

# BELGIUM

## Overview

In 1830 Belgium became an independent unitary and centralized state. The 1831 Constitution was reformed in several steps between 1970 and 1993 to develop a federal system.

In this federal system, there are three policy levels, each with its own legislative and executive bodies and responsibilities: the federal state, the Communities and the Regions. There is no hierarchy among these three policy levels. The Constitution, as it stands today, stipulates that the federal authority only has power in the matters that are formally attributed to it by the Constitution and the laws carried in pursuance of the Constitution itself and that the Communities and the Regions, each in its own field of concern, have power for the other matters, under the conditions and in the terms stipulated by law. The federal authority has jurisdiction over provincial and municipal law.

The principle of “federal loyalty” was enshrined during the most recent phase of institutional reform. What this means is that the federal authority, Communities and Regions not only adhere to their respective areas of responsibility but also act in such a way as to avoid all conflict of interest among themselves, the objective being to ensure that the various institutions function as a balanced whole.

The three Communities in Belgium: the Flemish Community, the French Community and the German-speaking Community are – among other competences - responsible for the cultural and personal affairs within a certain linguistic area. The four linguistic areas are: the Dutch-speaking area, the French-speaking area, the German-speaking area and the bilingual area (the capital of Brussels). The Flemish Community is fully responsible for the Dutch-speaking area and partly for the metropolitan area of Brussels. The Communities have responsibility for:

1. cultural matters, i.e.: safeguarding and promoting the language; promoting the training of researchers; fine arts; cultural heritage, museums; libraries and record collections; radio and television; support for the press; youth policies; ongoing education and cultural events; physical education and sport; recreation and tourism; preschool training, adult education, and extra-curricular, artistic, intellectual, civic and social training; social promotion; occupational training and redeployment; education, except for setting the upper and lower age limits for compulsory schooling, minimum requirements for degrees, and the education pension scheme, which continue to fall under federal jurisdiction;
2. certain major aspects of health care and social welfare policies;
3. the use of languages, with exceptions concerning special-status municipalities, services whose activities extend beyond the linguistic region in which they are established, and federal and international institutions whose activities are common to more than one Community.

Regions divide the country along strictly geographical lines, whereas Communities are based on geographical and linguistic criteria alike. In practice, this dual structure means that people living in the Brussels-Capital Region, which has the status of a “bilingual region,” may opt into either the French-speaking or the Flemish Community; similarly, inhabitants of the German-speaking region belong to the Walloon Region yet constitute the German-speaking Community which exerts its competencies in the municipalities of Ambleve, Bullange, Burg-Reuland, Butgenbach, Eupen, La Calamine, Lontzen, Raeren, and Saint-Vith (see the chapter on German Community). At the same time, residents of the Flemish

Region automatically belong to the Flemish Community, while people living in the Walloon Region, except for the German-speaking region, automatically belong to the French-speaking Community.

The shape of Belgium as a federal State came after *quasi* permanent tensions between the two major communities, the Flemish and the Walloons and after the recognition of Dutch as a national language in administration and justice as a language of instruction at all levels. Under the Constitution, as revised in 1993 and co-ordinated in 1994, “Belgium is a federal State made up of Communities and Regions” (Article 1). Belgium “is made up of three Communities: the French Community, the Flemish Community and the German-speaking Community” (Article 2), as well as “three Regions: the Walloon Region, the Flemish Region and the Brussels Region.” Separatist movements at present have limited popularity since state reforms have guaranteed full autonomy on a wide range of education, culture and welfare related matters at Community level. The Regions are in charge of economic policy, environment, urban development, housing, traffic, public construction and investments. Flanders merged the Flemish Community and Region, and has a single Parliament and Government.

The German-speaking Community (*Deutschsprachige Gemeinschaft*) has about 70,000 inhabitants in the Eastern part of the country (more or less 0.66% of the Belgian population); the official language since 1963 has been German. That means that all important changes such as for example the current reform of the orthography of the German language are applied but the other languages of Belgium, and especially French, play an important role in education. This region was part of Prussia between the Congress of Vienna in 1815 and the Treaty of Versailles at the end of World War I, part of Belgium between 1919 and 1940, annexed to the Third Reich during World War II and restored to Belgium again in 1945.

In economic matters mainly and in some administrative aspects, the *Deutschsprachige Gemeinschaft* is part of the *Wallonische Region* and of the province of Liege, but it is also a political institution with its own structures of legislative and executive power and the same responsibilities as the other communities that make up the Belgian federal system. Educational freedom has been one of the pillars of the Belgian legal, political and social order since the country gained its independence. The policy of the government in the field of education during the French and Dutch occupation, in the 18th and 19th century, was the immediate reason for the independence movement. Freedom of education was considered one of the cornerstones of the Belgian construction; this principle was put into practice by the Church in response to Catholic concerns (Leroy, 12; Witte, De Groof and Thyssens, 895).

While historically the overwhelming majority of Flemings have been Roman Catholic, in the Walloon part of Belgium there always existed a strong socialist and freemason tendency, with a strong percentage of public schools. At the time when the state was given the right to organise its own education, it was more and more accepted that non-believers also had the right to *non-religious education*, i.e the so-called public schools organised by municipalities and provinces are open to all, but are often embedded in the Catholic faith. There is no ‘established church’; Church and State are considered *independent* but without a wall of separation between them preventing cooperation. Several denominations are officially recognized (De Groof 1986). Belgian patriots saw a close connection between political liberties – freedom of association, of press, and freedom of conscience, opinion and of speech – and the liberty to provide confessional schooling (De Groof, 1988). As a result, they anchored educational freedom in their Constitution, and this guarantee is maintained in the present version, amended most recently in 1988.

Intermittent political conflict over the independence and public funding of (predominantly) non-governmental catholic schooling during the 19<sup>th</sup> and the 20<sup>th</sup> century were finally laid to rest by the ‘*School Pact*’ of 1958, an inter-party agreement that continues to serve as the framework for law and policy in the non-university sector. Secularists and Catholics put aside their struggles for hegemony and returned to the earlier emphasis upon freedom of choice and democratization of education, establishing a *Schoolvrede* [school peace] which has ensued. The focus was no longer on protecting the rights of the

Church but instead on protecting the rights of parents to determine on what philosophical basis their children would be educated.

The key word in the School Pact is: *free choice*. Politicians realised that free choice in education was a dead word without the necessary subsidies. Indeed, the financial situation was not tenable any longer and the financially weak who wished to send their children to catholic schools, could not bear the costs. The School Pact not only introduced the principle of *non-discrimination* but also *the democratisation* of education, i.e free admission, compulsory education.

The political agreement between the three big ideological groups (catholics, socialists, liberals) in Belgium was nevertheless a temporary compromise. In the assumption that one ideological group would no longer have the power, a majority in parliament could change the consensus unilaterally. The permanent fear of this possibility seems to be one of the most important reasons for amendment of the Constitution coupled to the federalization of the unitary State.

Belgians are guaranteed the right to establish and operate non-state ('free') schools that meet quality standards set by public authorities, and to choose such schools for their children. In order to ensure that the latter right may be exercised without limitation based on wealth, approved non-public schools receive public funding at *quasi* parity with the schools operated by community, provincial and municipal governments. Spread over the different educational networks, in 2001 68.8 % of all pupils in Flanders are in subsidized private ('free') schools, 14,61 % in Flemish Community schools and 16,51 % attend classes in municipal or provincial schools (2000-2001).

In Flanders there is a high degree of distrust with regard to institutions. This is not exceptional. Data of the *Eurobarometer* show that the whole of Europe is facing a crisis of trust. However, of all the member states, the distrust of public institutions is greatest in the Flemish Community (although the Flemish population is below the European average in terms of trust in public institutions). In Europe, there is generally less trust in public than in private institutions. In Flanders, only one third of the population trusts public institutions, while half of the Flemish population trusts or has a great deal of trust in private institutions, which is almost the European average.

It is only education that has the trust of a large majority of the population. Presumably, the direct contact of individuals and families with schools, teachers, educational institutions etc., has an influence on the trust in education.

For some time, education has been undergoing a process of fundamental reform of both its aims and objectives and its teaching methods and curricular content. In general terms, the reform responds to the desire to introduce greater flexibility in education, to take into account the particular ways of learning of young children, to adapt education to the new needs of the surrounding world and to respect the individual learning speed and rhythm of the individual child as far as possible.

### **The Structure of Schooling**

Since the constitutional revision of 1988, schooling has largely been the responsibility of the linguistically-defined but also territorial Communities.

Up to 1961, a single Minister was in charge of State Education, with powers in matters concerning administration, educational programmes and policy. From 1961 to 1980, there were two national Ministers of Education, one for the French and German-language Communities (*Ministère de l'Éducation nationale*) and one for the Dutch-language Community (*Ministerie van Nationale Opvoeding*).

The language laws had already set the principle that the language of the region was the language of education for those municipalities with an administration in one language. The European Court of Human Rights formulated no objections to this proposal in its decree of 23 July 1968.

The division of educational matters and the transfer of competence for education to the communities had been stimulated to a great extent by the fact that the two Ministers of National Education each had restricted competence: one for the Dutch speaking schools, the other for the French speaking schools. It is not an exaggeration to say that each educational policy was heavily mortgaged by an incoherent and inadequate distribution. The transfer of competence to the communities and the consequent regulation in educational matters by the communities occurred before the required legal framework had been set up.

Some of the competences in education are still at the national state level. These are meant to guarantee a common system with respect to the definition of the start and end of compulsory education and the retirement scheme, and the recognition of degrees, in particular the minimal conditions for the awarding of degrees. According to the Act of 29 June 1983, compulsory education in Belgium lasts for 12 years, from age 6 to 18. Children are required to attend school full-time up to the age of 15, completing primary education and the first two years of secondary education. Pupils who have not completed the first two years of secondary education are required to attend full-time education until the age of 16. Those who do not wish to continue full-time after the end of compulsory full-time education may follow compulsory part-time education up to the age of 18. Part-time compulsory education is defined as studies in a recognised establishment, in the form of either part-time study or a vocational training course for a recognised profession.

According to article 59 bis §2 of 15 July 1988, “Community Councils shall settle by decree, each for the matters pertaining to them:

- 1° Cultural matters;
- 2° education with the exception of:
  - a) fixing the beginning and the end of the compulsory school attendance period;
  - b) minimum conditions for granting diplomas;
  - c) the pension system.
- 3° cooperation between the Communities as well as international cooperation.”

Each Community has its own education system.

#### *Flemish-speaking Community*

Within the Ministry of the Flemish Community, the Education Department is responsible for nearly all aspects of the national education policy, from nursery school to university education. The Flemish Minister of Education heads the Department.

Primary and secondary education in Flanders is provided by three “networks”. Free educational institutions (*vrij gesubsidieerd onderwijs*) are set up by private persons or institutions, mainly the Catholic church, and subsidized by the Community. “Official” education can be divided into Community education (*gemeenschapsonderwijs*) and official subsidized education (*officieel gesubsidieerd onderwijs*). The official subsidized education is sponsored and controlled by local authorities – provinces and municipalities – but subsidized by the Flemish Community.

Traditionally, three educational levels exist: elementary education, secondary education and higher education. On the level of primary and secondary education, special education exists as well.

Elementary education includes nursery school and primary education. Nursery school is provided free of charge for children aged 2.5 to 6, but it is not compulsory.

Primary education is meant for children aged 6 to 12 and consist[s] of [six] consecutive years. When they finish this cycle, children are granted an elementary education certificate.

The 'unified' system of secondary education is meant for youngsters aged 12 to 18 and consists of six years, divided into three cycles of two years each. Great weight is attached to basic skills. Academic choice is postponed in order to have pupils come into contact with as many subjects as possible in the first year of secondary schooling. Afterwards as well, part of the study package is equal for all pupils of the same year. This is the collective part. Next to that, pupils can select several specific subjects; this is the optional part.

4. The 1st cycle consists of the 1st and the 2nd year of secondary education. In the first year A, at least 27 of the 32 weekly periods are spent on basic education, provided collectively to any pupils of the same school. In the second year, at least 24 periods are spent on basic education, 14 periods of which are collective for all pupils.
5. The first year B of the 1st cycle is designed for pupils with learning disabilities or less fit to attend predominantly theoretical education. This year is a transitional year between primary and secondary education.

From the 2nd cycle on, the pupil selects a certain line of study:

6. general secondary education (ASO) is a broad general training mainly offering a solid foundation for attending higher education;
7. technical secondary education (TSO) is concentrated on general and technical-theoretical subjects. After TSO, the youngster can hold an occupation or continue his/ her studies in higher education.
8. artistic secondary education (KSO) links up a general, broad training with active arts practice. After KSO, the youngsters involved can hold an occupation or attend higher education.
9. vocational secondary education (BSO) is a practical education form in which the youngster learns a specific occupation, whereas he/ she is also given general training. If he/ she chooses to do so, he/ she can attend a 3rd year in the 2nd grade of BSO.

In the 3rd cycle specific training aims at the eventual choice of occupation or the possible plans to study in higher education. It is possible to attend a 3rd year in the 3rd cycle, in order to prepare for higher education or to specialize. For certain specializations in vocational training, there is also a 4th cycle.

After the 2nd year of 3rd cycle ASO, TSO, KSO or after the 3rd year of 3rd cycle BSO, the pupil obtains a secondary education diploma. After the 2nd year of 3rd cycle BSO, the pupil receives a certificate instead of a diploma.

According to the liberal education regime of Belgium, secondary school graduates can start higher education without entrance exams, except in a few Art programs and in Medicine, Dentistry and Applied Sciences.

## *French-speaking Community*

The French Community education system comprises several categories of education institution:

10. (official) public education institutions organised, managed and wholly financed by the French Community. The organising body for institutions operated by the French Community is the Government of the French Community. The French Community ensures the management and administration of institutions (at all levels) and the careers of the staff within its educational network. The Community Government has a dual responsibility: it is the *pouvoir organisateur* for schools maintained by the Community and, in this capacity, determines the structure, curriculum and methods in education. It manages schools and takes any measures which might improve their efficiency, it applies the regulations for public grant aided and independent grant aided schools in accordance with constitutional and legal provisions.
11. (official) public education institutions subsidized by the French Community but managed by the provincial or communal authorities. The organizing bodies for subsidised official education are the provinces or communes. The coordination structures for these schools: are the ‘Conseil de l'enseignement des communes et des provinces’ (CECP) and the ‘Conseil des pouvoirs organisateurs de l'enseignement officiel neutre subventionné’ (CPEONS).
12. “free” denominational or non-denominational education institutions subsidised by the French Community. The organising bodies of “free” subsidised education are the responsible persons or entities. “free” education institutions are grouped together under the ‘Secrétariat général de l'enseignement catholique’ (SEGEC) and the ‘Fédération des écoles libres subventionnées indépendantes’ (FELSI).
13. private schools that do not receive public subsidy.

There is a ‘Conseil des parents de la Communauté française’ (French Community Parents’ Council). **The General Council of Catholic Education (CGEC) is a consultative body. It is composed of parents’ and teachers’ representatives, representatives of the pouvoirs organisateurs and the bishops. This Council defines the special aims of Catholic education, pushes for improvement in Catholic education, formulates the expectations of the Christian School Community, deals with public authorities with a view to achieving these objectives and sets the main directions in education and teaching, for example, in drawing up the educational project (*projet éducatif*) for free grant aided education (*enseignement libre subventionné*).**

**In addition, each level of education has its own bodies for consultation and cooperation: e.g. the ‘Conseil général de l'enseignement fondamental,’ the ‘Conseil général de concertation pour l'enseignement secondaire,’ the ‘Conseil interuniversitaire de la Communauté française,’ the ‘Conseil général des Hautes écoles,’ the ‘Conseil pédagogique de l'enseignement de la Communauté française,’ the ‘Conseil supérieur de l'enseignement de promotion sociale’ and a series of ‘Commissions de pilotage de l'enseignement’ (the Commission centrale pour l'enseignement fondamental, the Commission centrale pour l'enseignement secondaire and the Commission commune de l'enseignement obligatoire) established under the “*Missions Decree*” of July 1997.**

This *Mission Decree* is seen as a ‘texte fondateur’ of all Community legislation.

Since the passing of the “*Missions Decree*”, each institution must have its own consultative council (‘*Conseil de participation*’) which is responsible for:

14. debating the institution’s plan on the basis of proposals submitted by the delegates of the organising body;
15. amending and finalising this institutional plan;
16. submitting the plan for the approval of the relevant minister or organising body

To ensure better dialogue among full-time secondary education institutions, ten geographical *zones* have been defined, each comprising two councils, one dealing with non-denominational and the other with denominational education. These councils are in charge of planning issues and ensure the use of common “teacher- periods” (for in-service training) in all institutions in the same zone and the standardisation of education provision. Proposals are submitted to a consultation committee (‘*comité de concertation*’) for approval and ratification. Thus, educational options which have not been approved by the consultation committee cannot be implemented. These consultation committees and the zone councils are made up of representatives of the relevant organising bodies, including the Minister as the organising body for Community education.

At the level of the school itself, the organisation of consultation is left to the discretion of the organising body.

There are two routes leading to secondary education: The first allows those who have achieved the basic school certificate (*certificat d’études de base* CEB) to be admitted automatically to secondary education. Pupils who have completed their sixth year of primary school without obtaining the basic school certificate may also be admitted subject to certain conditions. The second route is reserved for those who, having reached the age of 12, do not hold the basic school certificate. They are admitted into the first year reception class of a secondary school (Class B).

The basic school certificate can also be awarded to pupils who, although they have not “passed” primary school, have however successfully completed the first year B reception class of a secondary school or the second year of vocational training.

In the French Community, secondary education is divided into two types:

Type I secondary education comprising three two- year cycles:

- Cycle 1 - known as the observation cycle
- Cycle 2 - known as the orientation cycle
- Cycle 3 - known as the determination cycle

Type II secondary education is organised in accordance with the organic laws on general and technical secondary schooling of April and July 1957. It comprises two three- year cycles. The second cycle now exists only in a few subsidised official institutions.

The introduction of type I secondary education started in 1969 in public schools, subsequently spreading to all institutions organised by the French Community, to almost all subsidised denominational and non-denominational institutions and to provincial and communal institutions.

Schools are usually co-educational, and do not charge fees, even at secondary level.

### *German-speaking Community*

The education system is composed of three stages corresponding to age-groups:

17. Basic Education (*Grundschule*) comprising: Pre-school (*Kindergarten*) for children aged 3 to 6 years and primary education for children aged 6 to 12 years.
18. Primary education lasts six years and is divided into three cycles of two years each. Primary schools are offered in all educational networks in the German-speaking Community. Each school is placed under the responsibility of the organising body (Community, other public authorities and institutions or free bodies) on which it depends. There are no entrance requirements. Education is free of charge. In accordance with official measures to promote equal opportunities for boys and girls, primary schools are now coeducational.
19. Secondary education for young people aged 12 to 18 years (and beyond), organised in 3 *Stufen* of two years each: *Beobachtung* stage, *Orientierung* stage and *Bestimmung* stage and is possible in the following types: *allgemeinbildend*, *technisch* and *berufsbildend*. Secondary education, like primary education, is included in the period of compulsory schooling. Full-time schooling may last until age 18, or up to the age of 15 or 16, when part-time schooling may be followed up to age 18, combined with vocational training.

There are two procedures for entering secondary education:

the first allows pupils with a certificate of primary education (*Abschlußzeugnis der Grundschule*) to be admitted automatically into the first year A (general education) of secondary education. Pupils who have completed the sixth year of primary education but have not obtained the certificate may also be admitted under certain conditions (on the agreement of parents, the recommendation of the PMS centre and the first year A admission council);

the second provides for admission for 12-year-olds who do not have the certificate to the first year B (*Anpassungsstufe* - reception or transition class) or “differentiated cycle” (*differenzierte Stufe*). Transfer from the first year B to the first year A is possible up to 15 November and from first year A to first year B up to 15 January if the pupil's parents and the Class Council agree.

In the *Deutschsprachige Gemeinschaft* the so-called district or cantonal inspector is in charge of the control. In case of any offence he gives the public prosecutor notice of it. The prosecutor looks for means to cope with the situation together with the juvenile-court having jurisdiction.

### **The Legal Framework**

Article 24 of the revised Constitution (formerly Article 17) is the legal basis of educational freedom and justice in Belgium. A section irrelevant to our discussion has been eliminated below.

- (1.1) Education is free; any preventive measure is forbidden; punishment of abuses is regulated only by law or decree.
- (1.2) The Community ensures that parents have a free choice.



- (1.3) The Community organizes instruction which is neutral. Neutrality specifically implies respect for the philosophical, ideological or religious viewpoints of parents and pupils.
- (1.4) Schools organized by public authorities offer, until the end of mandatory schooling, a choice between instruction in one of the recognized religions and non-confessional moral instruction.

Legal doctrine and the Court of Arbitration interpret the freedom of education as the right to organize education and to establish educational institutions without any interference, not even preventive measures, by the government. To put this freedom into practice, private founders have a right to subsidies and the Community a duty to subsidize free initiative under certain conditions, which implies a certain rate of intervention and control.

- (3.1) Everyone has a right to instruction which respects fundamental freedoms and rights. Access to instruction is free until the end of compulsory schooling.
- (3.2) All pupils subject to compulsory schooling are entitled to moral and religious education at the expense of the Community.
  - (4) All pupils or students, parents, staff members, and educational establishments are equal before laws and decrees. Laws and decrees [must] take into account objective differences which justify appropriate treatment, especially the specific characteristics of each organizing authority.
  - (5) The organization, recognition, and subsidy of instruction by the Community are [to be] regulated by law or decree.

The revised Constitution has confirmed rather than replaced the detailed provisions of the School Pact Law [hereafter SP], which contains the basic legal norms in the areas of subsidy and recognition of independent schools. The whole law of 29 May 1959, which has since been revised repeatedly, must be taken into consideration because the organisation of independent schools is referred to in several places either directly or indirectly, and it will serve as the basis for much of what follows.

Autonomy can be derived from the articles in the *Decreet Basisonderwijs* (Decree on primary education, 1997), the *Decreet Maatregelen Secundair Onderwijs* (Decree on measures in secondary education, 1998), the *Universiteitsdecreet* (Decree on the universities, 1991 as amended in 1999) and the *Hogescholendecreet* (Decree on the non university higher educational institutions, 1994).

### **Freedom to establish non-state schools**

As noted, this freedom has long been guaranteed in Belgium, and given effective force by carefully-negotiated administrative arrangements; it cannot be made subject to prior government authorization. In addition to the freedom to provide education, the Constitution guarantees the parents' absolute freedom of choice. Belgian parents are allowed to school their children at home or in unsubsidised private schools, though the great majority choose schools that are publicly-funded.

Any natural or legal person has the right to provide education and can establish institutions for that purpose. The “*organizing authority*” concept is therefore a key concept in the organization of education in Flanders. The authorities, the natural or legal person “taking up responsibility for an educational institution” is meant here according to art 2 § 3 of the *Schoolpactwet*.

Neither the legislator nor the executive power may promulgate any preventive measure which would hinder the freedom of the provision of education. This rule was constitutionally guaranteed. Art. 24, § 1 of the Constitution states that the individual right to open a school may not be made dependent on an authorisation, prior declaration or any type of formality of a preventive nature whatsoever. This implies, in theory, that anyone is able to teach; any measure intended to restrict this is unconstitutional.

Those drafting the Constitution feared, even more than the disadvantages which can be associated with the proclamation of this principle, the dangers of a system of prior authorisation. The government has the power to impose conditions, e.g. for inclusion in the grant ruling and for the use of funds, only if the school calls for state intervention, or it can impose conditions with a view to the recognition of certificates.

Thus, the Communities set certain standards as to quality of the education provided. As we will see below, this places definite limits on the possibility of operating a school that has not obtained official approval.

The Constitution fully protects the freedom of education but also protects citizens from the possible abuse of that freedom, as it protects them from the possible abuse of the freedom of the press or the freedom to express an opinion. For this reason, it provides for the criminal restraint of abuses committed in the exercise of the freedom of education. The sole reserve provided for by Article 24 of the Constitution itself is at *repressive* level.

Constitutional freedom renders the organization of educational networks possible: the Communities, provinces, municipalities and other public law persons and also private persons, *de facto* associations and non-profit associations, most notably of course the Roman Catholic Church.

Three networks (of organizing authorities) are distinguished:

- Community education: this is the education organized by ARGO (i.e. “*Autonome Raad van het Gemeenschapsonderwijs*” or Autonomous Council for Community Education) on behalf of the Flemish Community. The Constitution forces Community education to be neutral; this means that the religious, philosophical or ideological conviction of parents and pupils must be respected;
- Subsidized official education: includes provincial education organized by provincial authorities and municipal education set up by municipal authorities; a school of this network can be denominational or not;
- Subsidized non-governmental education: this is education provided by private initiative, a private person or a private organization. It includes denominational, non-denominational private education and independent schools that apply specific instructional methods. Of the non-public schools, more than 90 percent are Catholic. Since the 1958 School Pact the Catholic Schools have strengthened their cooperation through the *Nationaal Secretariaat van het Katholiek Onderwijs* / *Secrétariat National de l’Enseignement Catholique* (NSKO/SNEC) (The National Secretariat of Catholic Education). The NSKO/SNEC coordinates *inter alia* – the working out of course schedules and detailed syllabuses, separately for the Flemish, French and German-language Communities and represents catholic education vis-à-vis the Community. There are also a few Protestant, Jewish, and Secular Humanist schools, as well as 20 Waldorf schools (Steiner schools), 14 Freinet schools, and a handful of schools offering other alternative pedagogies.

The education organized by the first two networks (the authorities) is called “*official*” education; the education provided by the third network is called “free” education.

The networks have extensive autonomy. They are free to develop their own curricula and schedules, subject to approval by the Minister of Education of the Community. They are free to choose their instructional methods.

There are a few really private institutions that receive no government subsidies whatsoever (Ade, 357). They are not entitled to award officially recognised certificates if they do not accept the conditions of article 24 of the School Pact Law what is mostly the case. This article stipulates that a school or a section of an establishment for pre-primary, primary, secondary or higher education is grant-aided if it conforms to the legal and statutory provisions concerning the organisation of studies and the application of the language laws.

For free subsidized schools, the organizing authority is made up of private persons, mostly in the form of the non-profit-making associations. Xavier Delagrangé’s conclusion on equal treatment in education sector is still quite relevant : the individual equality principle seems to be well respected (pupils, parents, teachers), but the institutional networks are not equally financed at all.

In the German-speaking Community, typically, except for purely private (and unsubsidized) schools, there are three main types of educational institutions:

- public education institutions. The organising body of schools that are fully administered and financed by the German-speaking Community is the Minister for Education of the German-speaking Community. The Minister directly administers and manages establishments at all levels, and the careers of administrators of the Minister’s own educational network (*Gemeinschaftsunterrichtswesen G UW*, the “first network,” neutral and non-denominational).
- public education institutions subsidised by the German-speaking Community. The organising bodies of subsidised public education are the communes (*Offizielles subventioniertes Unterrichtswesen*, the “second network,” education organised by municipalities or by a legal public authority which can be denominational or non-denominational).
- “free” education institutions, denominational or non-denominational, subsidised by the German-speaking Community. The organising bodies of “free” subsidised schools are the natural or legal persons responsible (*Freies subventioniertes Unterrichtswesen*, the “third network,” organised by private persons or bodies; Catholic schools are by far the most numerous, sponsored by the dioceses, religious orders, parishes and Christian associations).

In the German-speaking Community there is in addition to the denominational Catholic schools another “free” school, the *Freie Martinschule Raeren*, consisting of Waldorf Kindergarten and primary school. It works according to the Steiner methodology, with an independent administration and its own financing. It awards its own achievement certificates. This school has not yet been approved by the Minister, however, and as a consequence is not (yet) subsidised. This school is seeking recognition as a “free” subsidised school.

Responsibility for each school is incumbent on the legal entity, the individual or collective person of the organizing body or sponsor, whether that is the Community, a municipality, or some other entity. While respecting the legal provisions in force, each sponsor may determine its own programmes, its own timetables and its organisation on condition that the educational standards specified by the Minister’s are met. Each sponsor is free in the choice of pedagogical methods.

Pupils' parents may form associations or join already existing associations. They are informed about all legal regulations concerning their school. They have the right to vote in various advisory commissions of school and are to be informed by the principal of the use of the available instructional periods.

Fundamental pedagogical changes may not be implemented without their approval, since there is an implicit contract that the school will continue to offer the sort of instructional program for which it was selected by the parents.

The educational project of each school, worked out by its pedagogical council, has to define the participation and consultation role of parents and of parents' associations.

As in many other areas of public life in Belgium, the trade unions and thus the teachers' unions generally belong either Christian, Socialist or Liberal associations. The unions are subdivided by education level and by affiliation to a network.

The Government is required to inform the unions about implementation of decrees and laws which could have any consequence on employment conditions and teaching staff (the so-called consultation talks). The unions have to be consulted also on proposed legislation with possible effects on staff.

Teachers and educational personnel are the majority in the pedagogical council which has the right in any school to be informed and heard about any pedagogical or organisational problem.

### **School choice not limited by family income**

The Constitution imposes on education, in explicit words, *the principle of equality*. Article 24 § 4 guarantees that every educational institution will be treated on an equal basis. All receive money from the Community based on the number of pupils; unequal treatment is only allowed when objective differences exist. Such an "adapted" treatment could include study grants (if necessary, loans) for financially weaker families; favourable standards for small schools in rural areas; facilities and services for handicapped students and immigrant children; and different financial treatment according to the level of schooling, the form of education, the geographical situation, and the distance between schools of the same network. In all these cases there is a objective reason that fully justifies different funding by the authorities.

Article 24 § 3 of the Constitution guarantees that participation in schooling is free until the end of compulsory education. As a result, tuition fees in all types of primary and secondary education are impossible. However, a contribution could be requested for educational material or specific activities, provided that such expenses would not exceed the cost of necessary supplied goods.

The *School Pact* (SP) of 1959 states that "the right of parents to choose the education [given to] their children implies the possibility of having available, at a reasonable distance, a school corresponding to their choice" (SP art. 4, 1). Since parents have unequal ability to pay for schooling, this requires that public funds be provided to cover the costs.

With regard to freedom of choice, the Community is even compelled on request of the parents of 16 pupils who do not find a public or a "free" confessional school within a range of 4 km, either to subsidize "free" or public education, or else to participate in the transportation expense to such a school (Article 25, Decree of February 25, 1997); De Groof, 1984).

The resources of free schools consist largely of community subsidies. The school boards mostly have endowments and some private benefits. The public subsidy to non-public “free” schools includes three types of financial support by the government: salaries of teachers, a per-pupil fixed sum for operational costs (SP 25) and for investments. Public funds pay for administrative and support staff as well as for teachers (SP 27), and they receive their salaries directly from the government on a monthly basis (School Pact 36). Unequal treatment is only allowed when objective differences exist.

The subsidy of operational costs is intended to include replacement of equipment and provision of textbooks to pupils. This subsidy varies by school level - secondary schools receive more than twice as much per-pupil as elementary schools - and is adjusted annually for inflation (School Pact 32). Competition among schools is inevitable in a system of funding based on the number of pupils attending each school, but it is forbidden to undertake acts of unfair competition (Offeciers, 199; Ornelis 281). Although in theory the subsidized non-public schools may not ask parents to supplement the funding they receive from government, there may in fact be minor additional charges for activities and other costs not covered by the subsidy. As noted, tuition fees are impossible because compulsory education is free education.

Approved non-public schools also receive support for facilities costs. DIGO (*Dienst voor Infrastructuurwerken van het Gesubsidieerd Onderwijs* – Subsidised Education, Infrastructure Works Department) is a government agency that subsidises the purchase, construction and renovation of buildings for municipal, provincial and private institutions. It grants subsidies of up to 60% of total construction costs for primary education and 70% for secondary and higher education; the work must not exceed the maximum legal standards for educational buildings. Demand for state aid in financing educational infrastructure has been increasing for some years, and the funds available are far from sufficient.

While these subsidies are paid by the Community, the provinces and municipalities - which operate their own schools - may supplement them, but always on the basis of treating all pupils alike without regard to what school (at the same level of schooling) they attend (SP 33).

Certain school supplies must be provided by the organising bodies (Dermagne, 30-47). Throughout the educational system (whether operated by public authorities or “free”), subsidies cover all or part of:

- staff remuneration,
- operating expenses allocated on a lump- sum basis, according to regulatory criteria,
- capital costs based on the spending limits set out in the budgetary decree.

However, the Constitutional and legal framework does not prohibit the charging of a financial contribution for teaching materials or for certain activities on the condition that this contribution does not exceed the cost of the goods or the necessary services provided (Van Remoortere, 294). Cost of extra-curricular activities may be covered by parents, associations, etc. such as swimming pool entry charges, the price of the school newspaper, trips, etc. There are also special services which are chargeable to parents: Caretaking is sometimes organised with costs in primary and secondary schools before and after classes. Some schools also offer a lunch to pupils which has to be paid for. It should be mentioned that the charging of fees to students of foreign nationality has caused much contention.

To receive government subsidies, schools in the French-speaking Community must:

- comply with the relevant legislative and regulatory provisions on the organisation of education studies and the application of linguistic laws;
- adopt a structure approved by the Minister;
- follow a curriculum which complies with the relevant legislative provisions approved by the Minister;
- comply with the provisions of the Decree of 24 July 1997 defining the aims and objectives of basic and secondary education and setting out the structures required to achieve them;
- accept the supervision procedures and inspections organised by the Government of the Community.
- be organised by an individual or legal body which assumes complete responsibility for them;
- admit in each class, section, cycle or other sub- division a minimum number of pupils set by order of the Government of the French Community except where a special dispensation is granted by the Minister on the basis of particular and exceptional circumstances;
- form one teaching unit located in the same complex of buildings which meets certain health and safety standards;
- adopt the general timetable of school holidays;
- employ staff who will not jeopardise the safety of their pupils; and
- use teaching materials and equipment which meet the necessary teaching standards (Masquelin).

Funds have also been appropriated in two specific areas: on the one hand, under the terms of positive discrimination legislation which provides, in particular, for the provision of human and financial resources to institutions meeting certain socio- economic criteria and, on the other hand, within the framework of a huge “computers for schools” project for the basic and secondary educational systems.

The question often was raised to what extent education freedom really does exist vis-à-vis the subsidized “independent” school sector, keeping in mind the implementation all these formal conditions: is school distinctiveness real (Leroy, 23)?

There is also a persistent question about the remaining unjustified unequal treatment among the networks. In recent years, more and more voices have been heard calling for developments in the direction of "network blurring" and removing traditional religious and socio-political barriers. Firstly, this expresses a plea for more cross-network cooperation.

This policy intention could also be seen as an initiative to treat schools and students on an equal basis, regardless of the network. In all respects, this trend has already taken root in recent years. In new initiatives and regulations - educational priority policy, wider care, post-graduate education, European projects, pupil transport in special education, development of final attainment targets, reorganisation of inspection - the “network” factor was no longer structurally incorporated. Nevertheless, there remain significant differences among the various networks of schools.

The final report (July 2001), commissioned by the government, entitled “*Inkomsten en uitgaven van scholen in Vlaanderen: Kwantificering van de objectieveerbare verschillen*,” compiled by Deloitte and Touche, contains the following summary of the principal differences between networks with respect to the resources available.

- State education has structurally higher public operational and investment resources from the Flemish Community than the other two networks, and that is for both levels of education. The additional permanent appointment of Teacher Service personnel still magnifies further the difference with Subsidised Private Education (VGO).
- Schools in Subsidised Official Education (OGO) often have quite considerable supplementary resources at their disposal from their organisational powers, as a result of which they have even more options open to them on average than State Education (GO).
- Consequently, schools in Subsidised Private Education (VGO) have significantly fewer resources at their disposal than in official education and have to appeal more to parents and other private sources.
- Generally speaking, private primary schools are in the most unfavourable situation financially.
- Differences arise in the treatment of schools (particularly with respect to the provision of resources) that cannot, or cannot completely, be justified by differences and needs or requirements (pupil transport, different treatment of boarding schools between the networks, etc.).

Arithmetically, to create a level playing field - after taking into account the aforementioned differences that can be justified on objective differences - would mean in absolute figures transferring operational resources of 1.25 billion euros from State education to the two other networks, representing some 31% of the present operational resources in State Education.

### **School distinctiveness protected by law and policy**

The Constitutional jurisprudence completely concurs with the legislative bodies which described the freedom of education from the perspective of “character,” “tendencies,” and “pedagogical method.” Such freedoms are not found or are at least not found to the same extent in the case of official education. Next to the fulfilment of the obligation of neutrality, the theory of the uniformity of the pedagogical concept of *community* education (at the level of the ‘school pact’) currently prevails (education organized by one of the (three) *Communities* in Belgium). This does not detract from the fact that the purpose of such uniformity will be questioned more frequently in the future and that a differentiation of the pedagogical projects in the different communities could be argued by the local community, in consultation with the parents and without infringing the rights of parents who (at least as far as the pedagogical concept is concerned) have ‘a different perspective’ (e.g. within a reasonable distance).

The pedagogical freedom of granted *official* education was previously described as being ‘anchored in the legislation governing education’, but with the reservation made that it was to be combined with the requirements of organic public service (see Chapter 4 of De Groof 1985c). All or at any rate most authors subscribe to this interpretation – certainly after the revision of the Constitution in 1988 (see De Groof 1989ab).

The Court of Arbitration (65/95 of 28 September 1995) linked the freedom of education to the freedom of association. The Council of State also raises the matter of the possibility of excessive interference in the

composition and activity of the organs of a non-profit making association even if the latter is granted by the Government. The Council has on several occasions referred to the less flexible rules of decision-making which exist in the case of official education compared with the organising body of free education and has assumed that the greater rigidity in decision-making could mean that community education will have to face more difficult working conditions. It has consequently suggested, for example, to introduce the guaranteed right to establish a separate decision-making structure with regard to the organisation of education (Flemish Council, Z. 1990-1991, no. 548/1).

Participation in a service for the benefit of the public representing an organising body of granted free education, usually a non-profit making association, does not change the legal characteristics of the participating organisation. The *recognition* of a private law institution with regard to this further guarantees the relationship between the staff and the association in private law.

As has already been mentioned, the term *granted* educational establishment adds that, even in the case of largely similar regulations, legislation must nevertheless do justice to the particular position of free education, especially with regard to what constitutes one of the key points in the exercise of this freedom, namely the freedom to choose staff. The section on '*Decisions about staff*' elaborates further.

Government is required to provide subsidies to any school that meets the objective criteria of quality, number of pupils, and so forth; officials may not exercise discretion about which schools they will fund. The criteria for approval and thus for subsidy include compliance with the language laws (see below), adopting an approved grade-level structure, having the required number of pupils and an adequate facility and school equipment, following the curriculum guidelines set by the government for all schools of that type, and accepting state inspection to ensure that the other requirements are met (De Groof 1985ab).

Each school may employ its own curriculum and pedagogy in meeting the government guidelines, and arrange for staff development and consultation services. The Community sets forth a set of *eindtermen* and *ontwikkelingsdoelen* (final attainment targets and development goals). No government-prescribed goals exist for religion courses. The schools work out a curriculum by themselves in relation to the *eindtermen* and *ontwikkelingsdoelen* and a school action plan (*schoolwerkplan*), that reflects among other factors the individual school's pedagogical project. Schools organised on a certain methodological or ideological basis which cannot act within this system, may ask exemption from the *eindtermen* and *ontwikkelingsdoelen*. In the process, they must identify their own attainment targets. These are subject to approval by the Flemish government and ratification by the Flemish Parliament. The *eindtermen*-project is realised in the primary education level, but is still in the implementing phase in the secondary education level (only the targets for the first two cycles have been realised).

Government inspection does not extend to the pedagogical methods used (School Pact 24 § 2).

In an important decision in 1992, the Court of Arbitration noted that "Parents' freedom of choice can, after all, only be fully effective if the freedom of the organizing powers to organize education and the right of subsidies . . . is not unlawfully restricted."

The legal significance of a school's distinctive character makes it essential that the school's governing board explain its pedagogical project clearly, along with any philosophical basis, and update this regularly as necessary. Parents have a right to this information as they choose schools, and staff have a right to know to what pedagogical project they are committing themselves.

Also before the 'federalization' of the Belgian governmental system a long-existing tradition of consultation with networks and stakeholders characterized state education policy and strengthened respect for educational freedom.



The ‘*Flemish Education Council*’, composed of representatives of the networks, trade unions, parents and students, economic and social [ ] experts and Ministry officials, has a broad competence on advising all preliminary draft laws and policy documents.

Parents and student/pupils associations are supported by the Government ( Decree of 5 June 1996 and Decree of 30 March 1999).

The decree of 23 October 1991 concerning co-determination in subsidised nonpublic or “free” education set up participation councils alongside the existing works councils consisting of staff.

This structure was later complemented by local negotiating committees (LOCs) in private primary and secondary education (decree of 5 April 1995), and higher education negotiating committees (HOCs) and departmental negotiating committees (DOCs) (decree of 13 July 1994) in establishments of higher education (decree of 13 July 1994). Personnel and employer representatives negotiate in these committees about personnel matters.

In subsidised education, every school has to set up a participation council, either individually or with other schools, which is usually chaired by the headmaster/mistress of the school.

The participation council is, for example, authorised to give advice relating to the general organisation, operation and schedule of the school and the general criteria with regard to the guidance and evaluation of the students. It also has the power to consult on specific subjects. On top of this, a number of additional rights or powers can also be granted, such as the right to information on all matters that have repercussions on general school life and the right to consent. Therefore, it can be stated in conclusion that the participation council does not restrict the authority and responsibility of the school head and organizing authority but that it provides a forum for consultation between all the participants in school life.

However, in subsidised official education and Subsidised Private Education (VGO), approximately two-thirds of the parents are asking for the participation council to have more influence. Note with regard to this that the parents adopt a slightly less critical attitude to this than the teachers do.

The OECD-Country report on Belgian education contained the following conclusion on ‘*Curricula: Development and control*’:

Even though Belgium has no truly centralized planning of curricula and examinations, the curricula and educational standards are centrally monitored. On the one hand, this system allows local autonomy and responsibility to operate and, at the same time, remain in balance. On the other hand, a wide ranging diversity may develop which can be or become problematic in a certain number of cases. A constant redress of the system in search of balance will be needed. But an answer to the question whether the very core of the system should be modified is difficult to find. Experience in neighbouring countries having either highly centralized or highly decentralized systems shows that both systems present advantages and disadvantages.

In principle, thanks to the freedom of choice of teaching methods, enshrined in the Decree on Elementary Education passed in July 1998, each organising body is able to submit its own primary school curricula for the approval of the minister. These curricula must be drawn up in line with the skills bases which apply to all the networks and which define the necessary assessment standards. If it does not have its own curriculum, the organising body must use the official curriculum of the French Community. The curricula

applicable in the subsidised sector are approved by the Government based on prior consultation with the *Commission des programmes*.

Also in secondary education, each organising body is free to select the teaching methods of its choice within the limits of the key stages and core skills to be achieved by the end of cycle 1 of secondary education and the final skills required at the end of secondary education.

But the courts can exercise control over the education plan without interfering with the autonomy of the governing body:

- in the event that decisions made fail to meet legal requirements;
- on the basis of the grounds upon which these decisions have been taken;
- if they undermine the right to equal treatment;
- over the composition of the *conseil de classe* (meeting between teachers, parents and student delegates) or the board of examiners;
- over the manner in which the *conseil de classe* and board of examiners have exercised their judgement.

#### *Distinctive character*

Oversight by the Community of subsidized nonpublic (“free”) education, then, is essentially identical to that of public education. It takes various forms, including ensuring that a school (1) satisfies the requirements of health and safety, (2) meets the requirements for the receipt of public funds, (3) meets the requirements for awarding of certificates and diplomas, (4) complies with the Belgian language laws, and (5) satisfies the compulsory school attendance law. The inspection is not qualified to evaluate the teaching methods or the “schoolwerkplan” of the educational institution which are covered by the principle of educational freedom, and, or to inspect the courses of religion or non-denominational moral education. The legal representative bodies of each recognized philosophical and religious community themselves organise the inspection and support of the philosophical and religious courses taught at school.

These requirements are to be interpreted and applied, however, in a manner that does not force subsidized non-public schools to become identical with municipal and provincial public schools. The board responsible for a school (whether public or non-public) is free to determine its distinctive character, as expressed in the methods and (to a considerable extent) the content of teaching, as well as other aspects of school life.

In practical terms (though not in law or in theory), the right of parental choice in Belgium is defined largely in terms of the alternatives of secular or Catholic schooling. There are, however, a number of non-Catholic subsidized free schools, with either a religious or a pedagogical distinctiveness. Schools inspired by secular humanism are distinguished from ‘neutral’ public schools, as are a number of ‘pluralistic’ schools that seek to be a place of encounter of diverse tendencies. The Council of State, in a 1985 decision about pedagogically-distinctive schools, upheld the rights of “parents with a personal philosophy of life that lies outside the traditional spectrum, from which views on upbringing and thus on education, teaching methods and educational organisation have evolved.”

It should be noted, however, that the earlier division between denominational and non-denominational education does not exist any more now that the decisive criterion to determine whether a school was denominational or non-denominational has been abolished. A school is considered non-denominational if three-quarters of the teachers are holders of a graduation certificate from the non-denominational education system (De Groof 1997-1998, 403). A communal school with a *Catholic identity* is entitled to act as a “public” school, **[provided]** that its orientation is open-minded.

The law of 14 July 1975, creating the possibility of “*pluralistic*” schools (schools recognized as such by the *Hoge Raad voor het Pluralistisch Onderwijs*), introduced into Belgian law the concept of the “*project*” of a school. Each independent school is supposed to develop or guarantee its own ‘project’. (Vertommen, 211).

Educational freedom applies, in the first instance, to the school (and thus to the parents who have a right to select a reliably-distinctive school). Freedom of *organization* is a fundamental component of educational freedom, and applies to school curricula, timetables, teaching resources, objectives, evaluation techniques, disciplinary procedures, criteria for relationships within the school, and all the other ways in which social and philosophical values and interests are expressed.

The federation of Steiner Schools contested the attainment targets (see below) because they were in conflict with the freedom of education, as they reduced the ‘zone of autonomy’ of the pedagogical concept and as they, in their point of view, imposed a certain world view. The Court of Arbitration complied with this demand, since the large number of targets could hardly be considered as only setting a minimum standard. The government reacted by reducing the number of targets and by introducing a procedure for those in a unique position (Verstegen; De Groof 1996).

Linguistic distinctiveness is not considered a basis for a claim to subsidy under the principle of educational freedom. The language laws, designed to protect the position of the three official languages (Dutch, French, German) in their respective territories through mandating that schooling be provided through the locally-dominant language, and to define carefully the schooling choices in the Brussels conurbation, were upheld in a 1968 suit before the European Court of Human Rights.

The afore-mentioned Decree of July 24, 1997 on “*Missions*” defines the targets and aims of the institutional *project* of the school and stipulates that the education project ought to specify in school plans their values based, denominational, pedagogical options.

The educational project defines . . . the overall values, social context, and perspectives [*références*] on the basis of which the organising body [*pouvoir organisateur*] or a representative and coordination body of the organising body defines its educational objectives (article 63).

The pedagogical project defines the pedagogical viewpoints and the methodological choices which permit an organising body or a representative and coordination body of the organising body to implement its educational project (article 64).

The school project defines the collection of pedagogical choices and specific concrete actions that the educational team of the school and the partners referred to in article 69 paragraph 2 [on participatory councils] to carry out the educational and pedagogical projects of the sponsor (article 67, section 1).

Within the context of its projects, referred to in article 67, each school may distribute the amount of time set aside for one, several, or all the disciplines in functional units of study extending over

several weeks. It may also regroup the time designated for several disciplines for interdisciplinary or cultural activities (article 30).]

Studies showed a direct link between school performances and the type and/or characteristics of schools (Crahay). In each of the Communities in Belgium, the competition among schools is based on the distinctive denominational character of education institutions, but at the same time on reputation and ranking success rate and educational specificity . . . aspects of the growing “marketisation” of the educational sector (Vandenberghe, 65).

### *Decisions about admitting pupils*

A pupil cannot be enrolled in a school if he/she does not meet all appropriate admission requirements. Article 24, § 1, first paragraph of the Constitution guarantees the freedom of education, not only in its active aspect, i.e. the organisation of education and the establishment and direction of schools, but also in its passive aspect, i.e. the freedom of choice which allows parents or students to choose the education that best fits their philosophy of life or their preferred learning style. At that same time, this second freedom does not mean that parents and students have an unconditional right to enrolment in the school of their choice (Court of Arbitration, ruling no. 110/98, 4 November 1998, ground. B.3.2).

In its ruling no. 27/92 of 2 April 1992 the Court of Arbitration referred to the following:

4.B.2. Unlike state education, which is charged with a public service in the organic sense of the word, Subsidised Private Education (VGO) is a functional public service, i.e. a service that is organised under private initiative for the benefit of the entire population or a part thereof with a view to the fulfilment of a task of public interest.

A few objective differences arise from this between state education and Subsidised Private Education:

in contrast to other organizing authorities, the Community is obliged to permanently guarantee an adequately distributed range of education for the entire territory;

unlike the institutions in state education, the institutions within Subsidised Private Education are not obliged to accept all prospective students; by contrast, the option to act selectively does not exist for the organizing power of state education;

the schools organised by public bodies, including the Community, pursuant to Article 17, § 1, final paragraph of the Constitution, are obliged to offer a choice in instruction of one of the recognised religious faiths and a non-denominational ethical code, until compulsory education ends.

In its ruling no. 110/98 of 4 November 1998 the Court of Arbitration took the following grounds:

With respect to the institutions in Subsidised Private Education (VGO), it does confirm that an admissions policy can be based on the identity of the educational project that, pursuant to Article 24, § 1, first paragraph of the Constitution, such an educational institution is in a position to offer deriving from a concept that can be of a religious or philosophical nature.

The principles of equality and non-discrimination, as established in Articles 10 and 11 of the Constitution, and, as far as the institutions in state education are concerned, the rule of neutrality,

stipulated in Article 24, § 1, third paragraph of the Constitution, pose an obstacle to an institution in official education, with respect to the student admissions policy, having the same room at its disposal as that granted to an institution in Subsidised Private Education (VGO) insofar as the choice of a religious or philosophical concept is concerned that underlies the education offered. This distinction between official and private education is an objective difference if the issuer of the decree is to be guided pursuant to the Constitution.”

In free (private subsidized) education, a school board can deny admission provided that the grounds are not based on improper criteria by which human dignity could be at risk (Article 31 § 3, Decree February 25, 1997 Elementary Education). Parents must be informed of the refusal to admit their child in writing within four calendar days with the reasons given. In the event of a legal challenge, the judge decides on the basis of the concrete circumstances whether or not the refusal was justified. It is generally acknowledged that only serious grounds which are directly related to the pedagogical or denominational project of the school are acceptable.

The refusal of students by “free” schools on the ground of their sex has been a controversial issue. Jurisprudence and the legal doctrine are divided on that issue (Deli, 430; Verstegen 1994-95, 131).

The principle of equal treatment and the ban on discrimination were stipulated in art. 10 and 11 of the Constitution (besides the implementation of international law, see Veny, 301; Hanson, 328), and should be respected by the schools. The Court of Arbitration declared that schools can treat certain categories of people differently, provided that there be an objective and sensible justification for the criterion of differentiation. The principle of equality is violated if it can be established that the means used do not reasonably tally with the aim pursued (Court of Arbitration, nr.38/91, December 5, 1991, *B.S.*, December 21, 1991, 19, 160).

Non-public schools in a number of cities have entered - more or less willingly - into *agreements* designed to distribute minority children (children of large minority populations, especially from North Africa) more evenly. This involves accepting and even recruiting pupils who do not share the religious character of the school and who, in many cases, live at some distance.

Like most other European states, Belgium is facing a growing ethnic and cultural pluralism, besides its traditional character as a trilingual state. Immigrants from Italy and Spain in the 1950s, from the Maghreb (chiefly Morocco) and Turkey in the 1960s and 1970s, and from Eastern Europe and from other European member-states in the 1970s and 1980s have provoked tensions. The arrival of refugees and the international status of Brussels strengthened further the multi-ethnic character of a country that always was a privileged encounter spot of the Latin and Germanic cultures and a world center of Jews. But integration problems relevant for education sector exist mainly vis-à-vis Muslim immigrants.

In theory, foreigners have the same legal right to education as Flemish people. But different studies show significant disparities in practice and the statistics on backwardness at school point to two handicaps among foreign pupils : more foreign pupils than Belgians fall behind in their work and for longer periods on average. In the Flemish Community the highest level of concentration and polarization is in the major urban centers.

Since the early 1990s the Flemish Community has implemented a target group oriented education policy, with a twofold approach. In 1993 the Flemish minister of education and the coordinating bodies with organisational powers signed the *Declaration “On A Non-Discrimination Policy in Education”* (see De Groof and Ornelis). Schools are also given support via a range of projects in order to handle differences between pupils better.

On the basis of the non-discrimination declaration cross-network agreements were reached in a number of selected areas to prevent segregation and to work towards a non-discriminatory learning environment.

Since 1991 an “*Educational Priority Policy*” has been implemented in primary and secondary education in order to promote the integration of underprivileged migrant children. In primary education a “wider care” project has been under way since 1993; its aim is to set up a broader range of educational care for educationally deprived and underprivileged pupils. In both projects schools with a given percentage of “target group pupils” get extra teaching periods or supplementary classes which are to be used in a number of fields of activity.

A draft Decree “On equal admission rights of pupils” starts from the principle of an unconditional right to attend the financed or subsidised school of one's choice. This draft Decree allows all pupils and parents in “our pluralistic knowledge society” an “unrestricted choice of education” and establishes a fundamental right “to attend a given school”. This right is seen as a fundamental element in the already mentioned “*1999-2004 Policy Memorandum*”: “The Flemish government considers the right of attendance as a fundamental and in principal unconditional right which is guaranteed in every educational establishment.”

In view of this altered social reality it is the responsibility of the government and the school authorities to ensure that every educational consumer is able to enter a school with an educational project that meets his or her preferences. To promote diversity in schools, the approach taken hitherto has been one of a desegregation policy. This policy has obligatory consequences for the pupil, but undertakings by education providers under this policy are by nature free of strict and formal obligation.

The draft Decree hence chooses to seek cultural differentiation in education on the basis of encouragement and the provision of information. Binding arrangements are made under the ‘consultative platforms’ as detailed in the “*Non-discrimination Declaration*”, which may for example incorporate an obligation to accept a minimum number of underprivileged pupils. Within some constraints a pupil can be transferred to another school, but without prejudice to the pupil's right to education. The pupil should thus be registered at the original school until such time as he or she is registered at another school under a local consultative arrangement.

The general character of the right of attendance prevents the organizing authority of a school from making decisions on its own discretion about who is suitable for admission under the rules and the school's educational project. Each pupil thus has a fair chance of being educated within the pedagogical and educational structure explicitly selected by his or her parents.

But a child is only considered to be enrolled if the parents approve the school regulations and the school's pedagogical project. Following registration the pupil and his or her parents are obliged to comply with the pedagogical project and the school regulations. The organizing authority determines how documentary evidence of parental consent is obtained.

An organizing authority can decide not to register a pupil for either of two reasons:

when the school or branch of study in question does not have the physical space available to take on more pupils without compromising health and safety. This is an interpretation of a principle which is commonly accepted. The organizing authority itself assesses when the school is at capacity.

if the pupil has been removed from school during the preceding two academic years for disciplinary reasons. In the Mossa d judgement the State Council endorsed a refusal to accept a

pupil suspended for disciplinary reasons in official education (R.v.St., Mossa d, case no 67.287, 2 July 1997). This judgement is based on the belief that an exception can be vital in order to protect the rights of the other members of the group ( R.v.St., Pesch, case no 26.749, 12 August 1991 ; (regarding independent education) see Liege, 23 April 1987, *J.T.* 1987, pp. 446-447).

The question is equally - according to the question posed by the State Council in a recent recommendation on this subject (State Council recommendation no. 33.027/1) - whether the existence of resources to remove the student concerned from a school later on is sufficient in all cases in order to secure the right to the organisation of education on the basis of the school's founding principles: "In any event, it is not inconceivable that the organisation by certain education providers will display such a degree of particularity that those resources will not be sufficient to guarantee the stipulated objective - the guarantee of the educational organisers' particular ideological or educational project."

Parents are free to select the institution of their choice for both primary and secondary schooling but this choice is restricted by regulations which fix the conditions for admission.

A "free" (subsidized private) school has *in principle* the right to refuse any student (Cerexhe, 136). This freedom is, however, limited by certain statutory provisions and by the case law of courts and tribunals. Art. 76 of the Decree 'Missions' stipulated that – before admission – parents and pupils ought accurately to be informed on the different educational, pedagogical, denominational projects of the school and its internal rules and procedures. The organizing authority cannot refuse inscription, based on social, sexual, racial discrimination, if the pupil accepts the educational projects (Article 88. The *Decree* refers to specific procedures in case of refusal of inscription).

The Court ruled that admission to an independent school may be denied upon refusal to accept the school rules (Civil Court Brussels, August 28, 1992, *NC v. Maria Assumpta*). The parents must be notified of such refusal in writing, with an explanation of the reasons for the decision (Malisoux, 117-120).

In accordance with the official provisions designed to ensure equality of opportunity between boys and girls, the majority of primary schools are now co-educational. There are, however, still a few single-sex schools within the subsidized denominational sector.

In June 1998, the Parliament of the French Community adopted a decree on '*discrimination positive*' with a view to guarantee equal chances to emancipation to all students. This decree extends and coordinates the existing schemes and endeavours to increase their efficiency. It is developed within the framework of the prospects set by the *Décret Missions*.

A 'positive discrimination' Committee is set up for the purpose of assessing the project on an annual basis. These measures aim at preventing violence and were induced by a number of serious incidents within schools; and seek also to address the issues of truancy and dropping out of school.

A framework decree, which was passed in July 1998, redefines the objectives and the means that must be implemented in maternal and primary education, in standard, and in special education to combat school failure.

*Decisions about staff*

To obtain public subsidies, education institutions must employ staff who will not jeopardize the safety of their pupils. Throughout the school system, subsidies cover all or part of staff remuneration.

As long as these conditions are satisfied, the organizing body is free to recruit staff on condition that they again meet certain criteria (for a comparison of policies in the French-speaking and Flemish-speaking Communities, see Craeymeersch). The organizing bodies of the free educational institutions have the right to freely recruit their personnel teaching religion.

Relations of the organizing bodies of free education with their personnel are governed by a private (labour) contract although the freedom of contract is limited by various acts and chiefly Decree of 1 February 1993, “Statut des membres du personnel subsidié de l’enseignement libre subventionné” (Déom, 73).

Teachers who fulfil the conditions to be subsidized receive their wages directly from the Community government.

Non-public schools must pay their lay teachers at least as much as equivalent public-school teachers (SP 26). Teachers who fulfill the conditions to be subsidized receive their wages directly from the Flemish government. The organizing bodies are private legal persons and relations with their personnel are governed by a private (labour) contract (Rauws, 147; Versteegen 1980). The freedom of education and the freedom of contract guarantee that these bodies can demand ideological commitment on the part of their personnel.

Teachers must conform their teaching to the distinctive character of the school which employs them, whether denominational or neutral (article 21 Decree February 1, 1993; see also article 24 on “incompatibilities.” Article 27 guarantees “the protection of the private lives of staff”). If the school authority demands commitment from its teachers with respect to the specific educational project (*obligations* and *incompatibilities*), which it is fully authorised to do and which has long been a condition for the effective achievement of the project, this is to be adequately clear in legality (contractual commitment declaration) and in reality.

In this respect, the school governors are obliged to give the required explanation of the pedagogical project, possibly on philosophical grounds too, and to update it continually, as the basis for such personnel decisions.



The educational legislation (*eindtermen*, duties of the teacher, statute of the pupils, etc.) and the model curricula and the voluntary accepted directives of the educational ‘umbrella organisations’ (such as the Flemish secretary of Catholic education and the secretariat) curtail the individual freedom of the teacher. Moreover, the teacher is a member of a pedagogical team which shapes further his commitment. This team works out a pedagogical project and pursues a local school policy. In the rather restricted sphere of discretion left, the teacher can act autonomously.

According to article 24 of the Constitution, the organizing bodies or school boards of the free educational institutions have the right to freely recruit their personnel. The quasi Constitutional Court, in the 1992 decision quoted above, pointed out that “the freedom of education encompasses the freedom of the organizing power to choose the staff employed, with a view to achieving their own educational objectives.” The constitutional right to recruit on an ideological basis is reaffirmed in Article 15 of the Decree [of] 8 June 1996 on the legal status of teachers of subsidized education and recognized by the Court of Arbitration (no 34/98, 1 April 1998; Court of Arbitration, no.18/93, 4 March 1993).

The freedom of education “implies” – judgment no. 66/99 of the Court of Arbitration thus repeats former judgments (De Groof 1999-2000) – the freedom of the organising body “to choose staff who are employed with a view to the fulfilment of the educational objectives particular to the organisation” (Judgment of the Court of Arbitration no. 76/96 dd. 18 December 1996.). Freedom of education *requires* a right to choose, which “consequently” influences the working relationship between this organisational power and its staff”. The different legal position is consequently “justified”: in contrast with official education, the appointment/employment of staff is on a “contractual” basis . The term ‘*justified*’ refers to the terminology of the article of the Constitution itself for the purpose of indicating when a different treatment is justified according to the principle of equality.

The freedom of *direction* in its interrelationship with and influence on the freedom of *establishment* consequently hinders the integration of the public law status.

The Court of Arbitration thus recalls that the difference in legal position arises directly from §1 of Article 24 of the Constitution and appears to be an irrevocable consequence of this – with particular rights and freedoms which differ from official educational establishments *by virtue of their very nature*. Without this difference, freedom of education remains a hollow concept. It is in other words the very essence of freedom of education. The particular kind [of education], the teaching plan, the curricula and the methodology are disseminated, acquire form and are realised by the staff who are chosen for this purpose. The credibility of a free school is at the same time critically examined from the perspective of the employment policy. This applies to the modern interpretation of the freedom of education in general: “A discrepancy can sometimes be discerned between the formal and actual identity of a free school as is, for example, evident from the policy of appointment and the policy regarding the establishment of the curriculum. Such a discrepancy undermines the legitimacy of the freedom of education. The ship should be sailing under the appropriate flag. Free schools that do not recognise the importance of this undermine the credibility of the freedom of education. It would be more credible if those schools would change their

legal status” (Leune, 8; see also De Groof 1989c). And interwoven with the freedom of association, which was mentioned earlier: the fulfilment of the ‘social goal’ of the legal person is dependent on the freedom of appointment. “An institution with a religious or ideological basis has the freedom to stipulate requirements regarding both the commencement of an employment relationship, the terms of employment and promotion. ... Institutions for denominational education may stipulate more extensive requirements, particularly requirements which are necessary for the realisation of their foundation in view of the goal of the institution” (Overes, 19).

The government statute is at odds with this. Within an official school, the authorised management does not ‘choose’ any staff, but is to adopt the results of the stipulated procedures. The official management is not permitted to make appointments or promotions which are contrary to the statutory regulations regarding recruitment and promotion; a candidate for a position of member of staff has a subjective right to the position if all the stipulated standards and selection criteria have been satisfied by the candidate. Equal access for Belgians to civil posts requires a procedure that enables the relevant authority to compare the titles and merits of the different candidates. An impressive piece of litigation regarding equal access to public office has in the meantime secured this obligation. However, free education can freely make use of the possibility of examining the file of the candidate in question for his dedication to the particular ideological pedagogical plan and concept chosen.

Freedom of education consequently also implies that the organisational power must have the right to decide about the dismissal of a member of staff. With regard to this, the Council of State issued a negative opinion on the disciplinary system for subsidised free education which gave the competent instance of Appeal the right to make binding recommendations (*Doc. Flemish Council, Z. 1990-1991, no.. 471/1*).

Over the years the freedom of personnel recruitment of the free school boards has been limited by several provisions of education legislation. The decree on the legal status of teachers of subsidized education provides some general conditions for the recruitment of new teachers. Subsidized schools must employ staff who have the necessary qualifications equivalent to those possessed by public-school staff. The choice among applicants with the same qualifications is limited by a system of priority appointment: only if there is no teacher with priority or existing teacher with a right in the position is the school board free to choose among equally qualified applicants. Those requirements being met, free school boards are totally free and do not have to explain why they have chosen someone and they may make decisions about employing and dismissing staff based upon the religious or pedagogical character of the school. Denominational schools may expect that their personnel profess the concerned religion.

Specific regulations do exist – approved by the Court of Arbitration – specifying how church institutions are entitled to sanction the authority of religious instruction (Court of Arbitration, no. 18/93 dd. March 4, 1993).

Teachers in secondary schools in the German-speaking Community are trained in the French Community since there is neither a teacher training institution for that level nor a university in the German-speaking Community itself.

## Accountability for school quality

Despite the extensive protection for educational freedom as expressed in the autonomy of individual schools with their distinctive projects, Belgium is not exempt from the general tendency of governments to extend their involvement in the details of school life. It is very tempting to use subsidies as a way to make non-public schools into instruments of public policy.

Originally, the system of quality control within Belgian education was predominantly characterised by a division between educational content and pedagogic methods. The Community government dictates the curriculum and the timetables, to a (so called) “minimal” extent. The organizing authorities thus have a limited autonomy with regard to syllabuses and timetables, subject to ministerial approval. They are free to choose the method of implementing the selected educational content and didactical methods. There are no central tests. Schools have complete freedom as regards organizing and drafting of tests. This freedom is implemented within the framework of the networks of organizing authorities.

In the Flemish-speaking Community, in 1991, the concept of final attainment targets (*eindtermen*) was introduced within a completely renewed “monitoring and inspection system for schools.” Previously, state education was used as a benchmark for subsidized schools, as regards the approval of the curriculum and timetables, and the monitoring of adherence to a minimal curriculum and timetables (in accordance with articles 6 and 24 of the School Pact Law). In practice, this means that approval of the curriculum is subject to compatibility with the syllabuses used in state education.

When the *Autonomous Council for Community Education* (ARGO) was established (1989), government responsibility with respect to general educational policy was redesigned for all schools, of whatever denominational or other sponsorship. ARGO is an implementing body on behalf of state official schools with the same didactic and organisational competencies as the other organizers, for example the power to independently decide on a general pedagogic policy and curriculum. In this way, government has adopted an even-handed approach to all sponsors of schools, including denominations.

Since state education was no longer the benchmark, it was necessary for the government to draw up the minimum requirements for the curriculum as well as for the timetables for all schools. From now on, the government will have its own instruments to control educational quality. This quality may be expressed in different ways: in terms of targets, results, learning processes, the extent of the educational and vocational

services offered, or achievement measured in relation to the prior conditions of the pupils. The concept of final attainment levels provides a legal foundation for a goal-oriented approach to education.

A key element of the Decree of July 17, 1991 is the partition between the internal supervisory services and the inspectorate as a monitoring state body, in conjunction with a brand new system of quality control and the establishment of a new *Educational Development Authority* (DVO).

Articles 6 and 6a of the *School Pact Law* were changed to make this possible:

*6. With due observation of the final attainment targets and the minimum time-table as stated in the decree, each implementing body is free to draw up the curriculum and timetable for its educational institutions, and to select appropriate pedagogic methods. However, in order to guarantee the required overall level of educational quality, the Flemish Executive should approve the curriculum.*

*6a §1 In conformity with unanimous recommendations by the Flemish Council for Education, the Flemish government sets the final attainment targets, i.e. the minimum goals that have to be achieved at the end of the school year at pre-primary, primary, post-primary and short-term third level education level. Within one month, these final attainment targets are subsequently put before the Flemish Council. The Flemish Council ratifies the final attainment targets, with the exception of specific final attainment targets for post-primary and short-term third level education.*

*§2 The final attainment targets for post-primary schools are determined for each type of education, grade and stage. In addition, these final attainment targets may be specified in accordance with the fundamental segment of the option, as laid down in article 48 of the decree on education II dated July 31st, 1990. In special education, there are final attainment targets for each educational type and format. The final attainment targets for short-term third level education are set for each category, as proscribed in the act dated July 7th, 1970 dealing with the general structure of third-level education. In addition, these final attainment targets may be specified for each separate department.*

The old wording in the *School Pact Law* with regard to the mandate of the inspectorate, i.e. “to monitor the level of learning,” has been supplemented by “to verify whether the final attainment targets are achieved”.

Since 199, *final attainment targets* have been defined as a new legal reference with respect to quality control. The concept refers to minimum aims and objectives (knowledge, understanding, attitude and

skills) that should be attainable for the majority of students at a particular level of education. The final attainment targets were introduced as criteria formulated by the government, in accordance with the expectations within the global community, to provide a legal foundation for the time-tables and curriculum drawn up by the implementing bodies. Final attainment targets provide a framework of reference for the timetables and curriculum, and for the monitoring by the government of the quality of education that it funds.

Schools are free to determine the way in which they implement the final attainment targets, as the organizing authorities are free to shape specific types of education according to their own requirements. In addition, they may add their own final attainment targets to the curriculum. Nevertheless attainment targets will require the full duration of the time set aside for education. It was already mentioned that this might mean that pedagogic projects that are specific to the school may not be realized.

The concept of final attainment targets is based upon certain *basic principles*.

- The organizing authority of the school is responsible for quality in education. This quality cannot be achieved through external agents. Only the education providers are autonomously capable of guaranteeing to the community that the education offered is sound.
- It is up to the government to clarify the minimum expectations of the community as regards education. It is necessary to clearly spell out these expectations, in order to guarantee educational quality for all students, and to provide legal security to all educational institutions.
- Clarification and elaboration of these minimum expectations can only take place in collaboration with educational experts, in a scientifically sound manner.
- The government should monitor whether the targets are effectively met within the educational institutions.
- The state should also provide the instruments that are required to enable the implementation of minimum guarantees. This level of support should take specific pedagogic methods and educational projects within the respective schools into account, thereby observing the existing freedom of education.
- The inspectorate needs to be reorganised along the lines of process management, whereby the educational process itself is monitored as a quality criterion. The traditional division into subjects, that does not take the overall picture into account, should be replaced by methods to assess the overall quality of the learning processes and results.
- The quality control system needs to be applicable to the Flemish educational system as a whole, not only to government-sponsored schools..

The *Educational Development Authority (DVO)* consists of educational experts and scientists (Decree of July 17, 1991 and April 13, 1999). It is a scientific research and implementations service that is part of the Ministry. The *DVO* develops evaluation instruments aimed at reviewing and assessing schools. It was assigned to prepare a project on the final attainment targets, and to put this to the *Flemish Education Council (Vlaamse Onderwijsraad)* for approval. The *VLOR* will draft a unanimous proposal on this subject and put this before the Flemish government, that will refer the final paper to the Flemish Parliament for ratification. This ratification procedure is necessary to guarantee an adequate differentiation between the various levels of education. As a result of the ratification, the final attainment targets will become operative and can only be altered when the legislator initiates new changes.

In the Community Inspectorate, both networks (that is, both government-operated and non-government or 'free') have equal representation. Half of the staff is recruited from the official network, the other half from the non-governmental network. The affiliation of inspectors is determined by the school where each was teaching before he or she started working as an inspector. The equal representation in the inspectorate corps, should guarantee objectiveness. The inspectorate has a mandate for Flemish educational institutions and centers and extends to all education levels from nursery school to and including higher education of one single cycle. Schools that remain approved by the inspectorate may give out certificates at the end of the school year, after the effective implementation of the final attainment targets and the correct execution of all organisational requirements, for example the implementation of the minimum time-table, have been monitored.

The final attainment targets and development goals must be incorporated into the curricula. A curriculum is a systematized inventory of the aims and contents that an "organizing power" intends to achieve in a subject or subject area. The instructional method is also part of the curriculum.

The inspectorate evaluates whether the institution implements its curriculum and succeeds in bringing its pupils to achieve the *eindtermen* and *ontwikkelingsdoelen*. The inspection is less concerned with a detailed control of the educational process than with a global quality approach to each institution. It examines whether the attainment targets and development goals are effectively realized and whether the other organic obligations (among other things using a minimum schedule) are correctly observed. If the pupils of a certain school do not reach the attainment targets, and after a warning there is no improvement, the Community can stop or reduce funding the school. The inspectorate does not evaluate the pedagogical methods. The inspectorate is not subject-oriented or meant to check up on individual teachers.

The inspectorate of the Flemish community may also be assigned other tasks.

Investigation by the inspectorate is based on framing the arrangements and data within what is known as the *CIPO-model*. This model provides a place for contextual and input data as well as procedural and output indicators and they can be analysed in relation to each other. The choice of this model implies a resolute decision for a systemised approach for schools. This means, for example, that the arrangements in a school are interpreted in relation to each other. It also involves considering the operation of the teaching staff and head within the operation of the school, and in turn the operation of the school within the local context.

But the inspectorate is not authorized

- to monitor the instructional methods used by schools and teachers. The relationship between the pedagogic project, the ideological or religious curriculum and the school work plan is based on a delicate balance between the acknowledged denominations and constitutional rights. Self-evidently, the objectives for the ideological subjects are not exclusively of a cognitive nature. They are aimed at the overall development of the child or adolescent. As this is a strictly individual matter, no final attainment targets have been defined for the ideological subjects.
- to assess and approve individual teachers. The inspectorate does not assess the teacher's didactic behaviour but only the achievement of the final attainment targets at school level. It is not possible to assess the pedagogic performance by teachers from an inspector's point of view.
- to determine the graduation or failure of individual students. This remains within the exclusive authority of the school, more specifically of the deciding class council.

Researchers in nine primary schools have investigated how schools experience this quality control and how they deal with the recommendations of the inspection. From this, it can be seen that an investigational report only has any results if the directorate or an internal supervisor acts on it systematically. The existence of an internally supportive network to make the proposed improvements succeed is also extremely important. This new style of investigation was researched on the basis of a survey of headmasters and headmistresses (Verhaeghe, Schellens and Oosterlinck). Over 98% of the headmasters or headmistresses and 89% of the teaching staff agree with the principles of the investigation. The fact that it involves a global assessment of the school was appreciated in particular. Equally, the schools regretted that the inspection took the educational project or vision of the school into account. In addition to this, the investigation was felt to be administrative first and foremost, chiefly based on documentation.

A decree from the Flemish government (2 February 1999) emphasises the public character of the investigational report. This places obligations on the school with respect to making it available to members of staff, pupils and parents (Marchand, 8).

The different networks have school advisors who deal with external counseling of schools and staff members. They have the task of giving general pedagogic and methodological assistance to teachers and schools.

These *pedagogic supervisory services* are non-profit organizations responsible for the external supervision of schools, centers and staff members. For each cluster of organizing authorities and networks, a provision is made within the grant regulations for one pedagogic supervisory service. Thus, supporting pedagogic tasks are clearly separated from monitoring tasks carried out by the inspectorate. The special Decree of December 19, 1988 and the Decree of July 17, 1991 state that the following tasks are allocated to the pedagogic supervisory services:

- external support of the educational institutions involved, based on their specific pedagogic concept, for example support for the drafting of the school work plan.
- developing initiatives for improving the educational quality within the institutions involved;
- encouraging initiatives for the reinforcement of the professional skills of the staff members of these institutions.
- preparing an annual supervisory plan and an annual report on current activities.

There is no obligatory framework in place for consultation between the inspectorate and the supervisory services. Therefore it is up to the organizing authority (responsible for the quality of each school) to assess whether supervisory services should be called in, and if so, to what extent. The relationship between the inspectorate and the pedagogic supervision may be explained in the annual report and in the supervision plans. The different services clearly have different briefs, but still their tasks complement each other. The aim is to avoid a discrepancy between the pedagogic concept and the minimum final attainment targets. The inspectorate assesses the educational processes against the minimum aims and objectives, while at the same time the supervisory services try to enhance the educational quality based on maximum pedagogic goals. The points of view are different, but the actions of both groups should become visible in the end product (Vandenbergh, Kelchtermans, Brion and Vanhoudt).

From the aforementioned study into views on educational supervision in nine *primary schools* the researchers came to the conclusion that it is not easy for educational supervision to attain a good result straight away.

They are responsible for a large number of schools and besides they have other tasks to fulfil (for example, syllabus development). In secondary education, the external supervisors are expected to give concrete and realistic recommendations and to take the school's own vision into account. This last relationship is sometimes marred by a sense felt by the teaching staff that it concerns more of a control than it does supervision.

In accordance with the logic of the system, whereby the organizing authority carries the responsibility for quality in its education, sanctions with respect to final attainment targets are also implemented at the school level. When the educational institution complies with the set final attainment targets, it is approved and may therefore give out accredited certificates and diplomas. The old sanctioning system was replaced by an approval procedure that ensures the required level of quality and social relevance of the issued certificates. This means also that in addition to the external evaluation of schools by the community inspectorate (school audits), schools are expected to carry out their own evaluation in the context of internal quality assurance. School audits and internal evaluation are complementary strategic instruments for quality assurance and should therefore not duplicate each other. Differences in school profiles between types of secondary education do not permit conclusions about differences between individual schools. The latter appear to vary a great deal. In other words, this instrument can easily discriminate between individual schools (Petegem; Devos and Verhoeven, 425).

In 1995 the concept of final attainment target was further refined and a new legal concept, "development aims" (*ontwikkelingsdoelen*), was introduced. In a judicial sense, a distinction is made between final attainment targets that *are linked to a specific subject or learning area* and final attainment targets that *are not specifically linked to a subject or learning area*. The latter type of aims refer to the development of attitudes and values, which implies that the government's influence should be limited in this respect, in order to fully allow for the pedagogic freedom of education providers. Obviously, this has an impact on the assessment procedure.

It was decided that the results of a school would not be assessed with respect to targets that touch upon certain subjects or learning areas, and to attitudinal targets. For these targets, the inspectorate will investigate to what extent the school has made an effort to achieve the skills and objectives that relate to different subjects, whilst taking the school population into account. In practice, this means that the assessment takes place through a conversation with clear "humane" and "interactive" aspects.

For pre-primary education, development aims take the place of targets. In special education, development aims are implemented in conjunction with the final attainment targets. Development aims consist of minimum targets that are non-obligatory, i.e. an *attempt* is made to achieve them, while the officially-specified final attainment targets (*eindtermen*) are mandatory. In addition, a differentiation should be made between development aims in pre-primary education and development aims in special education. Pre-primary education is not compulsory. Not all of the pupils have come into contact with the preconceived objectives in the same manner. For that reason, a decision was reached not to attach the same importance to these objectives as to the targets in primary school education.

However, in pre-primary education the same development objectives are applied to all pupils, while schools that provide special education can decide independently to which individual students, or groups of students, the development aims will apply. This way, it will be possible to take the heterogeneous student population of a special school into account, and to provide sufficient differentiation.



Obviously, in view of this extensive autonomy within special schools there is a requirement of elementary quality control by the government. The choice of suitable development aims for an individual special-needs student or group of students has to be accounted for in an action plan. The effort made by a school to achieve established development objectives is a parameter to gauge the level of educational quality that it provides. It could be said that final attainment targets lead to a commitment to achieve results by the school with respect to three-quarters of its students, while development aims lead to a commitment to make an effort by the school with respect to an individual student or group of students. When a school is committed to achieve results, the school has to make sure that its students effectively achieve the final attainment targets. This way, identical certificates for primary education, given out by different schools, ensure that an identical level of skills and knowledge was achieved.

To receive subsidies, the education institutions must accept the supervision procedures and inspections organised by the Government of the Community. Such inspections relate in particular to subjects taught, the level of instruction and the application of linguistic laws but not teaching methods.

In the French-speaking Community, the system of supervision comprises:

- a monitoring service which ensures that Community subsidies are properly used and accounts properly kept;
- a two- fold inspection service:

The French Community inspection service verifies the level of instruction in Community education institutions and advises on staff qualifications. It provides pedagogical support by advising teachers and contributes to the preparation of curricula and the development of teaching methods (see Magy). It is also responsible for inspecting the quality of secondary education within the subsidised sector, including supervising the implementation of curricula and the level of instruction and examining subsidy applications from schools and new sections.

The inspection service for subsidised elementary (pre-primary and primary) education has, in addition to a supervision role (supervising compulsory school attendance, material organisation, etc.), also a pedagogical responsibility in terms of supervising the quality of education provided. The organising bodies may employ teaching advisers for their own networks (Dupriez and Zachary).

- the “equivalence committee” (*comité d’homologation*) verifies whether secondary level studies are completed in accordance with the provisions laid down in the relevant legislative and regulatory provisions. The committee is also responsible for supervising the standards of upper secondary school certificates (*certificats d’enseignement secondaire supérieur* - CESS).

The administrative authorities are responsible for supervising the award of other certificates, including vocational qualification certificates, and by the same token validate diplomas awarded in higher education.

There is also a separate Inspectorate for each recognised religion (Catholic, Protestant, Jewish and Orthodox), apart from Islam, and an Inspectorate for non-denominational ethics.

The Inspectorate for schools organised by the French Community itself, the cantonal inspectors and the heads of school are entitled to enter the optional classes concerned with religious and philosophical

perspectives in order to verify whether the legal conditions for the organisation of such are being respected. However, such control procedures can by no means affect the content and methodology of the courses.

Each year in the month of October, every religious leader addresses a detailed report to the Minister, containing precise information on the way religious education is given in the schools.

Psycho-medico- social centres (*centres psycho-médico- sociaux - PMS*) provide guidance and career advice to pupils in pre- primary, primary and secondary education. They operate independently of the schools themselves. Each centre is staffed by an inter- disciplinary team made up of educational psychologists, social workers, nurses and independent doctors. Centres are also responsible for school medical inspections. Guidance is provided through a series of educational initiatives designed to help young people plan their lives and careers. The various methods used combine both group activities and individual analyses.

Assessment is one of several areas in which the pedagogical freedom of each organising body is guaranteed. Within the framework of the relevant statutory and regulatory provisions, each organising body is free to decide the type of assessment it wishes to implement and the assessment tools and methods of communicating results it wishes to use.

In order to access primary education, a child must have reached the age of six during the calendar year of entry into compulsory education, except where special exemption is given. The progress of each child is measured by continuous assessment. Within the framework of the relevant statutory and regulatory provisions, each organising body is free to decide the type of assessment it wishes to implement and the assessment tools and methods of communicating results it wishes to use. Teachers assess their own pupils on the basis of their aims and objectives and their teaching. A school report sent to parents informs them of the results achieved by their child, the progress they are making at school, their learning behaviour and their personal development. Whether or not children “pass” a school year is decided by their class teacher, often in consultation with the headmaster or headmistress and possibly other members of the teaching team who are in a position to assess the work produced over the year and the results of end of year tests (where they exist).

Except in the first cycle of primary school (since September 2000), pupils may be required to repeat any year, even within a cycle. From 2005, the system of repeating will be abandoned between years 3 and 6. In addition, pupils who experience learning difficulties can be offered special, one- to- one support from a special support teacher.

Under the terms of the Law of 29 June 1983, a certificate of basic studies (*certificat d'études de base* CEB) is awarded to pupils who have successfully completed six years of primary education in an education institution or who have passed the cantonal examination.

In 1995, an action plan designed to promote successful schools was adopted. It stipulated, in particular, that by the year 2005 all basic (pre-primary and primary) schools must organise themselves in cycles allowing children:

- to attend school continuously and at their own rhythm from starting [pre]-primary school to the end of the sixth year of primary education;
- to acquire during this period all the necessary skills based on key stages and core skills, incorporating the notion of “levels of instruction.”

The progressive implementation of the “*Successful schools*” action plan will introduce the general practice of formative assessment, leaving summary assessment until the end of each two- year cycle.

In secondary education, teachers generally use formative assessment methods. The results of this continuous (periodic) assessment, in certain cases combined with two sets of exams, are used at the end of the school year by the class council (*conseil de classe*) (type I) or the teaching staff (type II) to decide whether pupils can be admitted to the next class, with or without reservations, or whether they must repeat the year. Where exams are organised, they comprise written, oral or practical tests depending on the subject under examination. There is no repeating during the first two years, except in exceptional circumstances. In both type I and type II education, certificates are awarded by the individual schools.

Since the start of the 1997/1998 school year, a certificate of secondary education - cycle 2 (*certificat d'enseignement secondaire du deuxième degré*) is awarded to pupils who have successfully completed cycles 1 and 2. In the technical and vocational categories of type I education, a certificate of qualification (*certificat de qualification* - CQ) is awarded at the end of the sixth and seventh years. In type II education, the pupil receives a certificate of qualification at the end of cycle 2 of vocational and technical secondary education.

A certificate of upper secondary education (*certificat de l'enseignement secondaire supérieur* - CESS) is awarded to all pupils who successfully complete the sixth year of type I or type II education in the general and technical categories.

The decree of July 1997 on the mission of school has created two *Central Guiding Committees*: one for elementary education, the other for secondary education. They are in charge of co-ordinating and monitoring the relevant task forces responsible for working out the competency goals, the curriculum committees, and the assessment committees.

Each of the Central Guidance Committees co-ordinates and encourages the exchange of teaching support between all the different schools.

Every second year, the Guidance Committee produces a report on the state of affairs for compulsory education in the French Community, partly based on the progress reports.

From 1994 to 1996, external assessment was carried out of competencies in all three types of schools (*réseaux*), based on standardised assessment tests in French and in mathematics. These assessments aimed at determining the abilities of the pupils at the beginning of the year, from the perspective of the results expected at the end of the year, in order to allow teachers to establish the level which their pupils have attained, to forecast the amount of work remaining and to adapt their teaching accordingly. Thus this was a diagnostic test with a formative purpose, based on the competency goals.

In the German-speaking Community, there is a multiple-system of inspection, consisting of:

A monitoring service that ensures the correct and efficient use of subsidies from the Community budget and Ministry.

A school inspection service that verifies the level of instruction in Community educational establishments and gives its opinion on the qualifications of staff.

In contrast with both the other Communities in Belgium, the *Deutschsprachige Gemeinschaft* has created a *Pädagogische Inspektion* as a team covering all *Unterrichtsnetze* (that is, including the municipal and 'free' and well as the Community network, at least for certain tasks. The first pedagogical inspectorate was composed of a former *Kantonalinspektor*, a former principal of a secondary school and a teacher of secondary education. The main task of this inspectorate is - besides the oversight of schools - pedagogical advice with the possibility to ask the inspectors of the other *Gemeinschaften* or other experts for assistance. On the whole the pedagogical inspectors usually act at the request of schools and are often part of innovative projects in schools.

The bodies that organise these networks can, however, also establish their own inspection services.

In conjunction with the Pedagogical Working Group (*Pädagogische Arbeitsgruppe*), the Pedagogical Inspection Service is also responsible for planning further training for all teachers.

The Community Ministry is responsible, together with the inspection service, for verifying all the qualifications awarded by secondary schools and institutions of higher education.

Each educational establishment has total responsibility for the assessment of its pupils. Within the limits of laws and decrees, each organising body may define the type of assessment it wishes to use and the means of monitoring and communicating the results of the assessment. The Minister for Education alone is ultimately responsible for awarding recognised qualifications.

There is no formal assessment and no written reports are prepared at the level of *Kindergarten*. Assessment of the children's development is based primarily on the teacher's observation of pupils' behaviour. Pupils automatically progress to the next class.

Since assessment is an area in which the pedagogical freedom of each network is guaranteed, each organising body can define the type and method of assessment it wishes to use as well as the way it communicates the results, insofar as the relevant laws and regulations are respected.

In primary education, teachers use a continuous formative assessment to monitor the progress of their pupils on the basis of all written and oral work and homework. At the end of the school year, the teacher makes a summative assessment, and can use tests to assess pupils. When they have successfully completed their primary education, pupils receive a certificate of primary education (*Abschlußzeugnis der Grundschule*). Pupils who do not receive this certificate at the end of primary school can receive one after successfully completing either the first year of secondary school (class B or *Anpassungsklasse* -reception or transition class) or a second year of vocational education.

In secondary education, the essential instrument in assessment is the Class Council (*Klassenrat*), which is the committee consisting of the entire teaching staff responsible for the education of a specific group of pupils. It assesses their school progress and makes the decision regarding each pupil's promotion to the next higher level.

## **Teaching of values**

Each educational institution must establish the goals of its educational program. Sometimes, the goal can only be realized on an ideological, denominational or methodological basis. The goals and the way to realize them, are part of the pedagogical project. But these goals and the way to reach them can only be chosen and pursued within the framework of the educational legislation. Article 24 § 3 of the Constitution imposes one limit: every education has to respect human rights and liberties. To reach this aim, the Constitutional Court ruled in 1992, “the educational establishments can be permitted individual deviations in terms of the number of teaching hours which have to be spent on basic education . . . should this be necessary as a function of that establishment’s own program, methodological or pedagogical views and on condition that the same is guaranteed for basic education.” That is, the school can make adjustments for the sake of its own pedagogical project, provided that it continues to satisfy the objectives set by the education authorities.

The school policy is signed at the time of registration by the parents or acting parents, by the persons who are in charge of the underage students, legally or in reality, or else by the student him/herself if he/she has attained his/her majority.

As far as religious education lessons are concerned, only schools (all) official have a duty to offer optional instruction in faiths and philosophies of life recognized by the Education Ministry and respect the beliefs of every family with children in the school. Pupils have the right to choose the confessional education of their choice (De Groof 1984ab). As time has gone by, in addition to Catholic and Secular Humanist (Masonic) instruction, the government has also authorized Protestant, Jewish, Islamic, Anglican and Orthodox instruction. This places a number of religious and philosophical groups in a disadvantaged position, including Hindus, Sikhs, Jehovah’s Witnesses, Mormons, Scientologists, and Hare Krishnas.

The State’s argument is based on the limited financial resources. The Constitution on the other hand does not limit the offered courses to the recognised ones.

The Court of Arbitration approved the current system in an important case : “The Community is able to reserve the right to subsidies for religious education to establishments which organise such education with reference to one of the recognised religions. Indeed, the possibility of the community controlling the quality of education in this case is restricted by the constitutional freedom of religion and the ensuing ban on interference on the one hand, and the term ‘recognised religion’ is expressly confirmed by the Constitution on the other hand. ... In this respect, the legislator has created an acceptable balance between, on the one hand, the power to make the granting of wage subsidies for religious education dependant on certain conditions and, on the other hand, the fundamental doctrinal and organisational autonomy of the religions” (see De Groof 1996).

The recent tendency, **[affecting fewer than one percent of all pupils at present, is to allow]** parents who **[cannot]** identify themselves with any of the religious or moral education courses, choose to opt out of any course at all in this area for their children so that pupils can be excused [ ] when no course offered complies with the parents belief (Overbeeke 1999-2000, 249).

With the introduction of cross-curricular final objectives, the Government of Flanders aimed to meet these new social expectations. In this way, it hopes to guarantee a broad and harmonious basic education for all pupils, as well as to continue to strengthen the link between education and society. At the same time, the government limits itself to formulating only those values and attitudes on which there is sufficient social consensus.

In the French-speaking Community, both the basic and secondary education systems strive to meet the following general aims and objectives simultaneously and without priority (*Decree on the Missions of Education* of July 1997):

- to promote the self-confidence and personal development of each child;
- to ensure that all pupils acquire the knowledge and skills they need to continue lifelong learning and to play an active role in economic, social and cultural life;
- to prepare all pupils to be responsible citizens capable of contributing to the development of a democratic, supportive and pluralist society which is open to other cultures;
- to ensure all pupils equal opportunities of social freedom.

In order to achieve these general objectives, the knowledge and expertise required are viewed within a context of skills acquisition. A document issued by the French-speaking Community's Ministry of Education in 1994 entitled "*Socles de compétences*" (Competency Goals) defines the basic skills which must be acquired in each network, school or class. These skills may be acquired during lessons or in the course of other educational activities and, more generally, in the organisation of daily school life.

Each organising body defines its curriculum and devises its teaching plan in accordance with the key stages and final skills adopted by the Parliament of the French-speaking Community. In practice, and in order to ensure that all these new guidelines are successfully integrated into daily school life, a series of educational action plans have been drawn up. They are used as the basis for teaching plans that are in turn developed into concrete action plans at institution level.

It is the sole responsibility of the ecclesiastical authorities to prescribe the religious content of denominational education and to determine who is capable of conveying a faithful representation of the religious teachings.

Official schools must respect the beliefs of everyone applying. Pupils have the right to be excused from this course when no course offered complies with the parents belief. A Jehovah's Witness may reasonably hold the opinion that a course in morals is not in keeping with his/her religious conviction; the refusal by the Secretary of State for Education to grant the children of the applicant freedom from the obligation of choice between a religious and nondenominational moral education is on that account illegal (CE, July 10, 1990, *Rechtskundig Weekblad*, 1990-1991, p. 567).

Religious instruction will also in the future an excellent touchstone assessing the Church-State relationship in Belgium, the legal position of denominational minorities, and democratic tolerance ... (Déom 1994, 119).

In the German-speaking Community, in August 1998, the *Dekret über den Auftrag an die Schulträger und das Schulpersonal sowie über die allgemeinen pädagogischen und organisatorischen Bestimmungen für die Regelschulen* defined the principles of education and training as follows:

- Respect for Human Rights
- Protection of the Mother Tongue, Promotion of Culture and Cultural Identity

The law treats in detail the values of education demanded by society: the personal development and self-realization of pupils, equal opportunities and equality of rights, tolerance and solidarity, respect for

fellow-men, regard for nature and environment, fundamentally democratic attitudes, the imparting of knowledge, skills and capacities and last but not least an open mindedness, multilingualism and promotion of the European dimension.

In the basic decree on education from August 1998, the German-speaking Community government charged all *Schulträger* with working out an educational project in accordance with the demands of Society. For example, the General Council for Catholic Education defined the objectives of the Christian school in 1995:

Christian schools exist to serve humankind and educate by teaching. They render this service in the light of the Holy Bible and evangelise whilst educating. The concept is the belief that the education of man and the Christian awakening to the faith form a single entity. This belief is the cornerstone of Christian humanism. Faith and culture are in constant interaction and mutual enrichment. Christian education invites all to share the values inspiring school in its work.

## References

J. Ade, "Juridische regeling van het privé-onderwijs in Vlaanderen [Legal framework of purely private education in Flanders]," in *Tijdschrift voor Onderwijsrecht en Onderwijsbeleid*, 1997-1998, nr. 5-6.

E. Cerexhe, *Quels droits dans l'enseignement ? Enseignants, Parents, Elèves*, Bruges, 1994.

S. van Craeymeersch, "Twee autonome gemeenschappen, twee verschillende statuten ? Vergelijking van de rechtspositie van het personeel van het gesubsidieerd vrij onderwijs in de Vlaamse en Franse Gemeenschap," in *Tijdschrift voor Onderwijsrecht en Onderwijsbeleid*, 1993-1994, nr. 1, p. 8-18.

M. Crahay, "Echec des élèves, échec de l'école?" Council of Education and Training, Brussels, 1992.

Jan De Groof, *Droit à l'instruction et liberté d'enseignement*, CEPSS, 1984a.

-----, *De vrijheid van en het recht op onderwijs*, Brussels, 1984b.

-----, *Les pouvoirs publics et l'enseignement subventionné*, Cepess, 1985a.

-----, *De overheid en het gesubsidieerd onderwijs* [The government and subsidized education], Brussels, 1985b.

-----, *Het levensbeschouwelijk karakter van het onderwijs, Administratief Lexicon* [The ideological nature of education, Administrative lexicon], Bruges, 1985c.

-----, "De herziening van het art. 117 van de grondwet en de erkenning van de vrijzinnigheid," *Tijdschrift voor Bestuurswetenschappen en Publiek Recht*, 1986, nr. 6, blz. 469-481.

-----, "De bescherming van de ideologische en filosofische strekkingen - Een inleiding," in A. Alen and L. P. Suetens, *Zeven knelpunten na zeven jaar staatsvorming*, Brussel, 1988, blz. 239-331.

-----, *De Grondwetsherziening van 1988 en het onderwijs: De schoolvrede en zijn toepassing* (The constitutional revision of 1988 and education: The "school peace" and its application), Brussels: E. Story-Scientia, 1989a.

-----, *La révision constitutionnelle de 1988 et l'enseignement* (The constitutional revision of 1988 and education: The "school peace" and its application), Brussels: E. Story-Scientia, 1989b.

-----, "Regarding the Legal Position of Teachers in the Catholic Faith: a Statement about Freedom," *Nieuw Tijdschrift voor Politiek [New Journal for Politics]*, no. 3, p. 31-40, 1989c.

-----, *Le pacte scolaire: coordination et annotations*, Brussels: E. Story-Scientia, 1990.

-----, "Academisch personeelsbeleid: vrijheid in gebondenheid. Juridische en beleidsmatige overwegingen over de relatie universiteit-overheid", in De Groof, J. (ed.), *Personeelsbeleid aan de Vlaamse universiteiten. Cahiers voor onderwijsrecht en onderwijsbeleid, Volume I*, Antwerp, 1995a, pp. 1-52.

-----, "The legal status of Teachers -The Global Framework - An introduction", in *The Legal Status of Teachers in Europe. Mobility and education*, Louvain, 1995b, pp. 11-37.

-----, "On pedagogical freedom - some legal and policy considerations," in *The Legal Status of Minorities in Education*, 1996, 235-258.

-----, "Over de herkomst van diploma's en hun voorrang," in *Tijdschrift voor Onderwijsrecht en Onderwijsbeleid*, 1997-1998 nr.5-6.

-----, "Slechts de contractuele lezing van de arbeidsverhoudingen in het vrij onderwijs is verstaanbaar met de grondwet : een nieuw dogma? Nog over de juridische kwalificatie van de verhouding tussen de gesubsidieerd vrije onderwijsinstellingen en haar personeel," in *Tijdschrift voor Onderwijsrecht en Onderwijsbeleid*, 1999-2000, nr. 6, p. 460-487.

----- and J. Fiers, editors, *The Legal Status of Minorities in Education*, Louvain: Acco, 1996

----- and F. Ornelis, "Recht op onderwijs, ook voor 'illegalen'," in *Tijdschrift voor Onderwijsrecht en Onderwijsbeleid*, 1999-2000, nr. 5.

----- and H. Penneman, *The Legal Status of Pupils in Europe*, The Hague: Kluwer Law international,, 1998.

Xavier Delagrangé, "L'égalité dans l'enseignement à la lumière de la jurisprudence de la Cour de l'Arbitrage," in *Quels droits dans l'enseignement ? Enseignants, Parents, Elèves*, 52-91.

D. Deli, "De niet gemengde school heeft (gelukkig) nog bestaansrecht," in *Tijdschrift voor Onderwijsrecht en Onderwijsbeleid*, 1996-1997, nr. 6.

Dianne Déom, "La neutralité de l'enseignement des communautés et le choix entre le cours de morale non-confessionnelle," in *Quels droits dans l'enseignement ?* 1994.

-----, "Mobilité et statut des enseignants en Belgique: La communauté française," *The Legal Status of Teachers in Europe*, Acco, The Hague, 1998, p. 261-271.

J. M. Dermagne, "La gratuité dans l'enseignement," in *Quels droits dans l'enseignement ? Enseignants, Parents, Elèves*, p. 30-47.



G. Devos and J. C. Verhoeven, "Het proces van zelfevaluatie. Een verkennend onderzoek in secundaire scholen," in *Tijdschrift voor Onderwijsrecht en Onderwijsbeleid*, 1999-2000, nr. 6.

V. Dupriez and M.-D. Zachary, *Analyse juridique de l'enseignement en Communauté française*, *Courrier Heldomodaire du CRISP*, Brussels, nr. 1611-1612.

Jan Fiers, "The Flemish community of Belgium", in *European Journal for Education Law and Policy 1*, Kluwer Law International, 1997, p. 111-116.

-----, "The Flemish community of Belgium", in *European Journal for Education Law and Policy 2*, Kluwer Law International, 1998, p. 65-69.

-----, "The Flemish community of Belgium", in *European Journal for Education Law and Policy 3*, Kluwer Law International, 1999, p.135-136.

-----, "Education and Minorities in Flanders: the search for a solution", in *The Legal Status of Minorities in education*, 1996, 409-417.

Charles L. Glenn, "The Belgian Model of peace-making in educational policy," in *Het schoolpact van 1958/Le pacte scolaire de 1958*, edited by Els Witte, Jan De Groof and Jeffrey Tyssens, Brussels: VUPress, 1999.

K. Hanson, "Fundamentele rechten van leerlingen en het recht op toegang tot het onderwijs," in *Tijdschrift voor Onderwijsrecht en Onderwijsbeleid*, 1998-1999, nr. 5-6,.

M. Leroy, "La liberté d'organiser un enseignement et la liberté de choisir un enseignement," in *Quels droits dans l'enseignement*, Namur, 1991.

J. M. G. Leune, "Vrijheid van onderwijs anno 2000," *N.T.O.R.*, 2000, no.2.

J. Magy, *L'enseignement et la formation en Communauté française. Produire et Gérer la qualité*, CEPESS, Brussels, 1992.

P. Mahieu, "Eén leerling op vier. Een tussentijdse verkennende evaluatie van de eerste proefprojecten in het kader van de non-discriminatieverklaring," in *Tijdschrift voor Onderwijsrecht en Onderwijsbeleid*, 1998-1999, nr. 1.

N. Malisoux, "Droit scolaire en Communauté française de Belgique," in *European Journal for Education Law and Policy 1*, Kluwer Law International, 1997, p. 117-120.

J. Marchand, "The educational inspection and the public nature of administration," in *Journal for Educational Law and Educational Policy*, 1997-1998, no. 1.

J. J. Masquelin, *Le droit aux subsides de l'enseignement libre*, Brussels, 1975.

N. Neennen, "Minorités dans la Communauté française de la Belgique", in *The Legal Status of Minorities in education*, Acco, 1996, p. 417-423.

C. Offeciers, "De positie van het officieel secundair en basisonderwijs binnen het Vlaamse onderwijsaanbod en de (her)definiëring van het grondwettelijk gegarandeerde beginsel van de vrije keuze," in *Tijdschrift voor Onderwijsrecht en Onderwijsbeleid*, 1995-1996, nr. 4 p. 199.

Frank Ornelis, "De identiteit van het gemeentelijk en provinciaal onderwijs," in *Tijdschrift voor Onderwijsrecht en Onderwijsbeleid*, 2000-2001, nr. 4, p. 281.

----- and Hilde Penneman, "The Legal Status of Pupils in the Flemish-speaking Community of Belgium," in *The Legal Status of Pupils in Europe*, 1998, 273-293.

A. van Overbeeke, "Netoverschrijdend spreiden van migrantenleerlingen. Het non-discriminatiepact in het Vlaamse onderwijs," in *Tijdschrift voor Onderwijsrecht en Onderwijsbeleid*, 1993-1994, nr. 4.

-----, "Recht op keuzevrijstelling van het in openbare scholen aangeboden levensbeschouwelijk onderwijs," in *Tijdschrift voor Onderwijsrecht en Onderwijsbeleid*, 1999-2000, nr. 4.

C. H. C. Overes, *Besturen en medezeggenschap in het bijzonder onderwijs. Een civielrechtelijke studie naar de besluitvorming in het bijzonder onderwijs*, Lelystad, 1994

P. van Petegem, *Scholen op zoek naar hun kwaliteit. Effectieve-scholenonderzoek als inspiratiebron voor de zelfevaluatie van scholen*, Gent, 1997

W. Rauws, "Enige beschouwingen nopens de rechtspositie van het personeel van het gesubsidieerd vrij onderwijs," in *Tijdschrift voor Onderwijsrecht en Onderwijsbeleid*, 1992-1993, nr. 3.

F. van Remoortere, "The Legal Status of Pupils in the French-speaking Community of Belgium", in *The Legal Status of Pupils in Europe*, Kluwer Law international, The Hague, 1998, p. 293-307.

Brecht Steen, "Autonomy in Education in the Flemish Community of Belgium", in Berka, W., De Groof, J., Penneman, H., *Autonomy in Education*, 2000.

R. Vandenberghe, G. Kelchtermans, A. Brion and J. Vanhoudt, *Evaluatie van het beleid inzake kwaliteitszorg. Analyse en effecten van begeleiding, nascholing en doorlichting (2delen)*, Leuven, 1997.

V. Vandenberghe, "L'enseignement en Communauté Française de Belgique: un quasi-marché," *Réflexions et perspectives de la vie économique*, 1998/1.

L. Veny, "De implementatie van de internationale verdragen in de Belgische rechtsordening," in *Tijdschrift voor Onderwijsrecht en Onderwijsbeleid*, 1992-1993, nr. 5-6.

Machteld Verbruggen, "The legal status of teachers in Belgium: the Flemish Community", in De Groof, J.(Ed.), *The Legal Status of Teachers in Europe*, Acco, The Hague, 1998, p. 255-261.

J. P. Verhaeghe, T. Schellens and L. Oosterlinck, *Kwaliteitszorg in het secundair onderwijs (2 delen)*, Ghent, 1998.

R. Verstegen, *Het statuut van het personeel in het vrij onderwijs*, Antwerpen, 1980.

-----, "Gemengd onderwijs. Elementen voor het juridische debat," in *Tijdschrift voor Onderwijsrecht en Onderwijsbeleid*, 1994-1995, nr. 2.

-----, "Eindtermen getoetst aan de grondwet," in *Tijdschrift voor Onderwijsrecht en Onderwijsbeleid*, 1996-1997, nr. 4.

-----, editor, *De non-discriminatieverklaring in het onderwijs. Moeilijkheden en mogelijkheden*, in the series *Cahiers voor onderwijsrecht en onderwijsbeleid*, Antwerp, nr. 5, 1998.

W. Vertommen, “De school tussen droom en daad. Opvoedingsproject en samenhang. Een begrippenanalyse,” in *Tijdschrift voor Onderwijsrecht en Onderwijsbeleid*, 1992-1993, nr. 4.

E. Witte, J. De Groof and J. Thyssens, *40 jaar schoolpact 1958-1998*, Brussel, VUBPress, 1999.