

CR6B

## **Legislation Committee No 5**

### **Proposed Rights of Children and Young Persons (Wales) Measure**

**Additional evidence from UNICEF UK**

#### **Flemish Action Plan for the Rights of the Child**

28. Within Belgium's federal State structure, the Flemish Government enjoys sufficient powers to enable it to propose a high-quality action plan for the rights of the child. The Flemish Action Plan for the Rights of the Child was drawn up, in 2003, by a working group set up specifically for the purpose. In accordance with the Committee's recommendation, and unlike the working group mentioned in the second periodic report, the Flemish working group was not composed exclusively of representatives of all of the policy areas covered by the Flemish Government but also included representatives from the social sector, the academic world, the Flemish Parliament and the Commission for the Rights of the Child. On 2 April 2004, the Flemish Government approved its own Flemish Action Plan for the Rights of the Child, based on the working group's proposal (see [http://www.vlaanderen.be/kinderrechten/documentatie/vlaams\\_actieplan.html](http://www.vlaanderen.be/kinderrechten/documentatie/vlaams_actieplan.html)). In 2005, the action plan was incorporated into the National Action Plan for Children in Belgium (see para. 20 above). Subsequently, the Flemish Action Plan also formed a basic component of the second Flemish Youth Policy Plan for 2006-2009 (see para. 38 below). Follow-up is guaranteed by the annual report in particular.

#### **Report of the impact on the child**

29. As already explained in the previous report (see paras. 146 to 150 of the second periodic report), the Flemish Government has introduced the obligation to draw up a report detailing the impact on the child (hereafter: child impact report), on the basis of a decree issued back in 1997. Since

then, a child impact report has been required for any draft decree involving a decision that manifestly and directly affects the interest of the child. A brief survey of the child impact reports drawn up so far may be accessed on the website <http://www.cjsm.vlaanderen.be/kinderrechten/ker/index.html>. In April 2001, initial drafting guidelines for child impact reports were distributed. Since August 2004, and following an assessment of the initial guidelines, a new adjusted methodology has been recommended. Unlike the initial guidelines, this methodology requires not only that the decision be checked against the Convention but that its effects on the actual situation of the children be evaluated. Child impact reports are drawn up by the authority responsible for the relevant draft decree. Officials who draw up child impact reports must consult the organizations for the rights of children and young people (see <http://www.vlaanderen.be/kinderrechten>).

30. Nonetheless, the fact remains that child impact reports continue to be drawn up infrequently in Flanders. There are several reasons for this: their limited scope and the fact that they are not rigorously binding; the lack of expertise in regard to the rights of the child and child impact reports more particularly; and the vague and impenetrable nature of the legislation—even public servants find this to be the case. Since 1 January 2005, in an effort to resolve that problem, the Flemish authority has introduced a legislation impact analysis (*analyse de l'impact de la réglementation* – hereafter: AIR). The AIR provides a structured analysis of the objectives sought by and the positive and negative effects of the proposed legislation, as compared with the alternatives. It provides an opportunity to focus more closely on the effects on children as part of the legislative process. The aim is to incorporate the child impact report into the AIR. The guidelines on drawing up an AIR already refer explicitly to the method employed for child impact reports. In that context, the results of the child impact report are to be incorporated into the AIR (see annex 6, para. 25). The AIR does not apply merely to preliminary draft decrees but also to draft decrees with regulatory effect, save for of ministerial decrees. An AIR is not, however, required for decrees and orders without regulatory effect, such as budgetary decrees and decrees approving treaties. A compilation of guidelines for drafting a proper AIR has been prepared (see <http://www.wetsmatiging.be>). Child impact reports have not yet been applied to budgetary decrees but do apply to decrees conferring approval. In accordance with the second Youth Policy Plan, preparation has been made for extending child impact

reports to become impact reports on young people and children (JoKER), as an intermediate stage in their (the process of moving towards) incorporation into AIRs.

31. The Flemish authority considers integrating its policy on the rights of the child with its policy on young people to be a major objective. As well as extending the child impact report to become an impact report on children and young people, the annual report will also consider the implementation of the Youth Policy Plan. Moreover, the Flemish authority intends to use a new decree on youth policy to provide a legal basis for subsidies relating to the rights of the child, which are currently granted on an annual basis, within the project framework.

#### Annual report

32. The Flemish Government still reports to the Flemish Parliament twice a year on its policy on the rights of the child (see paras. 182-186 of the previous report). The first report is a general report encompassing all of the Flemish Government's responsibilities. The second deals with the situation of the rights of the child in the countries and regions which Flanders cooperates. The two reports give Parliament and the Government the opportunity of holding the debate on the rights of the child. The Flemish Government has met its obligations in this regard annually. The first report makes it possible to hold an annual parliamentary debate on general policy in respect of the rights of the child with the Minister responsible for coordinating the rights of the child and the Commissioner for the Rights of the Child (Kinderrechtencommissaris). In 2006, the annual report was supplemented by the audit of the Youth Policy Plan and is now called the Annual Report on Youth Policy and the Rights of the Child. The annual general report on the rights of the child has always been drawn up by the representatives of the different administrations (see para. 34 below) under the responsibility of the supervising Minister. The annual reports may be accessed on the Flemish authority's website: <http://www.vlaanderen.be/kinderrechten/>.

#### The Commission on the Rights of the Child

33. Set up in 1997 and referred to in the second periodic report (see paras. Nos. 187 *et seq.* of that report), the Commission on the Rights of the Child is a standing body and, consequently, still active. The initial mandate of the Commissioner for the Rights of the Child expired in 2003, but the Commissioner was re-appointed for a second and final five-year term. As an institution linked to the Flemish

Parliament, the Flemish Commission for the Rights of the Child had opted not to contribute to Belgium's second periodic report and has taken the same approach to this report. Yet again, the Commission for the Rights of the Child will be submitting its own (alternative) report to the Committee, in its capacity as an institution for the protection or defence of human rights, dedicated to children.

Coordinating Minister, contact persons and study group

34. Flanders continues to have a coordinating Minister for the Rights of the Child (see para. 179 of the last report). In 2004, the Flemish Minister for young people was appointed to that post. Policy on the rights of the child and youth policy have been merged, strengthening the position and role of the coordinating Minister within the Flemish Government. The coordinating Minister is responsible for coordinating and supervising policy on the rights of the child (as well as youth policy) and gets administrative support from the policy area encompassing Culture, Young People, Sports and the Media (CJSM), and, more specifically, the Youth Service of the Community Education Agency for Young People and Adults.

35. In 2006, the contact persons appointed in 1998 (see paras. Nos. 184-185 of the previous report) were reconfirmed as the points of contact for the rights of the child and youth policy. Their re-appointment was justified by the reorganization of the Flemish authority and the merging of policy on the rights of the child and youth policy. There are currently 33 contact persons, that is to say one for each département (13) and within the agencies or bodies that have a strategic role in relation to children and young people (see <http://www.vlaanderen.be/kinderrechten>). Coordinated by the above-mentioned Community Education Agency for Young People and Adults, and under the supervision of the coordinating Minister, the contact persons are responsible for the Flemish Government's general annual reports on the rights of the child, for following up the Flemish Action Plan for the rights of the child and the Flemish Youth Policy Plan, for implementing the child impact report (RIE), for the Flemish contribution to this report and so on.

36. To ensure follow-up to the Flemish Action Plan for the Rights of the Child, the Flemish Youth Policy Plan and Flemish policy on the Rights of the Child and Young People, the Working Group on the Rights of the Child, cited in the last periodic report (at paras. Nos. 180-181), has been turned into a

permanent study group on the rights of the child and youth policy, bringing the social sector and the whole of the administration, through the contact persons, into policy on the rights of the child and young people.

### Flemish Youth Policy

37. The Decree on Flemish Youth Policy entered into force pursuant to a Decree of 29 March 2002 and replaced (see annex 5) the 1998 Decree on National Youth Organizations (see para. 151 of the second periodic report). As evidenced by the title of the decree, it established the bases for a wide-ranging policy on young people, more extensive than the policy on youth organizations. Article 3 of the Decree provides that, in their operations, the not-for-profit associations must adhere to the principle and rules of democracy and must subscribe to and disseminate the principles of the European Convention on Human Rights and the Convention on the Rights of the Child to be able to benefit from a subsidy under the decree.

38. The Flemish Youth Policy Plan is one of the prime tools provided for under the Flemish Decree on Youth Policy and is designed to make it possible to implement a youth policy that is broad in scope. Eighteen months, at the latest, from the beginning of each parliament, the Flemish Government tables a youth policy plan before the Flemish Parliament. On 7 June 2002, the Flemish Government approved the first Flemish Youth Policy Plan. On 16 December 2005, the Flemish Government endorsed the second Flemish Youth Policy Plan 2006-2009 (hereafter: the “PPJ2”) (see <http://www.vlaanderen.be/jeugdbeleid>). As already set down in the first plan, the rights of the child constitute a “legal and ethical reference framework”. The PPJ2 is structured around a number of thematic priorities, in this instance, the following: integrating the rights of the child and youth policy within a range of young people’s organizations (see annex 6, para. 18); informing young people (see annex 6, para.19); as well as participation, diversity and the international aspect of youth policy. The plan sets objectives and sets out specific measures for children and young people in all areas falling under the responsibility of the Flemish authority. The Youth Policy Plan is comprehensive, covering all of the different policy areas. Youth policy and the other policy areas come together at “policy intersections” encompassing the following subjects: “at camp”, “having fun”, “sport”, “culture”, “mobility”, “employment”, “education”, “space” and “well-being”. And there is a classification, as these are directed towards a specific group,

namely young people (see annex 6, para. 20). Extensive consultations were held before the plan was drawn up and coordination was provided by the Flemish Minister for Young People. Almost all players in young people's organizations, the sectors involved in the rights of the child and youth policy in the broad sense were fully and constantly involved in the drafting of the plan. The PPJ2 sought to integrate the policy on the rights of the child and youth policy by positively implementing the objectives and measures set out in the above-mentioned Flemish Action Plan for the Rights of the Child (see the asterisks in the text of the PPJ2). If the plan is implemented in full, a new decree on Flemish youth policy will include the provisions referred to in the decree and in relation to the child impact report and the report supplemented by the provisions inherent in subsidizing measures adopted in relation to the rights of the child. The aim here is to create a legal basis for integrating policy on the rights of the child with youth policy.

39. The objective is to provide a legal basis for integrating policy on the rights of the child and youth policy by adopting a new decree on Flemish Youth Policy. As well as extending the RIE (child impact report) to become an RIEJ (Rapport d'incidence sur l'enfant et le jeune - child and youth impact report), the annual report will also cover the implementation of youth policy. In addition, the Flemish authority intends to use a new decree on youth policy to provide a legal basis for subsidies relating to the rights of the child, which are currently accorded on an annual basis within the project framework.

#### Municipal, inter-municipal and provincial policy on young people and youth work

40. The Decree of 14 February 2003 supporting and encouraging municipal, inter-municipal and provincial policy on young people and youth work, hereafter designated the Decree on Local Youth and Youth Work Policy (see annexes 45 and 46) also requires that all initiatives relating to youth work, to which it refers, should respect the rights of the child, as guaranteed under the Convention.

41. By analogy with the Flemish Youth Policy Plan, the integrated policy on the rights of the child and young people will be a compulsory chapter and represent a condition for subsidizing the municipal youth policy plan. This has the effect of aligning the policy on young people's organizations with other (municipal) policy plans that have an impact on children and young people. Moreover, all sectors are requested to apply

a policy that is favourable to children and to take account of the interest of the child in all policy decisions.