

**Resolution CM/ResChS(2013)16**  
**Collective Complaint No. 75/2011**  
**International Federation for Human Rights (FIDH) v. Belgium**

*(Adopted by the Committee of Ministers on 16 October 2013  
at the 1181st meeting of the Ministers' Deputies)*

The Committee of Ministers,<sup>1</sup>

Having regard to Article 9 of the Additional Protocol to the European Social Charter providing for a system of collective complaints;

Taking into consideration the complaint lodged on 13 December 2011 by the International Federation for Human Rights (FIDH) against Belgium;

Having regard to the report transmitted by the European Committee of Social Rights containing its decision on the merits, in which it concluded:

- **unanimously that there is a violation of Article 14§1 of the Charter because of the significant obstacles to equal and effective access for highly dependent adults with disabilities to social welfare services appropriate to their needs**

*Equal and effective access to social welfare services*

Article 14§1 of the Charter establishes an individual right for all persons who find themselves in a dependent situation to benefit from high-quality social welfare services, subject to quality control by the authorities and capable of guaranteeing equal and effective access to their users.

Equal and effective access to social welfare services under Article 14§1 of the Charter means an access that is guaranteed in law and in practice (Conclusions 2007 – Italy) and is capable of keeping pace with user's needs (Conclusions 2009 – Slovak Republic).

*Equal and effective access to social welfare services for persons with disabilities*

Under Article 14§1 of the Charter, access of persons with disabilities to social welfare services can be regarded as equal and effective if the State Party offers varied and multiple methods of care for these people by the community and if the number and quality of the social welfare services actually provided correspond as closely as possible to the specific, practical, individual needs of the persons concerned so that a free choice can be made by the users concerned and, above all, by their families, provided that they act on behalf of these persons and not instead of them.

*Equal and effective access to social welfare services for highly dependent adults with disabilities*

The diversification and variety of social welfare services is an essential element of Article 14§1 of the Charter. This provision of the Charter may be undermined if the approach which may reasonably be regarded, within the margin of appreciation of the State, as being most suited to the needs of highly dependent persons with disabilities is particularly deficient.

From the expert opinion deriving from civil society and the Parliamentary Assembly of the Council of Europe in its Recommendation 1592 (2003), the establishment of day care and night accommodation centres is the most appropriate approach to these persons, whose serious health defects expose them to a total lack of control over their lives.

It is extremely difficult to calculate the number of places needed in day care and night accommodation centres in the absence of reliable figures on the number of highly dependent persons with disabilities having access to these centres. In any event, the number of existing places

---

<sup>1</sup> In accordance with Article 9 of the Additional Protocol to the European Social Charter providing for a system of collective complaints the following Contracting Parties to the European Social Charter or the revised European Social Charter have participated in the vote: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovak Republic, Slovenia, Spain, Sweden, "the former Yugoslav Republic of Macedonia", Turkey, Ukraine and United Kingdom.

in these institutions is lower than the demand for places and this means that many of these persons cannot benefit from this social service approach which is supposed to be most suited to their needs.

The shortage of places in existing care and accommodation centres for severely dependent persons with disabilities relative to demand is confirmed by the fact that many such persons are entered on waiting lists for periods sometimes exceeding three years.

In addition, the numerous denials of any access to existing centres for severely dependent persons with disabilities could have been reduced if priority access had been granted to these people by an objective means.

Highly dependent adults with disabilities who are not admitted to care and accommodation facilities either fall back on their families or run the risk of resorting to forms of collective care which have nothing to do with social work.

Such circumstances constitute a failure by the government to meet the needs stemming from these persons' state of health and particular lifestyles, which justify their demands for appropriate social services.

Due to the fact that highly dependent persons with disabilities remain for long periods on waiting lists for a place and because of the administrative practices with regard to the priority treatment of their applications, the Committee concludes that the government has failed to fulfil its positive obligation under Article 14§1 to provide a number of places on offer in such institutions consistent with the demand. As a result, the right of these persons to equal and effective access to this form of care by the community is not guaranteed in practice.

*On the justifications given by the government for the limited number of care and accommodation places for highly dependent adults with disabilities*

Article 14§1 forms part of the articles of the Charter which require States Parties to devise and implement appropriate measures in order to ensure, gradually and in due course, the effective exercise of the right in question.

Taking into account the high cost for the national budget that creating a large number of places in care and accommodation centres for highly dependent persons with disabilities would entail and in view of the demanding and complex treatment which such people require, the figure of € 100 000 for the creation of a new place is not considered to be excessive.

The government's realisation of the specific problems of highly dependent persons with disabilities dates back to the 1990s or, at the latest, 2000 and the years just after, when the first legislation or regulations were introduced, directly or indirectly, with regard to these persons.

Over a period which has lasted long enough, the authorities have failed to make any progress on organising the available financial resources in order to prevent the many genuine cases of highly dependent persons with disabilities being denied access to any care or accommodation solution.

Despite the length of this period, projects to build new care and accommodation centres, which could have increased the number of places available for persons with severe disabilities, have either been dragging on for years (as is the case with four projects launched by non-profit-making associations in the French Community of the Brussels-Capital Region) or are being run by the parents of persons with disabilities, who are desperately seeking funds and grants to complete them. Deadlines have also been put back in other areas. For example in Flanders, a census of people with disabilities, which was decided on in 2003 and scheduled to take place in 2010, has been put back to 2020, and in the Brussels-Capital Region, a decree on the integration of people with disabilities, which was originally supposed to have been adopted a year ago, has been put back to 2014 or 2015.

None of the justifications given by the Belgian Government for its failure to provide enough places in care and accommodation centres for highly dependent adults with disabilities to ensure that these people are not denied access this form of social service, may legitimately be accepted.

**– unanimously that there is a violation of Article 14§1 of the Charter because of the lack of institutions giving advice, information and personal help to highly dependent adults with disabilities in the Brussels-Capital Region**

There are no institutions giving individual advice and assistance to people with disabilities, from which highly dependent persons with disabilities could also benefit, in the Brussels-Capital Region, either through its French body (CoCoF) or through its bicomunity one (CoCom).

Therefore, Belgium fails to comply with the principle of the effective application of the Charter throughout the metropolitan territory of each State Party.

**– unanimously that no separate question is raised under Article 13§3 of the Charter**

Article 13§3 and Article 14 of the Charter overlap since they refer to services of the same kind (social), despite their slightly different wording: “appropriate” services offered as “social” (and medical) assistance in the case of Article 13§3, and services “using methods of social work” in the case of Article 14§1.

The forms of social assistance that a State Party must provide for it to claim conformity with Article 13§3 of the Charter (advice and personal help offered by appropriate services and right to social assistance based on the criterion of the state of want) could have been made available to highly dependent persons with disabilities so as to steer them towards social services appropriate to their condition.

Article 14 entails a general requirement that potential users should be informed of the available social welfare services suited to their state. On account of the very specific situation of highly dependent persons with disabilities, the Committee considers that they all need some form of help and it would be artificial to distinguish that coming under Article 13§3 from that covered by Article 14. Since the latter provision is of a more general nature, the complaint is examined in the context of Article 14.

**– unanimously that there is no violation of Article 15§3 of the Charter**

Article 15§3 of the Charter is a general provision which, with a view to the full integration and participation of persons with disabilities in social life, does not require States Parties to overcome barriers to communication and mobility alone, but also those relating to leisure, cultural activities, transport and housing. It is applicable to highly dependent adults with disabilities.

Nonetheless, the FIDH has not submitted arguments that indicate with sufficient precision in what way Belgium has violated its obligations under Article 15§3.

**– unanimously that there is a violation of Article 16 of the Charter**

The shortage of places in the institutions obliges highly dependent persons to live with their families, with far-reaching negative implications for the family's living conditions in many cases. For many parents the painful consequence of their devotion to a child with a permanent health problem is that they have to give up work altogether or reduce their working hours to take care of their highly dependent family member. Apart from the financial losses thus incurred, this situation often causes families to make an even greater financial outlay, in that they utilise their own funds to build and set up appropriate care and accommodation facilities without receiving any public subsidies.

Consequently, the shortage of care solutions and of social services adapted to the needs of persons with severe disabilities causes many families to live in precarious circumstances, undermining their cohesion, and amounts, on the part of the State, to a lack of protection of the family as a unit of society.

**– unanimously that there is a violation of Article 30 of the Charter**

Article 30 of the Charter requires States Parties to adopt positive measures for groups generally acknowledged to be socially excluded or disadvantaged, including highly dependent adults with disabilities deprived of access to care and accommodation centres.

With a view to ensuring the effective exercise of the right to protection against social exclusion, Article 30 requires States Parties to adopt an overall and co-ordinated approach, which should consist of an analytical framework, a set of priorities and measures taking account of the nature and extent of the problems, so as to prevent and remove obstacles to access to fundamental social rights, an approach that cannot be implemented without collecting statistics (European Roma Rights Centre (ERRC) v. France, Complaint No. 51/2008, decision on the merits of 19 October 2009, §93; FIDH v. Belgium, Complaint No. 62/2010, decision on the merits of 21 March 2012, §201).

Measures in favour of persons with disabilities exist in Belgium, in particular the income replacement and integration allowances and other financial assistance such as the BAP.

However, the State's failure to collect reliable data and statistics throughout the metropolitan territory of Belgium in respect of highly dependent persons with disabilities prevents an "overall and co-ordinated approach" to the social protection of these persons and constitutes an obstacle to the development of targeted policies concerning them.

**– unanimously that there is a violation of Article E taken in conjunction with Article 14§1 of the Charter due to the fact that Belgium is not creating sufficient day and night care facilities to prevent the exclusion of many highly dependent persons with disabilities from this form of social welfare service appropriate to their specific, tangible needs**

Having noted that Belgium is not creating sufficient day and night care facilities to prevent the exclusion of many highly dependent persons with severe disabilities from this form of social welfare service appropriate to their specific, tangible needs, this situation also breaches Article E taken in conjunction with Article 14§1.

**– unanimously that there is no violation of Article E taken in conjunction with Article 14§1 of the Charter due to the fact that the Brussels-Capital Region has no institutions giving advice and personal help to people with disabilities**

Having noted that there are no institutions in the Brussels-Capital Region that provide advice and personal help to persons with disabilities, the lack of regulations in this matter has a negative impact on the access to tangible public resources of all persons with a disability, regardless of the seriousness thereof.

**– unanimously that there is no violation of Article E taken in conjunction with Article 13§3 of the Charter**

No separate question arises under Article 13§3 and there is no violation of Article E taken in conjunction with Article 13§3.

**– unanimously that there is no violation of Article E taken in conjunction with Article 15§3 of the Charter**

The FIDH has not produced arguments showing with sufficient clarity in what way Belgium has violated its obligations under Article E of the Charter taken in conjunction with Article 15§3.

**– unanimously that there is a violation of Article E taken in conjunction with Article 16 of the Charter**

The lack of care solutions and social services suited to the needs of persons with severe disabilities obliges these persons to live with their families and stigmatises these families as a particularly vulnerable group. Belgium is therefore completely in breach of its obligation, under Article E of the Charter, to outlaw unequal access of the persons concerned to collective advantages (Autism-Europe v. France, Complaint No. 13/2002, decision on the merits of 4 November 2002, §52).

**– unanimously that there is no violation of Article E taken in conjunction with Article 30 of the Charter**

The State's failure to collect reliable data and statistics throughout the metropolitan territory of Belgium in respect of highly dependent persons with disabilities constitutes a general and structural policy weakness regarding the collection of statistics on all persons with disabilities, but does not specifically disadvantage highly dependent adults with disabilities.

- and invites the Committee of Ministers to recommend that Belgium pay the sum of € 2 000 to the FIDH to cover the cost of the proceedings

Having regard to the information communicated by the delegation of Belgium on 9 July 2013,

1. takes note of the statement appended hereto made by the respondent government on the follow-up to the decision of the European Committee of Social Rights and welcomes the announced measures with a view to bringing the situation into conformity with the Charter;
2. looks forward to Belgium reporting, at the time of the submission of the next report concerning the relevant provisions of the European Social Charter, on measures to ensure that the situation has been brought into conformity over the long term;
3. decides not to accede to the request for the reimbursement of costs transmitted by the European Committee of Social Rights.

*Appendix to Resolution CM/ResChS(2013)16*

### **Information submitted by the Representative of Belgium at the GR-SOC meeting of 9 April 2013 (document DD(2013)708)**

The ECSR's report on the collective complaint by the International Federation for Human Rights (FIDH) against Belgium found a **violation by Belgium** of Article 14§1 (right to benefit from social welfare services), Article 16 (right of the family to social, legal and economic protection), Article 30 (right to protection against poverty and social exclusion) and Article E (non-discrimination) taken in conjunction with Article 14§1 and Article 16 **of the European Social Charter**.

The issues raised related primarily to the number of places in day care and night accommodation centres, and the system for establishing priorities. The Committee found that the shortage of places caused many families to live in precarious circumstances. It also highlighted a failure by the State to collect reliable data and statistics throughout the metropolitan territory of Belgium.

In Flanders, Wallonia and Brussels, memoranda have been adopted very recently with a view to establishing a framework in which to fine-tune policies so that needs can be met. At federal level, efforts are being made to collect more statistics and provide families with more support. By clarifying needs and enhancing support, these measures aim to guarantee freedom of choice while supporting families as much as possible in order to improve the integration of disabled people who have relatively few day-to-day needs and make it possible to provide for those whose needs are greater.

### **FLEMISH COMMUNITY**

In a recent concept note, the Flemish Government pointed out that the **Vlaams Agentschap voor Personen met een Handicap** (VAPH) planned to increase and diversify its support for persons with minor disabilities so as to free up places in care facilities for highly dependent disabled persons.

The note described a shift in the government's approach to people with disabilities. Until now the focus had been on the medical aspects of disability but now the approach would be based on a form of support drawing directly on the spirit of the United Nations Convention on the Rights of Persons with Disabilities.

The new measures are based on the 2009-2014 agreement of the Flemish Government and the concept note entitled "Plans for 2020 – a new form of support for people with disabilities". The plans for 2020 set two targets which should be achieved by that date:

- In 2020, care is to be guaranteed for disabled persons who need the most support. This will take the form of assistance in kind or a monetary allowance.
- In 2020, informed users are to be entitled to demand-based care and assistance in an integrated society.

It will no longer be the nature of the person's disability which will determine the support provided, but their actual needs.

These needs will be assessed using a model based on five concentric rings, with, in the centre the care that the disabled person can administer to him or herself, then the day-to-day care provided by friends and relatives, then the support provided by the person's wider family and friends, then general care and services and, lastly, the specialised services to be provided by the VAPH. The note stipulates that VAPH support must be provided if the disabled person's needs exceed the support he or she can expect from the inner rings.

VAPH support is intended to be both complementary and proactive. It is complementary in that it enhances the support obtained by disabled people in their immediate living environment and interacts with it. It is proactive in that it is tailored to the actual needs of the person depending on his or her environment. The emphasis is on the choice of disabled people and their immediate entourage.

Currently, the VAPH's budget is €1.36 billion, €1.25 billion of which is earmarked for assistance of various kinds for 40 800 people with disabilities. In 2013, 2 200 of these people will receive a cash benefit in the form of a personal assistance budget so that they can organise their own care. The Flemish Government has promised to add €145 million to what the VAPH receives annually in the course of this legislature. This represents potential assistance for 4 500 additional people, most of whom will be given home help. This will free up major funds for quality assistance at the request of users for highly dependent disabled persons who require more complex forms of care.

One of the main aims of completely overhauling the system was to solve the problem of the 22 000 people on waiting lists, 63% of whom are awaiting assistance from the VAPH. We cannot expect the amount of funds allocated to the system to increase over the next few years. Two people with the same disability do not necessarily require the same support, and this is also determined by the care possibilities offered by the network on which they rely.

The new system will be made up of two components:

The first component will be funded by a "basic support budget" and will be accessible to anyone with a registered disability and a care need confirmed by the VAPH.

The second component will be funded by a budget for care and support that is not directly accessible, financed by the VAPH. Aid under this scheme will be offered in the form of vouchers to people with the greatest needs. This group is described in the note on "Plans for 2020" as "persons with a disability for whom the gap between the possibility of personal primary care (self-care, informal assistance, social networks, regular care) and care and support needs resulting from the disability cannot be bridged, or whose situation will become, or remain, precarious if other support is not provided".

By setting up this system, the Flemish Government takes the responsibility for all people with a disability for whom a support need has been identified. At present, it is true that many people do not have access to the specialised support system because of a lack of capacity.

Launching the first component makes it possible to activate the sources of support available in the inner rings of the model described above. Promoting community care contributes to the implementation of the United Nations Convention for the disabled. The basic budget enables people with disabilities to assemble a customised mix of different sources of care and assistance. Funds from this budget cannot be combined with VAPH funding for indirect support.

Access to the second component of the aid system presupposes the involvement of carers (family, health professionals) to determine what is expected of the VAPH. A support plan is drawn up on the basis of the requests made. Disabled persons may also make use of the six support plan services that have been set up in Flanders. The support plan will take account of the model of the five concentric rings but also of the wishes of the persons involved. The VAPH will ensure that the person or their relatives are informed of all the possibilities so that they can make an informed choice. The support plan makes it possible to describe clearly what the person expects from the VAPH's indirect assistance. The response to requests can be divided into the following three categories:

- Mobile support: this includes any low-intensity mobile support
- Day support: any form of assistance granted during the day
- Residential support: any support connected with admission to a facility – this can be in the morning or the evening and need not be overnight. The frequency of support and its length (expressed in hours) is indicated per category.

Highly detailed figures on the number of requests, broken down according to the type of assistance granted and by province, can be found in the report published by the VAPH's care department (Zorgregie) in December 2012 (<http://www.vaph.be/vlafo/view/nl/4777109-Vernieuwing+in+gehandicaptensector+werpt+vruchten+af%3A+aantal+volledig+beantwoorde+vragen+stijgt+opvallend.html>)

## **THE WALLOON REGION**

A new management contract was drawn up in June 2012 between the Walloon Government and the AWIPH for a five-year period (2012-2017). It organises the work of the Walloon Region around four strategic goals:

1. an inclusive society;
2. a continuum of services and personalised support for people with disabilities;
3. an improvement in the quality of services;
4. more efficient organisation.

The aim of the second goal is for disabled persons to have access to the right service at the right time and in the right place.

The aim is also to propose solutions that are calibrated to suit people's needs.

For highly dependent disabled persons, the services and benefits they need may vary according to factors including their true degree of independence, their family environment and the place in which they live. There is no single solution, but a range of solutions provided in institutions or in the ordinary living environment. A diverse range of services is therefore required to meet everyone's specific needs properly.

### **The Walloon Region's programme of activities to bring itself into line with the Social Charter**

#### **1. Residential and day-care services**

##### ***1.1. Assessing the number of highly dependent persons awaiting a care and accommodation solution***

At the request of the Minister for Social Welfare, the AWIPH has been attempting, since the beginning of the legislature in 2009, to establish a single waiting list in co-operation with the approved services. A working group on the establishment of this single list, run by the AWIPH, has completed the first stage of its work, which was to prepare a single joint admission pack for care and accommodation facilities. In September 2012, this was submitted to the AWIPH's managing committee for approval.

This joint pack is designed to facilitate procedures for disabled persons or their families looking for a care or accommodation facility. The information contained in the application file such as the background to the person's condition and his or her expectations, specific needs, wishes and ideal admission time may, with his or her consent or that of his or her family, be shared with other care and accommodation services or AWIPH services via a common database.

In this way, the services to which persons apply will rapidly be able to gain an overview of their situation and this will prevent families from having to file multiple applications.

The single list should also make it possible to have a clearer idea of the number of people waiting for a care solution and, in particular, an idea of the timeframe in which it can be expected for this solution to be provided. People do indeed register well in advance in the hope that they will have a solution when the time comes.

The plan is also that services will only be authorised to care for people on the list, meaning that it should be much easier to match supply to demand.

Pending completion of the work on the single list, the AWIPH has made an estimate of the number of highly dependent persons in the Walloon Region, based on the FIDH's definition. It conducted a census of persons with a valid placement authorisation, currently waiting for a solution to be offered.

Actual applications by highly dependent persons with disabilities registered on the AWIPH's multisectoral software are as follows:

- 223 persons waiting for a place in an adults' residential service;
- 77 persons waiting for a place in an adults' day-care service;
- 6 waiting for a place in a residential night service;
- 179 who have made a general application without specifying a particular type of service.

This means that 485 people are waiting, or assumed to be waiting, although not all of them necessarily want an immediate solution.

For example, it should be pointed out that when 50 extra places were created in adult day-care centres in the Liège area, the waiting list comprised over 200 people and ultimately only 50 people wished to take a place immediately. This is often accounted for by the desire of parents to be reassured and have authorisation in advance in the event that a problem should arise. This does not completely erase the existing need but does counterbalance it quite considerably.

A single list should make it possible to match supply more closely to demand and to favour exchanges of information between regional AWIPH offices and approved services.

An updated, computerised waiting list will make it possible to identify everyone who has completed an administrative formality with the agency's regional offices, including highly dependent persons.

At this point it will be necessary to collect additional information on the needs and wishes of highly dependent persons in terms of the social service they require, whether this is urgent or not and the intensity of the care to be provided, so as to align the services on offer as closely as possible with these needs and desires. The Agency will be asked to conduct a survey on institutional care needs.

#### Timetable:

For the single list:

- design of the single list (standardised admission application form, definition of procedures for sharing and exchanging information): completed;
- computerisation: under way, to be completed by the end of 2013;
- setting up of the system in the regional services and offices (testing, information, training, etc.): during 2014.

As to the survey of applicants on their institutional care needs, this will be carried out by the AWIPH straight away.

### **1.2. Additional places**

The Walloon Region currently finances nearly 300 specialised services caring for or accommodating over 10 500 children and adults with disabilities.

#### *a) Creation of additional places*

Since 2009, some 200 places have been created in residential and day-care services for adults. There is no moratorium on the creation of places in the Walloon Region's institutions: places have been opened in particular at the Elfes centre in Libramont, the Perce-Neige centre in Jambes and the Lucioles centre in Lasnes in addition to individual contracts for priority cases throughout the Walloon Region. Clearly, however, the creation of places is directly dependent on obtaining the necessary means to finance them.

In its 2013 budget, the AWIPH earmarked € 1.6 million for the creation of about fifty places for new priority cases. The aim was to create 50 to 60 new places every year to reach a minimum of 500 additional places by the end of the current management contract (in 2017). It should be noted that the creation of 500 care and accommodation places requires a total budget of some € 20 million.

Every year since 2009 therefore, the Walloon Region has made the necessary funds available to create these places while focusing on priority cases, namely persons with a severe disability who do not or no longer have any support from their family.



Two further measures are designed to increase the number of highly dependent persons in care and accommodation services and/or to give them priority for places:

*b) Transformation of residential places for adults into supervised housing*

Residential services for adults with a capacity of fewer than 60 AWIPH-approved and subsidised places must transform one of these places (thus reducing their approved and subsidised capacity by one place) into three supervised housing places; in this way, three beneficiaries of the residential service with a minor or moderate disability and a certain degree of autonomy will be moved to the supervised housing service, thus freeing up two places which will be reserved for new beneficiaries with high-dependency disabilities. Services with a capacity of over 60 places will be required to transform two residential places into six supervised housing places. In this way, four places in each residential service for adults will be freed up for persons with high-dependency disabilities.

This transformation process will enable about 60 persons with a high-dependency disability to be admitted to a residential service for adults in 2013.

*c) Reform of day-care services for adults*

A reform in approval and financing procedures for day-care services for persons with disabilities is currently being prepared. The goal is for it to enter into force on 1 January 2014.

The aim is to extend the opening hours of services and offer à la carte and/or part-time attendance to beneficiaries so as to match the needs of disabled persons and their families as closely as possible. The reform will make it possible to admit a larger number of beneficiaries than the current total of some 2 400 adults. At this stage, it is impossible to estimate how many more beneficiaries it will be possible to admit.

**1.3. An improvement in care and accommodation facilities for people with disabilities**

On 2 May 2013, a total budget of € 30 million was made available by the Walloon Region for maintenance and renovation works on care and accommodation facilities and for conversion work to cater for the ageing of beneficiaries and provision for persons with a high-dependency disability. This budget will make it possible to launch an investment programme of € 5 million per year over six years. These works will improve the quality of care and the well-being of beneficiaries.

**2. Home help**

**2.1. The personal assistance budget**

The personal assistance budget has existed since 2009 and enables 250 people with disabilities to remain at home. The formula meets a real desire on the part of these persons. In 2013, the Walloon Region made a budget of € 760 000 available to satisfy a further 100 requests and this will bring the total number of people benefiting from a personal assistance budget up to 350.

The aim is to increase the budget for this measure to satisfy the desires of 100 further applicants per year to reach a figure of at least 750 beneficiaries by 2017.

**2.2. Outpatient services**

7 500 people currently benefit from early intervention services for children and their families, integration assistance services for adolescents and adult support services. In 2013, additional funds of € 274 000 were made available to increase early intervention staff numbers and hence to increase the numbers benefiting from these services by 300. The ultimate aim is to increase the number of persons benefiting from all these services to 9 000 by 2017.

**2.3. New projects**

The Walloon Region is devising and supporting new projects in order to offer a wider range of assistance and support for people with disabilities.

These projects are aimed at people with more minor disabilities and offer them assistance in their ordinary living environments. They include schemes such as activities to enhance disabled persons' value to, and standing in, society or citizenship activities (some 200 beneficiaries), supervised housing schemes (109 beneficiaries) and respite services for relatives (900 beneficiaries), which are also available to highly dependent persons and their families. The objective is to reach 4 000 beneficiaries by 2017 and to make these pilot projects permanent by adopting regulations for the entire Walloon Region.

Through this diversification policy, the Walloon Region also aims to reserve places in residential services primarily for highly dependent persons.

In short, implementing the rights enshrined in the Charter, namely creating additional care and accommodation places for people with a high-dependency disability, and combining this with an increased range of alternative services to satisfy users' wishes, is an extremely complex and expensive task. The measures proposed by the Walloon Region to achieve the aims of the Charter are designed to satisfy the following three criteria:

- 1) a reasonable timeframe: the progressive introduction of measures and a reasonable completion date, namely 2017;
- 2) measurable progress: a programme for the creation of places is proposed, together with measures to assess the actual number of places missing and an implementation timetable for this assessment;
- 3) a funding arrangement which makes the best possible use of available resources: the AWIPH's grant amounts to € 582 million, which is over 8% of the total budget of the Walloon Region and nearly 60% of the budget of its Health, Social Welfare and Equal Opportunities Department. Some of the measures that are proposed will increase the budget available while others will make it possible to increase the care provided for people with a high-dependency disability without increasing the budget.

The estimated budget increase will amount to some € 2.4 million per year and this has to be accepted by the Walloon Government when the budget is drawn up and then be approved by the Walloon Parliament.

The Walloon Government approved these plans at its session of 16 May 2013.

## **BRUSSELS-CAPITAL REGION**

### **The CoCom's programme of activities to bring itself into line with the Social Charter**

In Brussels, it is the CoCom, the CoCoF (through the PHARE department) or the VAPH which approve and finance the organisations providing assistance for people with disabilities, depending on whether these facilities are bilingual, French-speaking or Dutch-speaking. Decisions on the entitlement of persons with disabilities to make use of the services of the relevant bodies in Brussels are for each entity to take in accordance with its own procedures. However, the CoCom does take account of the decisions of other bodies on admissions in order to simplify administrative procedures.

#### **1. The number of places in care and accommodation centres**

##### ***Creation of places***

In addition to the 80 places in accommodation centres and 127 in day-care centres created since the beginning of the collective complaint procedure in 2011, new places have been created recently, most of which are reserved for highly dependent persons. The new Artémia day-care centre has been providing for twenty additional persons, including ten with a high-dependency disability, since December 2013 while the Orfea centre has been catering for the same number of persons, also including ten highly dependent persons, since March 2013. A new accommodation centre called "le Potelier" is also being built, and will provide twenty places for adults with mental disabilities including some highly dependent persons.

##### ***Personal assistance budgets***

Nine personal assistance budgets (BAPs) were granted in 2013, but at CoCom level, BAPs are still in an experimental phase. The pilot project started in 2007, but it has yet to be reviewed to determine whether or not it will be put on a permanent footing.

### ***Day-to-day assistance services***

A major review of the day-to-day assistance services is under way. This scheme enables 48 highly dependent persons with disabilities to live in their own homes but have access to a 24-hour day-to-day assistance service. The review should result in measures to optimise the number of beneficiaries.

### ***The high-dependency care provision standard***

Since the submission of the complaint, a high dependency care provision standard has been introduced. For this purpose, the regulation on certification and financing was amended by an order of 15 March 2013 amending the order of 25 October 2007 on the certification and funding of centres and services for persons with disabilities.

This amendment relates in particular to a raising of the care provision standards for highly dependent persons in day-care and accommodation centres.

### ***Respite provision***

Lastly, since 20 May 2013 there has been a co-operation agreement with the Villa Indigo Respite Centre to offer day-time respite for children under the age of 19 registered on the CoCoF's or the VAPH's high dependency list.

## **2. Institutions offering advice and assistance to people with disabilities**

For people with disabilities, the CoCom certifies and finances day centres, accommodation centres, day-to-day assistance services and grouped housing services. It also certifies general social services open to everyone.

There are also several facilities in Brussels which are particularly suited to the needs of highly dependent persons, both among associations providing assistance for individuals and through bodies such as the PHARE department, which co-operates with the CoCom.

### **The CoCoF's programme of activities to bring itself into line with the Social Charter: "The High Dependency Action Plan"**

The needs of disabled persons, particularly of those who are highly dependent, form the very core of the policy of assistance for people with disabilities pursued by the CoCoF.

A diverse range of measures has been introduced during these legislatures and they will be backed up by further measures in the following contexts:

- ⤴ the creation of new places in existing day and accommodation centres;
- ⤴ the preparation by the PHARE department, in co-operation with the Minister's private office, of a "High Dependency Action Plan" and a long-term infrastructure plan, which will be implemented in the coming years;
- ⤴ the forthcoming adoption of a decree on the integration of disabled persons (the "Integration Decree") and its implementing orders.

## **1. Waiting lists and the collection of statistics**

### ***Assessment and recognition of disabilities and high dependency***

The preliminary draft of the decree on the integration of disabled persons gives the first ever definition of high dependency. An implementing order for this decree will also set out the verifiable criteria according to which certain highly dependent persons will be granted official high dependency status and hence be given priority access to various services and facilities.

### ***Centralisation of waiting lists***

A means of centralising waiting lists for day and accommodation centres will be set up in order to gain an overview and give priority to those in greatest need via a single waiting list.

This centralisation process will take place in two stages, the first focusing on applications for centres from highly dependent disabled persons and the second on all other applications.

Pending the launch of centralisation computer software, the PHARE department's high dependency unit (CGD) has a list of applications from highly dependent persons for a day-care or accommodation solution. In practice, centres are simply asked to send an e-mail to the CGD on a voluntary basis every time they enter a new person on their waiting lists. Over the next few days, PHARE will be sending a circular to all day and accommodation centres making this measure compulsory.

### ***A census of disabled people in Brussels***

In order to assess, among other things, how many highly dependent disabled persons there are and what type of service they may require, the monitoring centre on care and support for disabled persons will be instructed to carry out a census of highly dependent disabled persons in the Brussels-Capital Region.

This work will also be an opportunity to gain an overview of the various methods of collecting and processing data on disabilities. It will make it possible, where appropriate, to make practical proposals for interaction in the data collection and processing sphere with other federal and federated bodies assisting people with disabilities.

## **2. Preparation of priority agreements**

The PHARE department will continue to draw up priority agreements, which will make it possible, among other things, for disabled persons in Brussels to be admitted to a day or accommodation centre in the Walloon Region, where they have found a place. In such cases, CoCoF cannot finance the Walloon centre directly – funding is provided by the AWIPH, which awards the centre a grant, which is then reimbursed by PHARE. Similar agreements can also be made in the other direction.

In a country the size of Belgium, this means that the arrangements made to meet care and accommodation needs can be made across the Walloon and Brussels boundaries.

Under the co-operation agreement with the Walloon Region, 15 Brussels natives are cared for in the Walloon Region under individual agreements. If the admissions to centres in Brussels are added, the total number of agreements between the regions comes to 21 and this number will increase over the next year.

## **3. The number of places in care and accommodation centres**

### ***Increase in the number of places***

In addition to the new centres already being built, a development plan for new places will be drawn up. New facilities and new places are regularly being created and most of these are reserved for highly dependent disabled persons.

### ***Continuation and intensification of respite projects***

CoCoF's aim is to make funds available to make the respite pilot projects launched in recent years permanent and to finance new ones.

Since 2011, ground-breaking respite activities (in the form of pilot projects) specifically designed for highly dependent persons have been launched on the initiative of CoCoF-certified support services. Their goal is to offer highly dependent persons and their relatives moments of respite.

They were initially funded as pilot projects but most have now been put on a permanent footing by allowing the support services running them to do so under their agreement with CoCoF.

Since 2009, seven of the nine extra assignments given to support services under their agreements with the CoCoF have been aimed at highly dependent persons, including schemes entitled "support for critical situations involving highly dependent persons", "organisation of recreational activities for highly dependent persons" and "extra-sitting" (in which carers are sent to disabled persons' homes to supervise them while their relatives go out).

Furthermore, the draft Integration Decree makes provision for other services to implement respite projects in the near future such as the future inclusive leisure services and family care services. It is also planned for support services to continue to offer respite through activities carried out as part of their standard duties.

Respite can also be provided through short-term or part-time reception in a day or accommodation centre, taking advantage of the time slots available when a resident or user is on holiday or on sick leave or already attending on a part-time basis only. The aim therefore will be to manage the available places as efficiently as possible. These part-time or short-term reception arrangements will be facilitated by means of implementing orders for the Integration Decree relating to administrative management and the computerised centralisation of information on places available in centres.

#### ***Extra subsidies for the care of highly dependent disabled persons***

Under the preliminary draft decree on integration of persons with disabilities, the presence of persons with high-dependency status in support services or day or accommodation centres will have a positive impact on the amount of subsidies granted to them. More specifically, the Integration Decree provides that centres which receive highly dependent persons will have increased care provision standards.

#### ***Diversification of provision***

In order to maximise the number of places in day and accommodation centres for highly dependent persons, diversification of the provision for disabled persons is set to continue. Plans for the development of other types of accommodation formula and day activities for disabled persons who do not need to attend day or accommodation centres will be examined. This diversification will be enhanced still further by the implementation of the Integration Decree, which also promotes alternative formulas for accommodation and day activities. The future inclusive housing services will help disabled persons to live alone, with the assistance of able-bodied neighbours and nearby resource persons.

#### **4. Institutions offering advice and assistance to people with disabilities**

There are several services specifically suited to the needs of disabled persons including highly dependent ones, both among the associations providing assistance for individuals and the services operating via the PHARE department.

#### ***The work of the PHARE department's High Dependency Unit to reintegrate persons into a support network***

The PHARE department's High Dependency Unit is specifically designed for highly dependent persons and has the task of (re)integrating them into a support network and directing them towards the organisations for the disabled most capable of assisting them.

#### ***Reorganisation of and improvements to the PHARE department's Advice Centre***

The PHARE department runs an Advice Centre, which is one of the focuses of the individual benefits service. Its main tasks are to inform disabled persons, their families and their carers about what general services or services specifically designed for the disabled are currently available to them, and to direct them to the service most likely to meet their request and their needs. The tasks of the Advice Centre will also be enhanced following the adoption of the decree on the integration of people with disabilities.

#### ***Support services***

The CoCoF's PHARE department certifies and subsidises 22 support services, including five which specialise in high-dependency (TOFS services, for people with multiple disabilities, SUSA, for people with autism, AFRAHM and SAPHAM, for people with severe mental disabilities combined with behavioural disorders and La Braise, for people with brain damage).

The role of support services is to meet the needs of disabled people and their families with a view to managing their integration into society. They provide the people they supervise and their families with information and support geared to their needs in their everyday activities and dealings. They also see to it that, if necessary, disabled persons and their families are put in contact with people, services and care facilities which may be useful to them.

## **AT FEDERAL LEVEL**

### **1. Reliable data and statistics on highly dependent disabled persons at the level of the metropolitan territory of Belgium**

Currently, there is no national system. To address this shortcoming, the section on persons with disabilities of the Interministerial Conference on Well-being, Sport and the Family of 22 May 2012, which brought together the political authorities of the federal state and the federated entities which are responsible for disability policies, set up a working group, whose tasks were as follows:

- to arrive at a common definition of disability and define the criteria that have to be met;
- to set up a system to centralise all the available data which could be of use to stakeholders in the disability field.

This working group is made up of experts in the management of existing databases at federal and federated entity level. The work is in progress.

### **2. The right to protection against poverty and social exclusion**

In a governmental agreement of 6 December 2011, the federal government undertook to ensure, in co-operation with the federated entities, that family carers would be better rewarded, subject to the availability of funds.

In order for better account to be taken of the situation of family carers in the various policies and measures adopted for people with disabilities, it was necessary to begin by defining the target group. A preliminary draft law on the recognition of family carers assisting highly dependent persons was approved in a first reading by the Belgian Cabinet on 22 March 2013.

In accordance with the stipulations of the UN Convention on the Rights of Persons with Disabilities, the preliminary draft law is currently being submitted to the opinion of the Council on Equal Opportunities, the Advisory Council of Elders, the non-commercial social partners sitting on Joint Committee 337 and the Higher National Council for Persons with Disabilities.

The amended text, taking account of these bodies' opinions, will then be discussed with the federated entities before continuing on its way through parliament.

### **3. Access to information for disabled persons and their families**

The government is currently considering setting up a "one-stop shop" to provide better access to information for disabled persons and their families, whatever the level of authority concerned.

The section on persons with disabilities of the Interministerial Conference on Well-being, Sport and the Family of 22 May 2012, which brought together the political authorities of the federal State and the federated entities which are responsible for disability policies, set up a working group, whose tasks were as follows:

1. to set up a register of personal needs;
2. to establish a list of existing information points and services proposed;
3. to devise a method of co-operation between existing information services.

This working group is made up of experts on existing information points at federal and federated entity level. The work is in progress.