 93.24. The Support Commission transmits its reasoned decision, along with its recommendations on the human resources to be deployed to support the pupil during the following school year, by registered post and within 20 working days of the despatch by registered post mentioned above, to the persons responsible for the student's upbringing, the head of the mainstream school and the head of the special school. If the persons responsible for the student's upbringing are not in agreement with the decision of the Support Commission, they must inform the chair of the Support Commission in writing within 14 calendar days of despatch of the registered communication conveying the decision. The chair of the Support Commission then refers the case to appropriate youth court judge.

Work and Employment (art. 27)

- 24. The Committee would like to be informed whether private-sector firms in Belgium are subject to a hiring requirement in the form of a quota, and to what extent the quota for the public sector is being applied.**

At federal level

157. There is no hiring requirement (by way of a quota or in another form) for private-sector firms.

¹⁰⁹ See the leaflet, "With a Disability at the School of Your Choice".

¹¹⁰ See article 125(4) of the abovementioned decree of 3 March 2004.

¹¹¹ Decree of 11 May 2009 on the Centre for Support Teaching and Special Teaching, tasked with improving special support teaching in ordinary and special schools and encouraging support for students with special needs or adjustment or learning difficulties in ordinary and special schools.

158. Since the public authorities should reflect society as a whole, they have adopted the target that 3 per cent of recruitments to the federal public service should be reserved for persons with disabilities. Changes have recently been made¹¹² to ensure that all federal organizations meet the quota as quickly as possible.

- Disabled persons on the list of successful candidates in tests held by the Federal Administration Selection Bureau (Selor) now retain their place on the list for four years, and no longer indefinitely. Successful candidates with disabilities on the waiting list as at 1 January 2013 retain their listing for four years;
- It is now an obligation, no longer an option, for public services not meeting the 3 per cent target to consult the specific list or lists of successful candidates with disabilities whenever recruiting (a probationer with a view to permanent employment) and for every appointment (under a contract of employment);
- More rigorous monitoring of compliance with the quota in those departments which have failed to meet it by the Inspector of Finance, the representative of the Minister for the Budget or the Government Commissioner for the Budget.

Flanders

159. The issue is handled in the private sector, not by quotas, but by a policy geared to proportionate participation in the labour market. Since early 2000, employment policy in Flanders has focused on an approach based on incentives for (market and non-market) enterprises and the local authorities to pursue a policy of diversity. It supports the human resource policies of enterprises which are seeking to develop sustainable diversity by focusing on the need to improve the labour market situation of people with disabilities, people of immigrant origin and older workers (not forgetting equal opportunities for men and women). All enterprises that sign up (between 500 and 600 annually) work with quantified targets for the recruitment, training and retention of people in these target groups.¹¹³

160. Flanders is also very ambitious in its employment target levels set at over 76 per cent in the context of the Europe 2020 strategy. In the commitments it has entered into under Europe 2020, Flanders aims to achieve an average annual rate of employment growth of 0.5 per cent. At present, the at-risk groups represent a substantial proportion of the labour resources available to improve work participation rates. Accordingly, for these at-risk groups, including people with disabilities, the annual target rate is double that figure, at 1 per cent.

161. The Flemish Authority itself encourages proportional representation at managerial level of people with disabilities, people of immigrant origin and women through quantified targets and a policy of providing support and incentives.¹¹⁴

Walloon Region

162. A mandatory quota for the employment of workers with disabilities was set in 2013 for the provinces, municipalities, public social welfare centres and public service associations. The general rule is that workers with disabilities should account for a minimum of 2.5 per cent of each service's workforce. In 2013, 75 per cent of the municipalities were complying with that employment requirement.

¹¹² By Royal Decree of 6 December 2012 amending the Royal Decree of 6 October 2005 on promoting and increasing the recruitment and employment of disabled persons.

¹¹³ For more information, see www.werk.be/olinediensten/loopbaanendiversiteitsplannen.

¹¹⁴ See www.bestuurszaken.be/diversiteitsbeleid.

French Community

163. The Ministry of the French Community has a diversity plan.¹¹⁵ The plan is structured around four target groups including people with disabilities, and is solely concerned with aspects of the career management (including recruitment, selection, welfare and reasonable accommodation in the workplace) of disabled persons employed in the public services. Action taken under the plan generally consists of measures to raise the awareness of the public services in a way that guarantees people with disabilities in the target groups rewarding professional integration in the service.

164. The Ministry of the French Community is required to employ workers with disabilities in 2.5 per cent of posts on its establishment.¹¹⁶ So long as this percentage is not met, 5 per cent of new recruitments by the Ministry must be reserved for people with disabilities.

German-speaking Community

165. There are no specific obligations in either the private or the public sector.¹¹⁷

Brussels

166. In accordance with article 346, § 1, of the Decree of the Brussels-Capital Region of 27 March 2014 on the administrative and financial regulations applicable to officials of the Ministry of the Brussels-Capital Region, the Ministry is required to employ a number of disabled persons equivalent to at least 2 per cent of the complement provided for in its staffing plan. The requirement can be met by recruitment or by including officials whose disability is recognized during their employment. At present, the proportion of persons with disabilities employed is 0.94 per cent.

167. For several years now, the Brussels Regional Public Service (SPRB) has been putting in place arrangements to increase the number of its employees with disabilities. Action has been taken on the two routes of recruitment to SPRB: the permanent appointment route and the contractual route.

168. As regards the permanent appointment route, arrangements for the recruitment of persons with disabilities will be based on a decision by the Director-General. The latest provisions of the staffing regulations¹¹⁸ allow the Director-General to decide to make posts available exclusively to persons with disabilities.

169. Through the contractual route, SPRB offers vocational training contracts to persons with disabilities. Some difficulties appear to persist, however. Despite the various partnerships that have been put in place, not many candidates with disabilities apply to SPRB. It may be that people with disabilities are still reluctant to tell SPRB about them.

170. To overcome these problems, address the Government's priorities and make progress towards the 2 per cent target, SPRB has provided for a range of measures in its equal opportunities and diversity plan for 2014–2015:

¹¹⁵ The action plan "Combating Discrimination and Promoting Diversity, 2012–2015", approved by the Government.

¹¹⁶ The Decree of the Government of the French Community of 21 December 2000 on the employment of persons with disabilities in Government services and in certain public interest organizations of the French Community.

¹¹⁷ For the private sector, see the Royal Decree of 6 October 2005, as amended on 6 December 2012, concerning various measures relating to comparative selection for recruitment and to probation.

¹¹⁸ The new regulations came into force on 1 July 2014.

- Better arrangements for inducting and monitoring staff with disabilities (providing new recruits with a form for requesting reasonable accommodation and developing partnerships with organizations and associations which specialize in providing help in the workplace to people with a disability, etc.);
- A proactive approach to looking for job applicants with disabilities (communication, working with not-for-profit associations — which specialize in getting people with disabilities into work — to distribute information about job vacancies, allowing people with disabilities to make job applications outside normal recruitment processes, etc.).

French Community Commission

171. The services of the Board of the French Community Commission are required¹¹⁹ to employ a number of people with disabilities equivalent to 5 per cent of posts in the staffing structure.

25. It appears that the recent reform of the policy on unemployment benefits will put persons with disabilities at a disadvantage from 2015. The Committee would appreciate information on the matter.

172. Belgium's system of unemployment benefit underwent reform in 2012. The specific Belgian regime of *indefinite* benefits was in principle retained, but the amount of unemployment benefit will in future be more closely linked to the length of prior employment and to the duration of unemployment. The goal is to provide stronger incentives than in the past to return to work.

173. When a person has a disability, this is very clearly taken into account. For example, an unemployed person who is incapacitated for work to the extent of 33 per cent or more will not be subject to the rule providing for the progressive reduction in benefit for long-term unemployment (see www.emploi.belgique.be/defaultNews.aspx?id=37770). This exemption will also apply to a whole series of other beneficiaries, including unemployed people over the age of 55 and young people leaving school.

174. The same is true of work programme allowances. Before being eligible for benefits, young people who have completed their studies must first complete a job-seeking qualifying period lasting 310 days. On completion of that period, which used to be called the waiting period, the work programme allowance is paid for a maximum of 36 months, which can be extended subject to certain conditions. When a beneficiary qualifies as incapacitated for work to the extent of 33 per cent or more, the period can be extended by two years. In such cases, a personalized development plan tailored to the individual needs of the job-seeker will be proposed by the relevant regional organizations.

175. The fact that the sixth reform of the Belgian State is currently under way means that it is not possible at present to provide more comprehensive information on the full range of specific measures.

¹¹⁹ Decree of the French Community Commission of 13 April 1995 on the staff regulations of the services of the French Community Commission, published on 30 August 1995.

- 26. The Committee wishes to know whether measures have been taken in Belgian labour law to ensure reasonable accommodation at the workplace and to prohibit discrimination on grounds of disability in employment.**

Federal

176. The concept of reasonable accommodation is mainly employed in Belgian labour law in the Act of 10 May 2007 on combating certain forms of discrimination. Under the act, refusal to provide reasonable accommodation for a person with a disability is regarded as discrimination and prohibited. The Inter-federal Centre for Equal Opportunities is the competent authority.

177. The concept of reasonable accommodation as such is not applied in relation to well-being in the workplace in the strict sense. The Act of 4 August 1996 on the well-being of workers at work and its royal implementing decrees protect all workers, including those with disabilities. In particular, article 5 of the Royal Decree of 10 October 2012 setting basic requirements in the workplace stipulates that accommodation must be provided in workplaces to take account of the needs of workers with disabilities. Features to which this requirement applies include doors, communication links, stairways, social facilities and work stations used or occupied exclusively by workers with disabilities.

178. The underlying philosophy of the Royal Decree of 28 May 2003 on health monitoring is to make it possible for workers with a permanent disability to obtain work which is accommodated to their needs. For example, an occupational health adviser or physician may inform the employer that a work station needs to be adjusted. The request can be refused only when the employer considers that the accommodation requested is neither objectively nor technically possible and that there is no good reason for it. In addition, the Supervisory Authority for Well-being at Work monitors employers' compliance with these provisions.

179. For the prohibition of discrimination on grounds of disability, please see the initial report of Belgium.

180. A booklet on the employment of people with disabilities in the public services,¹²⁰ which gives examples and summarizes good practice, has been produced.

Flanders

181. The Flemish Government Decree of 18 July 2008 contains the procedures for the award of grants for adaptations of various kinds in the working environment. It is possible for a contribution to be made to the costs of adapting a work station.¹²¹ There is also provision for contributions to costs connected with equipment and workwear.¹²² A contribution may also be accorded in employment situations in which the services of sign language interpreters and written or oral interpreters may be needed. Examples might include job interviews and the services provided or accredited by the Flemish Employment and Vocational Training Office, as well as other tasks and employment situations which

¹²⁰ www.fedweb.belgium.be/fr/a_propos_de_l_organisation/administration_federale/mission_vision_valeurs/Egalite_des_chances_et_diversite/personnes_handicapees/.

¹²¹ For example adaptation of office furniture, a company car, machines, sanitary equipment, telephone switchboard, access arrangements, etc. In 2012, €298,678 was disbursed for 121 cases of adaptations to work stations.

¹²² For example, payments for an adapted computer keyboard, an adapted office chair, a Braille terminal, flashing light signalling systems, image magnification software, Dictaphone, etc. In 2012, a total of €54,968 was disbursed covering 269 cases. Where an item can be reimbursed under the "work station" programme as well as under the "work equipment" programme, priority is given to the latter, as the person with a disability then becomes its owner.

require the services of a properly trained interpreter.¹²³ Finally, persons with occupational disabilities may be given a contribution to the cost of journeys to work or training (and, where appropriate, this may include the costs of a person assisting them). There is also provision for reimbursing the subsistence expenses of persons with occupational disabilities who are undergoing vocational training.¹²⁴

Walloon Region

182. Under a project financed by the European Social Fund, AWIPH makes available to employment intermediaries,¹²⁵ on request, a broad range of activities and awareness-raising tools designed to improve the integration and participation of people with disabilities in the labour market.

183. Since 2012, the Walloon Government has been encouraging the use of sign language. From now on, it will be possible to pay a “national language proficiency allowance” to permanent and contractual staff in the regions who demonstrate proficiency in a sign language corresponding to a national language, provided they are working in a service which has contact with the public, or their knowledge is useful for communication within the service. In 2011, the Government assented to Convention no. 159 of the International Labour Organization¹²⁶ and to the Cooperation Agreement between the Flemish Authority and the Walloon Region on the integration into employment of persons with disabilities. In 2013, there was a reform of the legal framework for centres for socio-vocational integration, organizations delivering on-the-job training and other organizations for socio-vocational integration. Persons with disabilities are a target group for those bodies. In 2012 and 2013, the arrangements for taking disabled people into account as one of the target groups of work placement organizations¹²⁷ were stepped up. In 2014, the Government adopted a measure to encourage the vocational integration of persons with disabilities into the workforce by the centres for socio-vocational integration. From now on, a decision by AWIPH in support of a disabled person can be taken into account when a sworn statement of compliance with the centres’ conditions of eligibility is made.

German-speaking Community

184. The DPB is the agency responsible for employment and vocational training matters for people with disabilities.¹²⁸ The role of DPB is subsidiary and complementary and relates to specific training and employment measures for persons with disabilities, the adaptations required and specific expertise not available from other sources. To secure the coordination of support services for people with disabilities, DPB has signed cooperation agreements with the Employment Office of the German-speaking Community, the Training Institute for the Self-employed and Small and Medium-sized Enterprises and the Centre for Special Education. The “Start Service” of DPB provides advocacy, support services in the

¹²³ Spending on interpreter hours in 2012 in connection with work induction, job applications or training amounted to €578,491 for a quarterly average of some 200 users (an average of 13 hours per user per quarter).

¹²⁴ Spending amounted to €343,800 in 2012 for a quarterly average of about 300 people.

¹²⁵ The Walloon Department of Vocational Training and Employment, trades unions, occupational health advisers, trainers, temporary employment agencies, etc.

¹²⁶ The Vocational Rehabilitation and Employment (Disabled Persons) Convention (No. 159), adopted by the Conference of the International Labour Organization at its sixty-ninth session, at Geneva on 20 June 1983 and in 2012.

¹²⁷ Integration encompasses the provision of social assistance including, as a minimum, both analysing the needs of workers with disabilities for reasonable accommodation and informing company heads of them, and organizing or helping to organize round tables with all operators, including AWIPH.

¹²⁸ See article 4, § 1(2), of the Decree of the German-speaking Community of 19 June 1990 establishing a Dienststelle der Deutschsprachigen Gemeinschaft für Personen mit Behinderung.

workplace and financial assistance to offset the cost of even minor expenditure on items such as adapting a work station to accommodate the needs of a person with a disability. The agency does not, however, have the power to impose reasonable accommodations.

Brussels

185. The Parliament of the Brussels-Capital Region has adopted an Order¹²⁹ which, within certain limit,¹³⁰ prohibits all direct¹³¹ and indirect¹³² discrimination. The intermediary organizations and organizations for socio-vocational integration provide for reasonable accommodation to meet the needs of persons with disabilities. “Reasonable accommodation” means appropriate measures, taken on the basis of need in a specific situation, to allow a person with a disability to gain access a job, perform it and progress in it, unless the measures concerned impose a disproportionate burden on the intermediary organization or the organization for socio-vocational integration. The financial burden is not disproportionate when it can be adequately offset by existing measures within the framework of policy on persons with disabilities. A distinction made on the basis of a disability does not constitute indirect discrimination when it is demonstrated that reasonable accommodation, as provided for under article 14, cannot be put into effect. Penalties are laid down if there is a failure to comply.¹³³

French Community Commission

186. The French Community Commission provides:

¹²⁹ Order on combating discrimination and on equality of treatment in the field of employment, approved by the Government on 4 September 2008. Under the order, neither the intermediary organizations nor organizations for socio-vocational integration can be regarded as employers in relation to jobseekers, nor can jobseekers be considered as employees within the meaning of the legislation on contracts of employment. The order is geared to the period before jobseekers become bound by a contract of employment, having due regard to the competences of the regional authorities in relation to private sector employment. Where employment relationships within the intermediary organizations or organizations for socio-vocational integration are at issue, the Acts (that is the provisions of law laid down at federal level and valid throughout the Kingdom) of 10 May 2007 on combating discrimination will apply.

¹³⁰ In the specific context of the competences of the regional authorities in relation to private sector employment, “employment” means the placement of workers and the return to work of unemployed jobseekers within the meaning of article 6, § 1, IX, (1) and (2), of the Special Act of 8 August 1980 on institutional reform; consequently, the Order of 4 September 2008 applies only to what are known as “intermediary organizations” (including temporary employment agencies and other private employment agencies) in relation to their activities involving the placement of jobseekers, and to organizations for socio-vocational integration (including local initiatives to grow employment and enterprises involved in integration).

¹³¹ Direct discrimination: “any distinction on grounds of [...] present or future state of health, a disability, or a physical or genetic characteristic”.

¹³² Indirect discrimination: “any provision, criterion or practice which, while apparently neutral, is capable of resulting in particular disadvantage for persons on grounds of [...] a specific present or future state of health, a disability or a physical or genetic characteristic [...], in comparison with other person”.

¹³³ Persons failing to comply are liable to the penalties provided for by:

- Article 19, namely imprisonment for between one month and one year, or a criminal fine (multiplied by the number of persons who are victims of the offence) of between €50 and €1,000, or both; or
- Article 19/1, namely an administrative fine of between €125 and €6,200 (multiplied by the number of persons who are victims of the offence) up to a maximum of €20,000.

- A variety of support to employers to facilitate access to and retention in employment for persons with disabilities;¹³⁴
- A range of measures to promote inclusion, and day activities.¹³⁵

Participation in public and political life (art. 29)

27. The Committee would like to know when Belgium plans to allow all persons with disabilities to exercise all their political rights.

At federal level

187. Under the new legislation reforming the disability regimes, persons with disabilities are in principle able to exercise their political rights like any other citizen, unless a decision to the contrary has been taken by a justice of the peace based on a specific evaluation of whether or not the individual concerned has the capacity to exercise those rights.¹³⁶ A justice of the peace who takes a decision of that nature must set it out specifically in the order and must take account of the personal circumstances as well as the state of health of the individual deemed not to have capacity. Accordingly, unless otherwise indicated in the order, a protected person retains full capacity to exercise his or her political rights.¹³⁷ The justice of the peace can reverse the decision at any time, either at his or her own initiative, or at the request of the person lacking capacity or their trusted individual or administrator, or at the request of any person with a valid interest or the crown prosecutor. The justice of the peace must, in any event, review the decision taken (in this case the suspension of electoral rights, including the right to vote) two years at the latest after the order is issued.¹³⁸

188. A circular¹³⁹ has been published on measures to help persons with disabilities access polling stations. It was produced in consultation with organizations representing persons with disabilities.

189. Article 143 of the Electoral Code has also been amended to allow persons with disabilities — not only physical but also mental disabilities or sensory impairments — to be

¹³⁴ Decree of the French Community Commission of 4 March 1999 on the social and occupational integration of persons with disabilities (*Moniteur belge*, 3 April 1999, art. 2632).

¹³⁵ Decree of the French Community Commission of 13 February 2014 on the inclusion of persons with disabilities, due to come into force in 2015, arts. 2224 and 4851.

¹³⁶ Article 7, paragraph 1(1) of the Electoral Code.

¹³⁷ Article 492/1, § 1, of the Civil Code.

¹³⁸ Article 492/4 of the Civil Code.

¹³⁹ Circular of 22 October 2013 on recommendations for facilitating access for persons with disabilities to polling stations and providing them with the necessary assistance:
www.verkiezingen.fgov.be/fileadmin/user_upload/Elections2014/FR/Electeurs/reglementation/circulaires/20131022circulaire.pdf.

Recommendations: Accessibility of polling stations to persons with disabilities:
www.verkiezingen.fgov.be/fileadmin/user_upload/Elections2014/FR/Electeurs/reglementation/circulaires/20131022accessibilite.pdf.

Indicative table of contrasts:
www.verkiezingen.fgov.be/fileadmin/user_upload/Elections2014/FR/Electeurs/reglementation/circulaires/20131022tableaucontrastes.pdf.

Plans:

www.verkiezingen.fgov.be/fileadmin/user_upload/Elections2014/FR/Electeurs/reglementation/circulaires/20131022fiches.pdf.

Information: www.verkiezingen.fgov.be/index.php?id=3388&L=0.

accompanied into the voting booth by a trusted individual, and not, compulsorily, by an official at the polling station.

Walloon Region

190. This issue is handled by AWIPH in the context of securing access to the right to vote in practical terms.¹⁴⁰ In both the 2012 and the 2014 elections, AWIPH provided information via its website about facilities and accessibility arrangements for disabled persons at polling stations and in polling booths.¹⁴¹

¹⁴⁰ <http://wform.awiph.be/veilleinforweb/Fiche.aspx?fiche=4508>,
<http://wform.awiph.be/veilleinforweb/Fiche.aspx?fiche=4507>,
<http://wform.awiph.be/veillePDF/4514.pdf>,
<http://wform.awiph.be/veilleinforweb/Fiche.aspx?fiche=4490>,
<http://wform.awiph.be/veilleinforweb/Fiche.aspx?fiche=4370>,
<http://wform.awiph.be/veilleinforweb/Fiche.aspx?fiche=4276>,
<http://wform.awiph.be/veilleinforweb/Fiche.aspx?fiche=4500>

¹⁴¹ www.awiph.be/pdf/actualites/communiqués_presse/20120716voteaccessibleACCOK.pdf.