



**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX**

15 June 2017

Case Document No. 5

Mental Disability Advocacy Center (MDAC) v. Belgium
Complaint No. 109/2014

**ADDITIONAL INFORMATION FROM
THE GOVERNMENT ON THE “M DECREE”**

Registered at the Secretariat on 1 June 2017

1. We refer to the earlier written reaction on the complaint where the general outline of the M-Decree was presented. In the current answer we will now provide information on the developments that have occurred in the meantime and on the concrete impact of the measures taken, as far as our knowledge reaches.
2. The *Decree (Parliamentary Act) of 21 March 2014 concerning measures for pupils with specific educational needs* (short: M-Decree) has been in application since 1 September 2015 for elementary (i.e. pre-primary and primary) as well as secondary education.
3. Regarding school enrolments in school for special education meanwhile the following effects can be observed:
 - a. For elementary education: Counting of pupils in special education on 1/2/2014 (= reference date for counting in elementary education) = 30.339 pupils. Counting of pupils on 1/2/2017 = 26.607. In the time interval of 2 school years the number of pupils in special elementary education has decreased by 3.732 pupils (or -12,3%). The share of pupils in special elementary education has decreased from 4,34% (2014) to 3,67% (2017) of the total (mainstream+special education).
 - b. For secondary education: Counting of pupils in special secondary education on 1/2/2015 (= reference date for counting in secondary education) = 20.643 pupils. Counting of pupils on 1/2/2017 = 20.101. This implies a decrease by 542 pupils or -2,63%. The share of pupils in special secondary education has decreased from 4,63% (2015) to 4,49% (2017).
4. To address the above-mentioned effects of the M-Decree and to maintain expertise and support capacity, the following supporting measures were taken:
 - a. The elaboration of a guarantee regulation for inserting staff from special education who become available due to the decrease of pupils, as supporting staff in mainstream education schools. For the schoolyear 2017/2018 this will represent a budget of approximately € 25 mio (or ca. 500 FTE);
 - b. Maintaining the capacity of support and guidance within integrated education by keeping the resources for GON (integrated education) support at the level of school year 2014/2015 despite the decrease of pupils. GON support represents a budget of ca. € ca. 63 mio (of ca. 1350 FTE).

5. The number of pupils in integrated (GON) or inclusive (ION) education also showed a decrease in the school year 2015/2016 (counting of October 2015) compared to the previous school year. This is most probably due to changes in the attestation procedures. These now take the measures already taken by the school in order to meet the special educational needs of the pupil into account in the evaluation as an important element. The objective is that (mainstream) schools would offer a sufficiently strong provision of basic care and enhanced care preventing the need to cater for more extended care for which special attestations are necessary. Nevertheless, the number of pupils in the above mentioned trajectories has recently increased again up to the level of the school year 2014/2015.

The Flemish Government decided on a budget reshuffle starting from 1 September 2017 where resources for GON/ION, the guarantee regulation and for specific purposes inter alia for pupils with mental disabilities in mainstream pre-primary education were put together in a budget of 15.2 mio. With these resources a new support system for mainstream education will be developed. This model is to be based on intensive collaboration between mainstream and special schools with a view to meeting the support needs of both pupils and teachers in the concrete classroom situation. In total more than 100 mio will be invested in the support of mainstream schools. About 2100 FTE will benefit from these measures. For pupils with mental, motoric or sensorial disabilities in mainstream schools an automatic preliminary budget securing will be applied. The amount of secured budget will follow the increasing or decreasing trends of the number of pupils of the above mentioned disability categories in mainstream schools. The objective of applying a preliminary secured budget is to guarantee targeted support in relation to the specific disabilities mentioned.

6. For the follow-up of the implementation of the M-Decree and its supporting system, a qualitative monitoring and evaluation system is currently being set up. A "data warehouse" will visualize the impact and evolutions at the level of pupils and staff in a quantitative way. The study trajectories of pupils with special educational needs in mainstream and special education will be monitored, as well as the impact on the staff situation. Qualitative aspects will be studied by the SONO (Steunpunt OnderwijsOnderzoek) research platform under their dedicated research line (no. 1.4) on "the learner" (Link: <http://steunpuntsono.be/>).
7. In order to support the implementation of the M-Decree extra support staff (so-called "M-Decree competence support staff") have been put at disposal to the pedagogical support services of the school umbrella organisations. (ca. 70 FTE of a total of 470 ordinary support staff members). In addition the Flemish Government allocated in-service training resources for the specific purpose of the professionalization of school teams. This measure represents € 545.949 € for each school year to fund 5 projects that provide training which school teams can take up free of charge for the purpose of professionalization.

The training offer has been set up according to the following learning objectives for teachers and/or school teams:

- teachers should know the different theoretical frameworks for working in inclusive education;
- teachers should be open to approach the different theoretical frameworks in an integrated way; ;
- teachers should be able – competence acquired via reflection and application exercises – to make pedagogical and didactical application of the acquired concepts and frameworks in their own classroom situation;
- schoolteams should be able to apply theoretical frameworks, tools and instruments in their own school policies;
- schoolteams should be able to involve all actors in and around the school, including parents and pupils, in designing education to pupils with special educational needs (focus on teaming up collaboration)

Subsidies are provided for the following 5 in-service training projects:

Name of the ORGANISER	Name of the PROJECT
Artevelde high school	M-decreet: M-Decree as driving-engine, motivation and possibilities
Post-Graduate courses of the Christian education	V-eSperAnZa = Teaming up collaboration: care – a hopeful perspective
AVSG ism POV en PCVO	Expedition M: an explorative journey to sustainable integration of inclusive acting and thinking
SDL, GO!, Artesis	The M-Decree as driving-engine for excellent education
Catholic University Leuven	KITS: powerful indicators for an accessible school

Information on concrete objectives, method, target audience etc. can be consulted for each of the project, can be consulted for each project via the following link:
<http://onderwijs.vlaanderen.be/nl/nascholing-op-initiatief-van-de-vlaamse-regering-2016-2017-m-decreet>

The table below shows the number of teaching staff (including special care coordinators, pupils support staff etc.) that participated intensively in one of the 5 in-service training trajectories during the school year 2015/2016, according to level of

education. The figures for 2016/2017 have not yet been communicated by the providers.

Pre-primary schools	167
Primary schools	387
Pre-primary and primary schools	292
Secondary schools	1087

In the tables only those staff members that participated *intensively* in the training (belonging the so-called “core teams”) are mentioned. Apart from those staff members the whole school team is involved at key moments of the trajectory: via surveys on their questions and concerns regarding the M-Decree or by following “inspiration sessions” on building blocks for the cross-school network pedagogical support. Moreover, they are informed about the learning trajectory followed by the core team or discuss in subject teacher teams etc.

Each core team is supposed to organize an internal seminar where they can reach out to the other colleagues in the school(team).

The same amount of € 545.949 € has been allocated for the schoolyear 2016/2017. At the political level it is the intention to continue keep the implementation of the M-decree as priority for allocation of resources for in-service training

8. From the side of the Flemish Ministry of Education and Training schools, parents and pupils are informed via a recently updated brochure (“Update M-decree” <https://www.vlaanderen.be/nl/publicaties/detail/update-m-decree>) and a website <https://onderwijs.vlaanderen.be/nl/grote-lijnen-van-het-m-decree> Also other organisations have prepared information brochures (e.g. UNIA, the independent body that oversees the implementation of the VN Convention on the Rights of Persons with Disabilities, has published a brochure in cooperation with the educational field and other stakeholder organisations entitled: “Met een handicap naar de gewone school” (Studying with a disability in a mainstream school). University college Arteveldehogeschool prepared a brochure on reasonable adaptations for students with disabilities: <http://www.oudersvoorinclusie.be/wp-content/uploads/2015/10/Klaar-voor-redelijke-aanpassingen-een-leidraad.pdf> More specific information on the latter topic see also the website of the Flemish Ministry of Education and Training: : <https://onderwijs.vlaanderen.be/nl/redelijke-aanpassingen>

9. The Flemish Ministry of Education and Training subsidizes the “Steunpunt voor Inclusie” (Inclusion platform) that supports parents that opt for inclusive education (in mainstream schools). On specific demand of the Ministry the platform registers the experiences reported by parents in the context of enrolment in mainstream schools. This information is taken on board in the evaluation of the implementation of the M-Decree.
10. The M-Decree encompasses an adapted procedure for the “Commission of Pupil Rights” which guarantees the involvement of (representatives of) people with disabilities, education providers and educational staff in the judging of complaints that are brought to the Commission. The composition of the Commission of Pupil Rights has been adjusted according from the schoolyear 2016/2017 onwards. Three complaints have been treated regarding the annulation of enrolment in mainstream schools as a consequence of a request for reasonable adaptations in execution of the M-Decree.
11. For children and young people who, due to serious limitations, are unable to attend education, also not in the form of permanent education provided at home (where a teacher of a school of extra-ordinary education teaches 4 hours a week at their residential address), the Education Inspectorate - after a motivated request from the parents - may decide to temporarily or permanently exempt a pupil from compulsory education.
The Flemish Department of Education and Training and the Education Inspectorate set up a committee on “Criteria for Exemptions” at the beginning of 2015, which was commissioned to develop a scientifically substantiated and socially responsible reference framework for the assessment of applications for exemption from compulsory education.
However, the committee came to the conclusion that it is not desirable to continue the current system of exemptions from compulsory education, in view of i.a. the fundamental right to education for all and the conclusion that no scientific evidence can be found for a generally valid set of criteria in relation to child characteristics.

The commission proposes not to use the “modality” of exemption from compulsory education and to apply an 'integrated education and care workplan” for children with very specific educational needs

Link:

<http://www.multiplus.be/informatiedocs/RapportCommissieCriteriaVrijstellingLeerplicht.pdf>

To make this possible, a number of prerequisites have to be met (change of education and welfare legislation, practical solutions to problems, change of attitude among the various stakeholders, ...), especially in view of developing the corresponding measures in a child developmental perspective aimed at inclusion.

This challenge is to be taken up further by the education and welfare policy domains in the coming years.