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b-solutions

FINAL REPORT BY THE EXPERT

Advice case title: Limitations in attending a school in a neighbouring country

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1. Executive summary

The objective of this B-solutions report was to analyse the legislative and policy aspects of pupils attending a primary school in a neighboring country or region in the Euregio Meuse-Rhine and to gain insights into the current flows of mobility by means of publicly available statistics. The report concludes that from a legal perspective, the situation is rather positive and does not entail clear legal obstacles, with the exception of Germany (North Rhine-Westphalia). Pupils residing there must go through a formal exemption procedure subject to a strict list of conditions and considerations of the child's integration into German society. The regulations explicitly mention that residing in a border region is not a valid reason on its own for pupils to attend a school in a neighboring country. Although a legal amendment to this provision could be recommended, which would shift the emphasis to *Euregional integration*, it is uncertain whether there is political support for this.

The statistics on cross-border mobility of pupils show that there is a limited number of pupils attending a (primary) school across the border, so a truly *Euregional education space* is absent. Nonetheless, some flows of mobility can be observed, particularly in situations where the official language on both sides of the border is the same (such as in the case of the Netherlands and the Flemish Community). Furthermore, the good reputation of Flemish schools might explain why some people living in the Netherlands go to school there, while the special pedagogical profile of the *Freie Waldorfschule* in Germany seems to attract relatively many (probably German-speaking) pupils from Belgium. All in all, these observations show that there is some potential for a *Euregional education space*.



2. Description of the obstacle with indication of the legal/administrative provisions causing the obstacle

2.1 The obstacles as presented by EGTC Euregio Meuse-Rhine

The Euregio Meuse-Rhine (EMR) is a cross-border region that covers parts of Belgium, Germany, and the Netherlands. For parents living in this region, there can be several reasons to let a child attend a primary school at the other side of a national and/or linguistic border, for example because they want the child to learn a particular language very well (Dutch, French, German), because a school at the other side of a border has a good reputation and/or a special educational profile, or because a school at the other side of a border is simply the nearest one. Currently, cross-border mobility among primary school pupils has been observed among families who have moved across a national border due to (lower) housing prices but kept their center of life on the side where they moved from.¹ Also, more affordable childcare and education may encourage such mobility.² Furthermore, for the development of a common labor market and educational space in the EMR, the cross-border mobility of primary school pupils may be encouraged.

Despite this, the EGTC Euregio-Meuse Rhine (case applicant) reports that pupils living in the EMR may not be entirely free to choose a school in a neighboring country or even within one country. This is because children in all subregions of the EMR are obligated to receive education from a certain age. In many cases, an application for an exception must be requested in order to fulfill this obligation (*leerplicht, Schulpflicht, l'obligation scolaire*) when planning to attend a 'foreign' school. In addition, students may be required to meet specific admission criteria from the receiving region's perspective in order to be allowed to attend such a school. These rules and regulations vary across different regions and countries according to the EGTC EMR, and they may impede the pupils' possibilities to attend a school across a (regional or national) border in the EMR. In addition to these obstacles, pupils living close to a border might face other obstacles if they want to attend a school on the other side of a border, such as long waiting lists, unclear regulations, unbeneficial tax rules, financial contributions of parents, and differences in the organization of education and school systems across the EMR. In particular, the EGTC EMR has expressed concerns about the lack of clarity and ambiguity surrounding

¹ Article 'Emigratie naar Duitsland' in Ouders.nl, 24 September 2009: "Volgens het Centraal Bureau voor de Statistiek (CBS) zijn de lagere huizenprijzen de belangrijkste reden om te emigreren. Veel emigranten kopen vlak over de grens een huis, maar blijven in Nederland werken. Hun kinderen volgen in veel gevallen onderwijs in de Nederlandse grensdorpen", accessed via <https://www.ouders.nl/artikelen/emigreren-naar-duitsland>. See also news article 'Nederlandse les groeit over grens' in Ed.nl, 17 July 2008: "Daar [in Duitsland] wonen nog wat Nederlanders die voor het goedkope huis de grens over zijn gegaan, maar die hun kinderen in Nederland naar school brengen. De Duitse overheid ziet liever dat die mensen deel gaan uitmaken van de Duitse gemeenschap. Als een Duitse school naast het eigen programma NTC kan aanbieden, is dat al een stuk aantrekkelijker", accessed via: <https://www.ed.nl/veldhoven/nederlandse-les-groeit-over-grens~a9415fff/?referrer=https%3A%2F%2Fwww.google.com%2F>.

² "Ouders kiezen voor goedkopere opvang en onderwijs in België. Daar gaan kinderen al vanaf 2,5 jaar naar school. Dekker wil de toelatingseis voor kinderen op basisscholen in grensregio's daarom verlagen naar 3 jaar", see: <https://www.kinderopvangtotaal.nl/kinderen-in-grensregio-met-3-jaar-naar-school-1654174w/>.



the rules, regulations, potential obstacles, and the decision-making processes of the competent authorities. Additionally, to better understand the extent of the problem, the EGTC EMR has called for more information regarding the numbers and mobility patterns of pupils attending schools in neighboring countries within the EMR.

2.2 Analysis of Existing Obstacles by the Adviser

The objective of this B-solutions report is to conduct a brief analysis of the legislative and policy aspects surrounding pupils attending primary schools³ in neighboring countries or regions in the EMR. The report is divided into two main sections. Firstly, it identifies current mobility patterns based on publicly available statistics. Secondly, the report provides an overview and comparison of the relevant legislation applicable in each of the five regions of the EMR and examines the policy background related to compulsory school attendance in these regions. The aim is to enhance transparency regarding regulations and administrative processes applicable to pupils who go to a primary school in a neighboring country or region. Finally, the report concludes with a discussion of the identified obstacles, and recommendations to improve the situation of cross-border mobile pupils in the EMR.

2.3 Attending a primary school in a neighboring country: flows of mobility

The following sections present an overview of available data about cross-border mobility towards primary schools in the Euregio Meuse-Rhine. A well-known challenge when it comes to comparing and/or combining cross-border data is that statistics agencies from different countries typically employ different data-gathering and counting methods, which is also the case here. Furthermore, it should be noted that “primary schools” cover different age periods in the EMR, namely the age from 6 to 12 in Belgium, 6 to 10 in Germany, and 4 to 12 in the Netherlands. Despite such limitations, however, several interesting observations can be made. In general, it appears that language plays a significant role when it comes to encouraging or discouraging cross-border mobility towards primary schools in the EMR.

2.3.1 Mobility towards Belgium: Province of Limburg

As shown by table 1 below, most pupils who go to a primary school in the Belgian province of Limburg also live in this province (97.3% of all pupils in regular primary schools, and 92.0% of all pupils in special-needs primary schools). Among the remaining pupils in regular primary schools, it is interesting to note that the share of pupils living elsewhere in Flanders is more or less the same as the share of pupils living in the Netherlands (both 1.1%). Furthermore, a small number of pupils live in the province of Liège (0.5%), whereas the numbers of pupils living elsewhere in Wallonia, the Brussels-Capital Region, or Germany are neglectable. The linguistic border thus seems to play a role, encouraging cross-border mobility within the Dutch language area while discouraging other cross-border mobility flows. Finally, it is important to acknowledge local differences within the Belgian province of Limburg here. For example, in regular primary schools in the municipality of Lanaken, the percentage of pupils living in

³ While the scope of this B-solutions report (especially that of the legal framework) is limited to primary schools, some of the findings can be relevant also in mobility to other levels of schools.



the Netherlands is 12.0%, and in regular primary schools in the municipality of Maaseik, the percentage is 3.7% (Dataloep Vlaanderen 2023).

	Primary school (6 - 12 years)	Primary school (6 - 12 years): special needs
Province of Limburg (BE)	51,974 (97.3%)	4,355 (92.0%)
Other provinces in Flanders	588 (1.1%)	319 (6.7%)
Province of Liège	264 (0.5%)	4 (0.1%)
Other provinces in Wallonia	8 (0.0%)	1 (0.0%)
Brussels-Capital Region	11 (0.0%)	0 (0.0%)
Germany	2 (0.0%)	0 (0.0%)
The Netherlands	563 (1.1%)	55 (1.2%)
Total	53,410	4,734

Table 1. Places of residence of pupils who went to a primary school in the Belgian province of Limburg in the school year 2021-2022 (Data obtained from the page *Mobiliteit en aantrekkingskracht basis- en secundair onderwijs* on Dataloep Vlaanderen, an official statistics website from the Flemish Community, on 21 March 2023: https://dataloep-publiek.vlaanderen.be/QvAJAXZfc/notoolbar.htm?document=LP-Publiek%2FPubliek_AantrekkingMobiliteit.qvw&host=PubliekQVS%40cwv100163&anonymous=true)

2.3.2 Mobility towards Belgium: Province of Liège

Regarding the Belgian province of Liège, we have unfortunately not obtained any data thus far. However, according to the official statistics website from the Flemish Community (see section 2.3.1), no pupils who lived in the Flemish Community went to a primary school in the province of Liège in the school year 2021-2022. Furthermore, according to data from the Ministry of the German-Speaking Community⁴, 1,120 pupils who lived in this community went to a kindergarten, primary or secondary school in the French Community in the school year 2022-2023, most of them probably in other parts of the province of Liège due to geographical proximity. When it comes to mobility from Germany or the Netherlands to the province of Liège, no relevant data have been found, as the statistics agencies in Germany and the Netherlands do not distinguish different places or regions within Belgium. Hence, the only thing we can conclude on the basis of the currently available data is that there seems to be some mobility from the German-Speaking Community towards the rest of the province of Liège. Again, language might play a role here, considering that many people in the German-Speaking Community have French as a first or second language.

⁴ These data have been shared by the Ministry via email upon a personal request from the authors.



2.3.3 Mobility towards Belgium: German-Speaking Community

Most pupils who went to a regular primary school (92.3%) or a special-needs primary school (90.2%) in the German-Speaking Community in the school year 2021-2022 also lived in this Community (see table 2 below). Furthermore, a small but significant share of the pupils (6.9% in regular primary schools, and 7.9% in special-needs primary schools) lived in the French Community. Possibly, many of these pupils had German as a first or second language. Finally, a small share of the pupils lived in Germany (0.7% in regular primary schools, and 0.6% in special-needs primary schools), while the share of pupils living in Luxembourg was neglectable. None of the pupils lived in the Flemish Community or the Netherlands, which may be explained by both geographical distance and the Dutch-German linguistic border.

	Primary school (6 - 12 years)	Primary school (6 - 12 years): special needs
German-Speaking Community	4,571 (92.3%)	148 (90.2%)
French Community	339 (6.9%)	13 (7.9%)
Flemish Community	0 (0.0%)	0 (0.0%)
Germany	36 (0.7%)	1 (0.6%)
Luxembourg	4 (0.1%)	2 (1.2%)
The Netherlands	0 (0.0%)	0 (0.0%)
Total	4,950	164

Table 2. Places of residence of pupils who went to a primary school in the German-Speaking Community in the school year 2021-2022 (Data obtained from the Ministry of the German-Speaking Community via email upon a personal request from the authors of this report)

2.3.4 Mobility towards Germany: Districts of Aachen, Düren, Euskirchen, and Heinsberg

Tables 3 and 4 below show the number of pupils who went to a primary school in the German part of the Euregio Meuse-Rhine in the school year 2021-2022, which consists of the districts (Landkreise) of Aachen, Düren, Euskirchen, and Heinsberg. Due to German privacy legislation, the numbers are rounded, and because the total number of pupils are not given, no percentages can be calculated. Furthermore, it should be noted that the special-needs schools and the *Freie Waldorfschulen* (which are schools inspired by the pedagogical ideas of Rudolf Steiner) combine primary and secondary education.

Despite these limitations, however, a number of interesting conclusions can be drawn on the basis of these data. First of all, when it comes to mobility from Belgium to the German part of the EMR (table 3), the city of Aachen clearly stands out, particularly the *Freie Waldorfschule* in Aachen. Apparently, a school with a special pedagogical and ideological profile can attract people from across a national



border. Furthermore, due to geographical and linguistic proximity, it is likely that many of these pupils lived in the (northern part of the) German-Speaking Community of Belgium.

Secondly, when it comes to mobility from the Netherlands to the German part of the EMR (table 4), the city of Aachen stands out as well, while the city of Herzogenrath also attracted a relatively significant number of pupils who lived in the Netherlands. Geographical proximity clearly seems to play a role here, and some (or many) of these pupils might have German as a first or second language. Compared to the mobility from the Netherlands to the Belgian province of Limburg (section 2.1.1), the numbers were significantly lower, which strengthens the impression that linguistic borders discourage cross-border mobility towards primary schools in the EMR.

Place (District)	Primary school (6 - 10 years)	Primary and secondary school (6 - 16 years): special needs	<i>Freie Waldorfschule</i> (6 - 18 years)
Aachen (Aachen)	60 (between 58 and 62)	20 (between 18 and 22)	85 (between 83 and 87)
Herzogenrath (Aachen)	1 or 2	0	0
Monschau (Aachen)	5 (between 3 and 7)	0	0
Roetgen (Aachen)	5 (between 3 and 7)	0	0
Schleiden (Euskirchen)	0	1 or 2	0
Total	Between 65 and 78	Between 19 and 24	Between 83 and 87

Table 3. Pupils who lived in Belgium and went to a primary school in the German part of the EMR in the school year 2021-2022 (Data obtained from the *Statistisches Landesamt Nordrhein-Westfalen*. Due to German privacy laws, the numbers are rounded.)



Place (district)	Primary school (6 - 10 years)	Primary and secondary school (6 - 16 years): special needs	<i>Freie Waldorfschule</i> (6 - 18 years)
Aachen (Aachen)	60 (between 58 and 62)	1 or 2	10 (between 8 and 12)
Baesweiler (Aachen)	0	1 or 2	0
Herzogenrath (Aachen)	20 (between 18 and 22)	10 (between 8 and 12)	0
Gangelt (Heinsberg)	1 or 2	0	0
Heinsberg (Heinsberg)	1 or 2	0	0
Selfkant (Heinsberg)	1 or 2	0	0
Übach-Palenberg (Heinsberg)	1 or 2	0	0
Wassenberg (Heinsberg)	1 or 2	0	0
Total	Between 81 and 94	Between 10 and 16	Between 8 and 12

Table 4. Pupils who lived in the Netherlands and went to a primary school in the German part of the EMR in the school year 2021-2022 (Data obtained from the *Statistisches Landesamt Nordrhein-Westfalen*. Due to German privacy laws, the numbers are rounded.)

2.3.5 Mobility towards the Netherlands

Regarding mobility towards the Netherlands, only national-level data have been obtained (table 5). Hence, we cannot say anything about mobility towards the Dutch province of Limburg in particular. When considering the mobility towards primary schools in the Netherlands as a whole, it is interesting to note that the number of pupils living in Germany (1,484 in absolute numbers) is clearly higher than the number of pupils living in Belgium (752). This might speak against the “linguistic borders hypothesis” developed in the previous sections, although a significant share of the pupils living in Germany might belong to Dutch-language families in German municipalities such as Kranenburg (in the Euregio Rhine-Waal) and Selfkant (Landkreis Heinsberg).



	Primary school (4 - 12 years)	Primary school (4 - 12 years): special needs
The Netherlands	1,367,101 (99.7%)	35,331 (99.8%)
Belgium	735 (0.1%)	17 (0.1%)
Germany	1,454 (0.1%)	30 (0.1%)
Other	1,053 (0.1%)	10 (0.0%)
Unknown	473 (0.0%)	12 (0.0%)
Total	1,370,816	35,400

Table 5. Places of residence of pupils who went to a primary school in the Netherlands in the school year 2021-2022 (Data obtained from the website of *Dienst Uitvoering Onderwijs* of the Dutch Ministry of Education, Culture, and Science on 3 April 2023:

https://duo.nl/open_onderwijsdata/primair-onderwijs/aantal-leerlingen/leerlingen-binnen-buiten-woonplaats-naar-school.jsp)

2.4 Legal and administrative framework

This section provides an overview and comparison of the relevant legislation applicable in each of the five regions of the EMR with the aim to enhance transparency regarding regulations and administrative processes applicable to pupils who (want) to attend a primary school in a neighboring country or region. First, a focus will be placed on the conditions under which a pupil may attend a school abroad. A brief look will also be taken at the requirements regarding the admission of students residing abroad. The section ends with comparative conclusions. Annex I includes the application forms to which a reference is made.

2.4.1 On the EU level

The competence of the European Union (EU) in education is limited to supporting and complementing national policies and promoting cooperation and exchange between Member States.⁵ The fundamental principle of free movement laid in Article 45 of TFEU provides EU citizens and their family members with the right to move and reside freely within the territory of other Member States.⁶ Provisions on equal treatment ensure every EU citizen the same rights to work and have access to

⁵ Article 165 Treaty on the Functioning of the European Union.

⁶ *Ibid*, Article 45.



social and tax advantages in another Member State under the same conditions as the national of that state.⁷ Regulation 492/2011 specifically introduces the right for children of an EU citizen who is employed in another Member State to be admitted for that State's general education.⁸ Another relevant legislative act is Directive 77/486, which applies to children of migrants subject to compulsory school attendance, and states that Member States must (in accordance with their national circumstances and legal systems) take measures to ensure free tuition and teaching (one) of the official language of that host Member State.⁹ From these perspectives, and namely the right to free movement, it could be concluded that pupils have the right to attend a school in a neighboring country under the same conditions as the local pupils.

2.4.2 The Netherlands

According to the Compulsory Education Act of 1969 (*Leerplichtwet*), all children residing in the Netherlands between the ages of 5 and 16 are required to attend school.¹⁰ After that, the child is subject to qualification obligation (*kwalificatieplicht*)¹¹, which is applicable until the child obtains a certain qualification/diploma or becomes 18 years old.

An exemption to compulsory education (*leerplicht*) may be granted only in limited circumstances through an application.¹² If a child is enrolled in a school abroad, an application for exemption to fulfil compulsory education at a foreign school must be applied for.¹³ Before the start of the school year (1 July), the parents of the child must request this exemption (*vrijstelling van leerplicht*) from the compulsory education officer (*leerplichtambtenaar*) of their municipality of residence, the competent authority. The application¹⁴ must include proof of enrolment at the foreign school, stating that the child is registered there and attends the school regularly. This statement may be given in Dutch, English, French, or German.¹⁵ If the child is not registered at a school in the Netherlands and no exemption has been applied or granted, it may lead to fine or criminal prosecution.¹⁶

It is also noted that going to school across the border may have consequences for where the child is considered to reside. Some municipalities note that if the child is residing outside the Netherlands for longer than eight months and goes to school abroad the following school year, there is a legal obligation to report the child's departure abroad to the municipality. In case the child has already

⁷ *Ibid*, Article 18. See also Article 7(2) Regulation 492/2011.

⁸ Article 10 Regulation 492/2011.

⁹ Article 2 Directive 77/486.

¹⁰ Section 3 Compulsory Education Act 1969 (*Leerplichtwet*), retrieved via: <https://wetten.overheid.nl/BWBR0002628/2023-01-01#Paragraaf3>.

¹¹ *Ibid*, Articles 4a-4c.

¹² See the list of exceptions here: <https://www.government.nl/topics/compulsory-school-attendance/exemptions-from-compulsory-school-attendance>.

¹³ Article 5(c) in conjunction with Article 9 Compulsory Education Act 1969 (*Leerplichtwet*), retrieved via: <https://wetten.overheid.nl/BWBR0002628/2023-01-01>.

¹⁴ See Annex I.

¹⁵ *Ibid*, see also: <https://www.rijksoverheid.nl/onderwerpen/leerplicht/vraag-en-antwoord/leerplicht-buitenlandse-school>

¹⁶ See: <https://www.rijksoverheid.nl/onderwerpen/leerplicht/geoorloofd-schoolverzuim-en-spijbelen>.



attended one school year abroad and they apply for an exception to continue the attendance for the next school year, the situation may be subject to investigation of the place of residence (*verblijfplaats*) of the child. This does not only have consequences to the applicability of the compulsory education law of the Netherlands (which the child would no longer be subject to) but may also impact the rights to certain social security benefits, such as child benefits and health insurance.¹⁷ In case this investigation of the place of residence would result in an outcome that the state of residence of the child changes, it may pose an obstacle to families who want to send their child to attend school in a neighbouring country. It is unclear from publicly available information how this rule is applied interpreted in the border municipalities of Limburg.

Regarding mobility to the Netherlands, similarly, it is the municipality that lays down the rules and procedures on admission to a primary school. Agreements have been made in certain municipalities regarding the allocation of children to schools. Depending on the agreement, the child may be required to attend a school in their neighbourhood, or the allocation may be determined by a lottery or by allowing siblings to attend the same school.¹⁸

While mobility to and from Belgium seems to be subject to less (if any) obstacles¹⁹, the mobility of pupils between Germany and Netherlands has received some attention in the House of Representatives (*Tweede Kamer*). Regarding Belgium, discussion has focused on increasing efforts on reporting and visibility of students attending a school across the border, for instance in the enclaves of Baarle-Nassau.²⁰ In 2015, a parliamentary question has been raised in the context of allowing children of Dutch nationality, resident in Germany, to be exempted from the German compulsory education and attend in a school in the Netherlands.²¹

2.4.3 Germany (North Rhine-Westphalia)

Education is the primary responsibility of the German States, *Bundesländer*.²² The Compulsory Schooling Act (*Schulgesetz für das Land Nordrhein-Westfalen*) lays down the schooling obligation for

¹⁷ See, for instance the application of the rules in Amsterdam:

<https://www.amsterdam.nl/veelgevraagd/?caseid=%7B37B49FDE-BA96-49EC-BD44-589F620DAFEB%7D>

¹⁸ More information available here: <https://www.rijksoverheid.nl/onderwerpen/basisonderwijs/vraag-en-antwoord/wanneer-kind-aanmelden-basisschool#:~:text=Schrijf%20uw%20kind%20minimaal%2010,kind%20bij%20meerdere%20scholen%20aanmelden>.

¹⁹ Section 8.8, Ger Essers 'Caleidoscoop: onderwijsmobiliteit Nederland-Vlaanderen'.

²⁰ Discussion in *Tweede Kamer* in 2009 on school attendance of Dutch students following education in Belgium, and the revision of the Compulsory Education Act:

https://www.tweedekamer.nl/debat_en_vergadering/plenaire_vergaderingen/details/activiteit?id=2009A01798

²¹ Kamervraag – Vragen van het lid Straus (VVD) aan de Staatssecretaris van Onderwijs, Cultuur en Wetenschap over het niet verlenen van een ontheffing aan Nederlandse kinderen woonachtig in Duitsland die onderwijs in Nederland willen volgen: <https://zoek.officielebekendmakingen.nl/kv-tk-2015Z19978.html>. See also: <https://zoek.officielebekendmakingen.nl/kv-tk-2015Z19978.html>

²² Article 7 Basic Law for the Federal Republic of Germany (*Grundwet voor de Bondsrepubliek Duitsland*) 1949.



children, resident in the State of North Rhine-Westphalia, from age 6 until 18.²³ In principle, the obligation for compulsory schooling (*Schulpflicht*) is fulfilled by attending a German school. If the child is to attend a school abroad, an exception must be applied for, which may be granted only when there is 'particularly important reasons' (*Besonders wichtige Gründe*).²⁴ According to circular "*Exceptional permits to attend foreign or international schools*"²⁵, such important reasons are seen in certain circumstances, for example, when the student is only temporarily staying in Germany²⁶, they are children of members of diplomatic mission²⁷, or attending a recognised international school.²⁸ Other 'particularly important reasons' are assessed on a case-by-case basis. In this respect, the circular notes that simply residing in a border region does not constitute a sufficient "important reason" for a child to attend school across the border.²⁹ In such cases, the public interest in promoting integration to the state of residence (Germany) must be balanced against individual interests before any exception is granted.³⁰ Indeed, it is further elaborated that the fundamental obligation for children to attend a German school also expresses the will of the legislator for *social integration*. Furthermore, the regulations express these integration concerns by stating that the German educational system's qualifications cannot be achieved at foreign schools having a different curriculum, which will also challenge the child's return to the German educational system.³¹

Several cases illustrate how these exemptions are applied, and how the balancing act of private and public interests in this assessment of 'particularly important reasons' is made.

The case from 5 October 2017³² discusses the application of the "temporary stay" exemption of a child residing in a border region. The child in question had German, Dutch, and New Zealand nationalities and was residing in Germany. The child's parents wanted her to have a multilingual upbringing like her siblings and have her enrolled in an international school (University World College) in Maastricht. Another reason that supported this decision was that the family was planning to move to the Netherlands in the upcoming years. The Aachen city region denied their request for an exemption to attend a school in Maastricht, finding that there is no clear evidence of their plans to leave Germany in the near future and that in these circumstances, the public interest in fulfilling compulsory schooling by attending a German school outweighed the individual interests of the child and her family. The matter was brought to the Aachen Administrative Court (*Verwaltungsgericht Aachen*) which ruled that

²³ §34(1) School law for the State of North Rhine-Westphalia (*Schulgesetz für das Land Nordrhein-Westfalen (Schulgesetz NRW - SchulG)*), accessed via:

https://recht.nrw.de/lmi/owa/br_text_anzeigen?v_id=10000000000000000524

²⁴ *Ibid*, §34(5). See also examples of particularly 'important reasons' in §3 Circular: Exceptional permits to attend foreign or international schools (Ausnahmegenehmigungen zum Besuch ausländischer oder internationaler Schulen RdErl. d. Ministeriums für Schule und Weiterbildung) v. 13.09.2016, accessed via:

<https://bass.schul-welt.de/16409.htm>

²⁵ *Ibid*.

²⁶ *Ibid*, §3.2.

²⁷ *Ibid*, §3.1

²⁸ *Ibid*, §3.3

²⁹ *Ibid*, §2.

³⁰ *Ibid*, §2-3.

³¹ *Ibid*, §4.1.

³² VG Aachen, Urteil vom 05.10.2017 - 9 K 1196/17, accessed via: <https://openjur.de/u/2156422.html>.



the exemption should be granted as long as the stay in Germany is temporary. Since the parents were able to provide a draft notarial contract for the sale of their German house and a contract for the purchase of a house in the Netherlands, the exemption had to be granted according to the Court. The case demonstrates that for an exemption to apply, a mere intention is not sufficient, but it must be substantiated with concrete and compelling evidence.

In a case from 7 December 2018,³³ a German family residing near the Dutch border applied for an exemption to allow their children to continue attending a school in the Netherlands (Holz, Kerkrade) where they had been studying for almost nine years. However, their application was rejected by the competent authorities who did not find a valid "important reason" to justify such an exemption. Even though the children had established learning and social contacts in the Dutch school and would face difficulty adjusting to a German school system, this reason was deemed insufficient by the authorities. The case was taken to the Administrative Court of Aachen, which reiterated the importance of attending a German school for promoting social integration and responsible participation in society. The Court emphasised that attending a foreign school that teaches German language is not enough to meet this objective, and that the individual interest of attending a foreign school for practical reasons does not outweigh the public interest in attending a German school. The Court further stated that the burdens associated with changing schools and settling into a new system are not sufficient to justify such an interest.

The Court drew a comparison with a similar case but in the German-Speaking Community in Belgium. In that case (judgement of 14 October 2003)³⁴, the applicants resided in the border region of Germany, just 15 meters from the German-speaking community of Belgium. The school authority of Aachen city region had initially rejected the application for exemption. However, the Higher Administrative Court for North Rhine-Westphalia (*Oberverwaltungsgericht für das Land Nordrhein-Westfalen*) disagreed and held that attending a school in a German-speaking environment was justified and did not have any negative consequences for integration in Germany. This was in contrast to attending a school in the Netherlands where instruction was not in the German language or a German-speaking environment, which was deemed insufficient for integration: the Court concluded that "the use of the German language in the school context is an essential condition for integration into the economic and social conditions of the Federal Republic of Germany."³⁵ The importance of the German language environment in striking a balance is highlighted by these two cases. It appears that children require more substantial justifications to attend school in the Netherlands, in comparison to the German-Speaking Community. From this perspective, mobility to other language regions (such as the Flemish or French Community) would also require strong grounds before the exemption would be granted.

Regarding the administrative procedure, each district (*Kreis*, or in the case of Aachen: *StädteRegion*) has the competence to decide on the exceptions under which a child may attend a school abroad. For instance, in the city region of Aachen, the application is submitted to the school board of that city

³³ VG Aachen, Urteil vom 07.12.2018 - 9 K 3215/18, accessed via: <https://openjur.de/u/2156511.html>.

³⁴ OVG Nordrhein-Westfalen, Beschluss vom 14.10.2003 - 19 B 1953/03, accessed via:

<https://openjur.de/u/95633.html>.

³⁵ §30 VG Aachen, Urteil vom 07.12.2018 - 9 K 3215/18, accessed via: <https://openjur.de/u/2156511.html>.



region (*Schulamt für die StädteRegion Aachen*).³⁶ Such an exception is only granted in limited circumstances (as discussed above). In addition to the standard documentation required, such as a passport or identification card and a certificate of attendance from the foreign school, the application form also requires applicants to provide a detailed explanation as to 1) why are the applicants in Germany, and 2) why the legal guardian prefers not to have their child attend a German school.³⁷

Regarding **mobility to North Rhine-Westphalia, Germany**, it is the principal who decides on the admission to the school within the framework specified by the school authority. As a rule, pupils are admitted to school at the beginning of the school year, and in further education colleges at the beginning of the school semester. Admission requirements and admission procedures for individual school levels or school types as well as admission criteria can be regulated in the respective training and examination regulations. Admission to a school can be refused, for instance, when its capacity is exceeded.³⁸ If, when registering for primary school, there are indications that the child does not have sufficient German language skills and that successful participation in school is therefore at considerable risk, a language proficiency test has to be carried out.³⁹

2.4.4 Belgium

In Belgium, freedom of education and the regulation of public education by the government is traced back to Article 17 of the Belgian Constitution of 1831.⁴⁰ Confirming the freedom of education, Article 24 of the Constitution of 1994 specifies the right to education as a fundamental right and the freedom of choice of parents as a right that is guaranteed by the Community, i.e., the State.⁴¹ The legal framework for the right to education is not only regulated at the Federal level but also through each Community. The federal text applies to the French Community (Fédération Wallonie-Bruxelles), the German-Speaking Community (Deutschsprachige Gemeinschaft), and the Flemish Community (Vlaamse Gemeenschap) in Belgium. However, since 1 January 1989, the competence on education is communalized and Communities have the legislative power to issue enforceable decrees.⁴² Article 127 of the Constitution of 1994 indicates that the Parliaments of the French Community and the Flemish Community regulate education through decrees except in the instances of:

- a) Determining the beginning and end of the compulsory education

³⁶ Find application form here: <https://bportal.staedteregion-aachen.de/staedteregion-a-z/-/egov-bis-detail/dienstleistung/11569/show>

³⁷ Annex I.

³⁸ §46 School law for the state of North Rhine-Westphalia (Schulgesetz für das Land Nordrhein-Westfalen, Schulgesetz NRW – SchulG) 15 February 2005, accessed via: <https://bass.schul-welt.de/6043.htm#pgfid-1272059>.

³⁹ *Ibid*, §36. Schulministerium NRW, 'Anmeldung zur grundschule'. Accessed via <https://www.schulministerium.nrw/anmeldung-zur-grundschule>.

⁴⁰ "L'enseignement est libre; toute mesure préventive est interdite ; la répression des délits n'est réglée que par la loi. L'instruction publique, donnée aux frais de l'État, est également réglée par la loi." Art. 17 de la Constitution du 7 février 1831.

⁴¹ Art. 24 de la Constitution du 17 février 1994.

⁴² European Committee of the Regions, 'CoR - Belgium Introduction' <<https://portal.cor.europa.eu/divisionpowers/Pages/Belgium-Introduction.aspx>> accessed 27 March 2023



- b) Minimum requirements for receiving diplomas
- c) The pension schemes⁴³

At the federal level, compulsory education is regulated by the law of June 29, 1983.⁴⁴ This law applies to all compulsory education-age children domiciled or residing in Belgian territory.⁴⁵ Since the start of the 2020 school year, compulsory education has been lowered from the age of 6 to 5.⁴⁶ Compulsory education lasts 12 years and ends at the end of the school year, during which a student has reached the age of 18 in that calendar year. Another example of federal regulation governing compulsory education for children is the obligation for students to enroll at schools within the first 60 days (about 2 months) of registration in the municipality.⁴⁷

Regarding mobility to Belgium, it is important to note that the government is not obligated to guarantee the same levels of protection on the right to education or access to free education for foreigners. Article 191 of the Belgian Constitution of 1994 stipulates that all foreigners who are on the territory of Belgium will enjoy the same level of protection granted to persons and property except for the exceptions addressed in the law.⁴⁸ This article opens up the possibility of treating foreigners differently than the Belgians in the field of education as in other fields.⁴⁹ Even though the federal government is responsible for setting the minimum standards for the education system in Belgium, the duration and content of educational programs, the regional government regulates the specific requirements for schools within their jurisdiction. The following subsections will examine these regional regulations in place in the three communities.

a. German-Speaking Community

In case a child resident in the German-Speaking Community wishes to attend a school abroad, the legal guardian must submit an attendance certificate of that respective school, to the School Inspectorate of the Ministry, by 1 October of each school year.⁵⁰ The documentation can be sent via the online

⁴³ Article 127 de la Constitution du 17 février 1994.

⁴⁴ Loi concernant l'obligation scolaire, L. 29-06-1983.

⁴⁵ Le Portail de l'enseignement en Fédération Wallonie-Bruxelles, 'Enseignement.Be - L'obligation Scolaire' <<http://www.enseignement.be/index.php?page=24546&navi=4671>> accessed 27 March 2023

⁴⁶ Portail officiel de la Fédération Wallonie-Bruxelles, 'Rappel : Obligation Scolaire Dès l'âge de 5 Ans - Portail de La Fédération Wallonie-Bruxelles' <https://www.federation-wallonie-bruxelles.be/nc/detail-article/?tx_cfwbarticlefe_cfwbarticlefront%5Bpublication%5D=3660> accessed 30 March 2023

⁴⁷ Government of Flanders, 'Compulsory Education | Flanders.Be' <<https://www.vlaanderen.be/en/compulsory-education>> accessed 3 April 2023

⁴⁸ "Tout étranger qui se trouve sur le territoire de la Belgique jouit de la protection accordée aux personnes et aux biens, sauf les exceptions établies par la loi." Art. 191 de la Constitution du 17 février 1994

⁴⁹ Perceval R, 'L'obligation Scolaire, Le Défi de l'émancipation' [2015] La Ligue

⁵⁰ *Ibid*, Article 3(2). If the enrolment of the pupil takes place after October 1st, the documentation must be provided to the School Inspectorate within 14 days.



portal⁵¹ or by post.⁵² The documents are accepted in German, French, or Dutch, otherwise, a sworn translation must be attached.⁵³ The school inspectorate will submit this matter to the public prosecutor's office if the legal guardian fails to comply with this reporting obligation.⁵⁴ Indeed, in the German-Speaking Community, no exemption to attend school abroad must be applied, but the parents of the child are rather bound by information (reporting) obligation.

Regarding **mobility to the German-Speaking Community**, the child may choose to attend one of the education systems in that community: between community education system (GUW), officially subsidised education system (OSUW), or within the free subsidised education system. Depending on the chosen system, different rules on admission apply⁵⁵. The following table summarises under which ground the specific school system must admit a student:

Community schools	Subsidised schools	Free education schools
Who is Belgian and has his domicile or permanent residence in the German-Speaking Community	Who is Belgian and has his domicile or permanent place of residence in that municipality or in the neighbouring municipality of the German-speaking area if – in the latter case – the school he wishes to attend is the closest	Who is Belgian and has his domicile or permanent residence in the German-Speaking Community
Is a foreigner and has his residence in German-Speaking Community	Who is foreigner and has his domicile or permanent place of residence in this municipality or in the neighbouring municipality of the German-speaking area if - in the latter case - the school he wants to attend is the closest	Is a foreigner and has his residence in German-Speaking Community
Meets the admission requirements	Meets the admission requirements	Meets the admission requirements

Table 6 – Grounds on admission to each school system in the German-Speaking Community⁵⁶

The German-Speaking Community also welcomes students to their primary schools who are residing abroad. This specifically applies to students whose parent(s) are employed in that community with a contract of at least six months, whose sibling is already enrolled in a school in the community, or on the basis of ‘force majeure’ of an educational or social nature approved by the government. Before

⁵¹ See Annex I. The portal can be accessed via:

https://forms.mdg.be/sba/Controler?action=login&documentId=index&mediaType=ji_html.

⁵² Email exchange with *Ministerium der Deutschsprachigen Gemeinschaft* 24 March 2023.

⁵³ Article 3 §2 Compulsory Education Act (*Gesetz über die Schulpflicht*) of 29 June 1983.

⁵⁴ *Ibid*, Article 5.

⁵⁵ https://ostbelgienbildung.be/desktopdefault.aspx/tabid-2270//4284_read-31613/

⁵⁶ *Ibid*, the table is based on information available on the website.



they may enrol, they must present a certificate issued by the competent school authority of the state in which the pupil resides stating that he/she may attend an elementary school in Belgium.⁵⁷

b. French Community

Several texts apply to compulsory education in the French Community.⁵⁸ One of the legal bases for compulsory education in the French Community of Belgium is the Royal decree coordinating the laws on primary education ratified on the 20th of August 1957⁵⁹ which was modified by the decree on 3 May 2019.⁶⁰ According to article 8 of the Royal Decree coordinating the laws on primary education, each year, one month before the fixed day for starting the school year, the communal administrations will deliver the list of pupils of school age to the Government Service.⁶¹ In addition, Article 9 of this legislation specifies that the Government Service is responsible for informing the heads of families whose children are not enrolled in school by post and registrar mail.⁶² Another text that applies on compulsory education in the French Community is the decree or “Mission” of the 24th of July 1997. It aims to govern compulsory education, to organize its principal aspects, and to define the objectives of primary education in the French Community.

In the case when a child from French Community wishes to fulfill the compulsory education abroad or in another community, a declaration of enrolment must be submitted each school year by 1 October to either Service of Education Rights (*le Service de Droit à l’instruction, SDI*⁶³), or in case they have already been affiliated with a school in French Community, to the principal of that school. The Decree of 25 April 2008 lays down the conditions on the basis of which compulsory school obligation can be met by attending a school outside the education organized or subsidized by the French Community of Belgium.⁶⁴ Pupils may enroll in a school in another Community or abroad to fulfill compulsory education when the attendance either⁶⁵ leads to a foreign credential that is equivalent to that of the

⁵⁷ Admission requirements and regularity in the regular elementary school system (*Zulassungsbedingungen und Regularität im Regelgrundschulwesen*) 11.06.2020, accessed via: https://ostbelgienbildung.be/PortalData/21/Resources/downloads/home/schulvorschriften/Zulassungsbedingungen_Regelgrundschulwesen.pdf.

⁵⁸ For an exhaustive list, please refer to Communauté française de Belgique, ‘Gallilex : Recherche Des Textes Législatifs : Recherche de Texte Législatif En Vigueur - Résultat’ <https://www.gallilex.cfwb.be/fr/leg_res_02.php?ncda=9547&referant=l02> accessed 30 March 2023

⁵⁹ Arrêté royal portant coordination des lois sur l’enseignement primaire du 20 août 1957

⁶⁰ Décret portant les livres 1^{er} et 2 du Code de l’enseignement fondamental et de l’enseignement secondaire, et mettant en place le tronc commun, 3 mai 2019

⁶¹ Art. 8 de l’Arrêté royal portant coordination des lois sur l’enseignement primaire du 20 août 1957.

⁶² *Ibid*, Art. 9.

⁶³ For example, through an email to: obsi@cfwb.be.

⁶⁴ Décret fixant les conditions pour pouvoir satisfaire à l’obligation scolaire en dehors de l’enseignement organisé ou subventionné par la Communauté française 25.4.2008.

⁶⁵ *Ibid*.



French Community or leads to foreign qualification which is recognized by the Community as satisfying compulsory education.⁶⁶

With regard to students whose domicile is abroad but who wish to attend school in the French Community, all schools subsidized and organized by the Wallonia-Brussel Federation must register all minor students whose parents request registration. The only exception is when the education institution does not have sufficient available premises to admit all the students, which must be immediately communicated to the General Administration Department.⁶⁷ However, it is important to note that in order to be enrolled in primary school, the guardian of the minor must accept the educational and pedagogical projects of the educational institution and that the student meets the requirements to stay registered at the educational institution regularly.⁶⁸ In addition, the students must submit proof of identity, a residence visa for Belgium (if applicable), proof of vaccinations in Belgium, proof of address, and any previous academic records.⁶⁹

c. Flemish Community

The Flemish authorities (*Vlaamse overheid*) establish compliance with compulsory education based on the registered place of residence.⁷⁰ If the child wishes to fulfil compulsory education by attending a school abroad, the legal guardian must:

- Ask the school where the child attends classes for a certificate of registration;
- Fill out a compulsory education control form and send it together with the certificate of enrollment to the Compulsory Education Control unit of the Agency for Education Services (*De cel Leerplichtcontrole van het Agentschap voor Onderwijsdiensten*)

In the Flemish Community, The Agency for Educational Services (Het Agentschap voor Onderwijsdiensten, AGODI)⁷¹ is responsible for the annual compulsory education inspection.⁷²

⁶⁶ This Decree also specifically refers to the fulfillment of compulsory education by attending school on the territory of a State bordering Belgium and whose attendance will lead toward the award of a diploma or certificate recognized by the Government of the Wallonia-Brussels Federation.

⁶⁷ Commission Européenne, 'Organisation de l'enseignement Secondaire Inférieur Général | Eurydice' <<https://eurydice.eacea.ec.europa.eu/fr/national-education-systems/belgium-french-community/organisation-de-lenseignement-secondaire>> accessed 3 April 2023

⁶⁸ *ibid*

⁶⁹ Décret portant les livres 1 er et 2 du Code de l'enseignement fondamental et de l'enseignement secondaire, et mettant en place le tronc commun 2019

⁷⁰ Accordingly, if a child has deregistered from Belgium and has moved the place of residence abroad, there is no need to comply with compulsory education in Belgium. However, if a child is still registered in Belgium, compliance with compulsory education in Belgium in addition to the regulations of the host country is mandatory. See Vlaamse Overheid, 'Leerplicht Voor Vlaamse Kinderen in Het Buitenland – Voor Ouders' <<https://onderwijs.vlaanderen.be/nl/ouders/naar-school/vanuit-of-naar-het-buitenland/naar-het-buitenland/leerplicht-voor-vlaamse-kinderen-in-het-buitenland>> accessed 6 April 2023

⁷¹ Het Agentschap voor Onderwijsdiensten.

⁷² Vlaamse Overheid, 'Leerplichtcontrole -Voor Ouders' <<https://onderwijs.vlaanderen.be/nl/ouders/leerplicht/leerplichtcontrole>> accessed 6 April 2023



AGODI checks whether each school-going pupil is enrolled in a recognized school in Belgium, or is exempt from compulsory education, or is attending a school abroad. AGODI does this check by comparing all available student lists with those of compulsory school age according to the National Register. Parents of children of school age who cannot be found in the available student lists will receive a letter. In this letter, parents are asked about how their child still complies with compulsory education. If AGODI receives no or insufficient information from the parents, it forwards these files to the municipalities for further investigation. They check whether these pupils meet the compulsory education requirements by means of a home visit. If a child does not meet compulsory education, AGODI can hand over the file to the public prosecutor's office for further follow-up.⁷³

Regarding mobility to the Flemish Community, the federal regulations on the start and end of compulsory education are also applicable in the Flemish Community. As a result, all students regardless of their nationality are obligated to comply with Federal compulsory education from age 5 until 18. Children with other nationalities are also obligated to comply with compulsory education from the 60th day after their registration as foreign nationals in the registry system, or their registration at the principal place of residence, or their registration at the town hall. For the students who went to school abroad, and who wish to register at the Dutch-speaking schools in the Flemish Community, there is no need to have the foreign diploma evaluated in order to continue with the primary school. The class council of the new school will decide if the child can start with the school and in which grade.⁷⁴

The legal guardians of a student whose residence is abroad and want to enroll their child at a Flemish school have the right to enroll the child in the school of their choice. Each school must enroll a non-Dutch speaking newcomer if they meet the admission requirements and if the maximum limit of students is not exceeded. It is important to note that the legal guardians of the child must accept the pedagogical program of the school until the registration is definitive. If the school refuses to enroll a child, it is obliged to provide the applicant with proof: a refusal document or a notice of unsuccessful registration. If the school does not provide this automatically, the legal guardians may request it. In addition, they can ask for mediation through local consultation platform (*Lokale overlegplatforms*). If the legal guardians suspect that the child has been unjustifiably refused to be registered, they can submit a claim to the Commission on Pupil's Rights (*Commissie inzake Leerlingenrechten*).⁷⁵

The Flemish Community also facilitates the (language) integration for children who are coming from abroad to study at the schools of the Flemish Community. The Flemish government has a special plan called reception education (*Onthaalonderwijs*)⁷⁶ to teach Dutch to foreign-speaking newcomers and

⁷³ *Ibid.*

⁷⁴ Vlaamse Overheid, 'Anderstalige Nieuwkomers – Voor Ouders' <<https://onderwijs.vlaanderen.be/nl/ouders/naar-school/vanuit-of-naar-het-buitenland/vanuit-het-buitenland/onthaalonderwijs-voor-anderstalige-nieuwkomers/anderstalige-nieuwkomers>> accessed 6 April 2023

⁷⁵ *Ibid.*

⁷⁶ Vlaamse Overheid, Onthaalonderwijs voor anderstalige nieuwkomers, omzendbrief BaO/2006/03 van 30/06/2006.



to integrate them into the classroom practice and society. During the reception year, the learning program is strongly focused on learning Dutch, integration, and naturalization. In primary school, every foreign-speaking newcomer is entitled to learn Dutch and integrate into the classroom. From a specific number of foreign-language newcomers, the school can also ask for extra funding to organize reception education.⁷⁷ Reception education in primary education comprises of 1-2 years of reception education and possibly a follow-up year. The schools in the Flemish Community have a great deal of autonomy to organize reception education. The schools can, either include the non-Dutch speaking newcomers into an existing class, create a separate student group with non-native newcomers, or combine both options. Specifically, in primary education the schools may organize a language immersion for non-Dutch speaking newcomers, possibly together with other non-Dutch speaking pupils.⁷⁸ Other criteria such as the age-criteria, being a newcomer⁷⁹, not having Dutch as mother tongue⁸⁰, lack of required competence in Dutch to follow classes, not being enrolled in a Dutch-language school for more than 9 months⁸¹ are among other criteria that must be met in order to be eligible for the reception education as a foreign-language newcomer.⁸² Another criteria is that the pupil has not lived in Belgium for more than 1 uninterrupted year. This leads to a situation that the German students registering at the Flemish primary schools can profit from this program, but it is not available for most students living in the French Community or the German-Speaking Community.

2.4.5 Comparative conclusions

Table 7 below summarizes the comparative findings regarding the fulfilment of compulsory education by attending a primary school abroad in the five regions of the EMR.

While education is compulsory in all regions by means of regulation, there are differences in the terminology and structure of such obligations. In Belgium and the Netherlands, '*leerplicht*' refers to the obligation to learn, whether in a school or home education environment. In contrast, in Germany,

⁷⁷ *Ibid.*

⁷⁸ Foreign-speaking newcomers are not screened for their language but will be given a language integration process. Based on the language screening, the school can determine whether the child needs a language integration program for Dutch. If the screening shows that the child needs a language integration program, the school must offer it and the child cannot refuse it. The school is free to decide how to implement the language integration process and which measures to use. The school can also decide that pupils who enter the course of primary education and who do not master Dutch sufficiently to follow the lessons, must follow a language integration program. See: Vlaamse Overheid, 'Verplichte Taalscreening Bij Je Kind in Het Gewoon Basisonderwijs - Voor Ouders' <<https://onderwijs.vlaanderen.be/nl/ouders/naar-school/naar-de-kleuterschool/verplichte-taalscreening-bij-je-kind-in-het-gewoon-basisonderwijs>> accessed 6 April 2023

⁷⁹ I.e. not having lived in Belgium for more than 1 year uninterruptedly.

⁸⁰ Upon communication with the Flemish community, it has been stated that the most important criterion for benefiting from reception education is the lack of Dutch knowledge.

⁸¹ Holiday months July and August not included.

⁸² For primary school students, they can be regarded as foreign-language newcomers during 1 to a maximum of 2 school years: Pupils who enroll in a school in September are regarded as foreign-language newcomers for 1 school year. Or for pupils who register in October or later can still meet all the conditions in September of the following school year.



'*Schulpflicht*' requires attending a school in a strict sense, not permitting home schooling.⁸³ Generally, compulsory education starts at the age of five and lasts until the age of 18 in most regions, except for Germany, where it starts at six years old.

In terms of fulfilling compulsory education by attending school abroad, both the Netherlands and Germany require that the child applies for an exemption from the competent authority. While in the Netherlands the attendance of a school abroad is an exception, or a ground for such an exemption itself, the German authorities require a more detailed justification and only grants exemptions in a very limited number of situations (when the applicant can prove 'particularly important reasons'). The regulations in place in North Rhine-Westphalia explicitly note that residing in a border region and wishing to attend a school across the border is not a sufficient reason on its own to grant such an exemption. These regulations emphasize the importance of integrating the child into German society through language and culture. This emphasis on integration is also evident from the discussed case law. The Administrative Court in Aachen held that attending a school in the German-Speaking Community, in a German-speaking environment was justified and did not have any negative consequences for integration in Germany. This was in contrast to attending a school in the Netherlands, where the Court concluded that a refusal for exemption was justified. From this perspective, mobility to other language regions (such as the Flemish and French Communities) would also require strong grounds before exemption would be granted.

In the three communities of Belgium, on the other hand, it is only required that parents inform the school authorities that their child is attending a school abroad, without the need to file for an exemption. Indeed, as opposed to the formal exemption procedure in place in the Netherlands and Germany (NRW), in Belgium the obligation for compulsory education is structured as a reporting/information obligation, only requiring the child/parents to show that the obligation has been fulfilled in another region or country.

Regardless of the region, the necessary documents for exemption or declaration must be submitted before the next school year. Applications or declarations may also need to be renewed each school year, and are typically accepted in English, French, German or Dutch.

⁸³ In German-speaking community, the term of '*schulpflicht*' is also used, but in that Community attending home schooling is possible.

	Netherlands	Germany (NRW)	Flemish Community	French Community	German-speaking Community
Compulsory education	From age 5 to 16 (<i>Leerplicht</i>) after which qualification requirement (kwalificatieplicht) until diploma or 18	From age of 6 to 18 (<i>Schulpflicht</i>)	From age 5 to 18 (<i>Leerplicht</i>)	From age 5 to 18 (<i>l'obligation scolaire</i>)	From age 5 to 18 (<i>Schulpflicht</i>)
Procedure required for attendance abroad	<i>Exemption</i> to fulfil compulsory education abroad must be applied for	<i>Exemption</i> to fulfil compulsory education abroad must be applied for	Reporting obligation to inform about school attendance abroad	Reporting obligation to inform about school attendance abroad	Reporting obligation to inform about school attendance abroad
Grounds of approval	List of 3 exceptions, including: attending school abroad	<i>"Particularly important reasons"</i> , assessed case-by-case. Examples: child only temporarily in Germany. Attending school abroad in a border region is not a sufficient reason on its own	-	Attending a school abroad whose credentials are equivalent, or schools that are recognized by the French Community	-
Documents required	Certificate of enrollment	Passport/ID, residence permit, proof of enrollment, other relevant evidence, together with the completed form	Certificate of enrollment abroad together with the completed form	Certificate of enrollment	Certificate of enrollment
Competent authority	Municipality of applicant's residence (<i>Gementee</i>)	District of applicant's residence (e.g., <i>StädteRegion Aachen</i>)	The Agency for Educational Services (Het Agentschap voor Onderwijsdiensten, AGODI)	Service of Educational Rights (<i>Service du Droit à l'instruction</i>)	The Ministry of German-speaking Community (<i>Ministerium der Deutschsprachigen Gemeinschaft</i>)
Deadline	1 July	Not specifically mentioned	By the 30 th of September	Before the 1 st of October	1 October
Accepted language of documents	English, German, French, Dutch	German	German, French, Dutch	German, French, Dutch	German, French, Dutch

Table 7 – Students attending primary school abroad to fulfil compulsory education



The report briefly reflected on the legal provisions of inbound mobility, i.e., when the community/state/country receives a student residing abroad. From the regulations, no striking legal obstacles were found in this respect. It is generally the school that decides on admitting a student within a national/regional framework; a common ground for refusal is when the capacity of pupils is exceeded. The German-Speaking Community specifically accepts students residing abroad if one of the parents is working in that community, or if their sibling is already enrolled in a primary school there. In the Flemish Community, the child who has residence abroad has the right to enroll in the school of their choice. Other requirements may be in place regarding, for instance, vaccination, or language skills. In Germany, indications that the child lacks adequate proficiency in the German language may lead to the need to carry out a language test. Meanwhile, in the Flemish Community, there is a concerted effort to aid the linguistic integration of children from other countries through "reception education" (*onthaalonderwijs*), which may be particularly helpful for students from Germany. However, one downside is that this program is not available to students who have resided in Belgium for more than a year, such as those from the French and the German-Speaking Community.

In conclusion, there are no clear legal obstacles to attending a primary school abroad in the EMR, with the exception of Germany's regulations and policy on integration that may present a challenge for children residing there who wish to attend school across the border.

3. Description of possible solution(s)

The objective of this B-solutions report was to conduct a brief analysis of the legislative and policy aspects surrounding pupils attending a primary school in a neighboring country or region in the EMR, and to gain insights in the current flows of mobility by means of publicly available statistics.

The report concludes that from the legal perspective, the situation in the EMR is rather positive: according to the current regulations, it is possible for most parents to send their children to a school across the border. The only exception is Germany (North Rhine-Westphalia), where a formal exemption procedure with a rather strict list of conditions is required. Only in this region did we find court cases, where parents had to go to court in order to get permission since it was declined by the competent authority, the *StädteRegion Aachen*. One such case resulted in the court upholding the decision to reject permission to attend a school in the Netherlands. The key factor considered in this exemption procedure is the degree of integration into German society. If there are concerns regarding the adequacy of German language learning in the school across the border, the exemption is likely to be refused. The regulation explicitly states that residing in a border region and desiring to attend the nearest school is not an acceptable justification. To address this issue, it may be advisable to revise the regulations in Germany (NRW). Rather than considering the student's integration into German society, in the border regions, it could be considered from the perspective of *Euregional integration*. However, the political willingness of implementing such a legal amendment is questionable.

The statistics on the cross-border mobility of pupils examined in this report show that we cannot speak about a truly "Euregional (primary) education space". The number of pupils visiting a school across the



border is quite limited overall. Nonetheless, some flows of mobility can be observed, particularly in situations where the official language on both sides of the border is the same (such as in the case of the Netherlands and the Flemish Community). Furthermore, the good reputation of Flemish schools might explain why some people living in the Netherlands sent their children to Flemish schools, while the special pedagogical profile of the *Freie Waldorfschule* in Germany seems to attract relatively many (probably German speaking) pupils from Belgium. All in all, these observations show that there is some potential for a Euregional education space. On the other hand, the mobility towards primary schools in the Netherlands among pupils whose (Dutch) families have moved from the Netherlands to a place across the border in Belgium or Germany may not be regarded as a sign of an emerging Euregional primary education space.

The primary reason behind the limited cross-border school attendance may thus not be a legal restriction to stay in the country of residence. Rather, it seems that there is no very widespread motivation on the side of the parents to send their children to a primary school across a national, regional, and/or linguistic border. This has probably also to do with the fact that there are not really cross-border-oriented schools at the moment, which specifically aim to attract pupils from across the border, for example by having a special Euregional curriculum, including significant attention for the languages of the Euregio. Existing initiatives such as “Euregio(profiel)school”, which intend to stimulate a Euregional mind-set among local pupils, may be a first modest step in this direction.

4. Other relevant aspects to this case

This report only considered the cross-border mobility of pupils from the perspective of legal regulations regarding the fulfilment of the obligation of compulsory education by attending a school abroad. To gain a more thorough understanding of the situation and potential obstacles, it is necessary to evaluate other factors, for instance, the differences in the organization and structure of primary education systems in the EMR. Obstacles may arise, for example, when a pupil wishes to transition from one system to another. Furthermore, the report has once again shown the importance of developing comparable statistics about cross-border mobility. To gain a fuller understanding of the current situation and the developments over time, more publicly available data would be needed.



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Annex I: Forms to be submitted when child is attending in a school abroad

VRIJSTELLING VAN INSCHRIJVING OP GROND VAN SCHOOLBEZOEK IN HET BUITENLAND
artikel 5 sub c van de Leerplichtwet 1969

Voor het eerst inzenden 1 maand voor de aanvang van de leerplicht en nadien jaarlijks vóór 1 juli.

1. Gegevens ouder/verzorger die beroep op vrijstelling doet

(naam en adresgegevens zoals opgenomen in het bevolkingsregister)

voorletters en achternaam :
adres :
postcode en woonplaats :
telefoon :
e-mail :
relatie tot kind :

2. Gegevens van uw kind voor wie een beroep op vrijstelling wordt gedaan

(naam en adresgegevens zoals opgenomen in het bevolkingsregister)

voorletters en achternaam :
woonadres :
(indien niet woonachtig in het buitenland) :
woonplaats :
land :
geboortedatum :
betreffende het schooljaar : 20.. / 20..

Ondergetekende beroept zich op vrijstelling van de verplichting tot inschrijving van de onder 2 genoemde jongere als leerling van een school in Nederland wegens studie in het buitenland (artikel 5 sub c van de Leerplichtwet 1969).

Bij de aanvraag dient de schoolverklaring (van de school in het buitenland) gevoegd te worden.

Ter informatie: Als uw kind langer dan acht maanden buiten Nederland woont en het volgende schooljaar ook in het buitenland naar school gaat, heeft u de wettelijke verplichting het vertrek naar het buitenland van uw kind door te geven aan de afdeling Burgerzaken van de gemeente.

Ondertekening

Datum:

Handtekening:

VERKLARING SCHOOLBEZOEK BUITENLAND
Artikel 5 sub c juncto artikel 9 van de Leerplichtwet 1969

1) Gegevens van de school/instelling in het buitenland

naam school/instelling :
adres :
plaats :
land :
telefoonnummer :
soort onderwijs : basisschool \ voortgezet onderwijs \ beroepsonderwijs

2) Gegevens van de leerling

voorletters en naam :
woonadres in het buitenland :
woonplaats :
geboortedatum :

3) Inschrijvingsgegevens

Datum inschrijving leerling :
Betreffende het schooljaar : 20.. / 20..
Studierichting :

4) Ondertekening directeur school/instelling

Naam :
Datum :
E-mail :
Handtekening :
Stempel school :

SCHOOLSTATEMENT

**Article 5 sub c juncto article 9 of the Leerplichtwet 1969 (Compulsory Education Law 1969)
(attending school in foreign country)**

1) Name of school/institute outside the Netherlands

Name of school/institute :
Address :
City :
Country :
Telephone number :
Type of school :

2) Personal information of the pupil

Name and Surname :
Local Adres of Student :
City :
Date of Birth :

3) Enrollment information

Registered at this school/institute since :
School year : 20.. / 20..
Direction of the study :

4) Signature school principal

Name :
Date :
E-mail :
Signature :
School stamp :

Name

Ort, Datum

Adresse

Schulamt
für die Städteregion Aachen
52090 Aachen

Antrag auf Erteilung einer Ausnahmegenehmigung zum Besuch einer ausländischen Schule

Hiermit beantragen wir für unser Kind eine Ausnahmegenehmigung gemäß § 34 Absatz 5 Schulgesetz Nordrhein–Westfalen zum Besuch folgender ausländischer Schule:

(Name und Adresse der Schule)

Name des Kindes: *	Vorname	geboren am:	geboren in:	Staatsangehörigkeit
--------------------	---------	-------------	-------------	---------------------

Straße, Hausnummer	PLZ, Ort	(wenn deutsch) seit
--------------------	----------	---------------------

Für den/die Schüler/in ist ein Verfahren zur Feststellung des sonderpädagogischen Förderbedarfs (AO–SF) beantragt	<input type="checkbox"/> ja	<input type="checkbox"/> nein
Der/Die Schüler/in erhält sonderpädagogische Förderung	<input type="checkbox"/> ja	<input type="checkbox"/> nein

Erziehungsberechtigte

Name des Vaters	Vorname des Vaters	Staatsangehörigkeit
-----------------	--------------------	---------------------

Straße, Hausnummer	PLZ, Ort	(wenn deutsch) seit
--------------------	----------	---------------------

Name der Mutter	Vorname der Mutter	Staatsangehörigkeit
-----------------	--------------------	---------------------

Straße, Hausnummer	PLZ, Ort	(wenn deutsch) seit
--------------------	----------	---------------------

Schullaufbahn des Kindes (Bitte bei Schulen im Ausland nur den Namen des Landes und die Dauer eintragen)
Besuchte Schulen von/ bis

Grund Ihres Aufenthaltes in der Bundesrepublik Deutschland?

Warum möchten Sie nicht, dass Ihr Kind eine deutsche Schule besucht?
(weitergehende Erklärungen bitte auf einem gesonderten Blatt beifügen)

Seit wann leben Sie in der Bundesrepublik Deutschland?

Seit wann wohnen Sie in Ihrem derzeitigen Wohnort?

Von welchem Ort sind Sie in Ihren derzeitigen Wohnort zugezogen?

Wann werden Sie die Bundesrepublik Deutschland verlassen?

Haben Sie Wohneigentum in der Bundesrepublik Deutschland?

nein

ja

seit: _____

Für jedes Kind ist ein gesonderter Antrag einzureichen!

Folgende Unterlagen sind dem Antrag beigelegt:

- Kopie des Passes/Ausweises der Erziehungsberechtigten (Mutter und Vater)
- Kopie des Passes/Ausweises des Kindes
- Kopie der Aufenthaltserlaubnis der Erziehungsberechtigten (Mutter und Vater)
- Kopie der Aufenthaltserlaubnis des Kindes
- Erklärung der Aufnahmebereitschaft der umseitig genannten ausländischen Schule
- Für den Fall, dass der Aufenthalt in der Bundesrepublik Deutschland nur vorübergehend ist: Nachweis über den bevorstehenden Umzug ins Ausland
- falls das alleinige Sorgerecht besteht, einen Nachweis über das alleinige Sorgerecht

Hiermit versichere ich / versichern wir die Vollständigkeit und Richtigkeit der oben gemachten Angaben.

Hinweis zum Datenschutz:

Allgemeine Informationen zur Datenschutzgrundverordnung (DS-GVO) stehen unter www.staedteregion-aachen.de/datenschutz-im-schulamt zur Verfügung. Es wird um Kenntnisnahme gebeten. Sollten Sie über keinen Internetzugang verfügen, können Ihnen die Informationen gerne auch in Papierform zur Verfügung gestellt werden. Hierzu wird ggf. um einen entsprechenden Hinweis gebeten.

Ort, Datum

Unterschrift Erziehungsberechtigte

Unterschrift Erziehungsberechtigter

Erziehungsberechtigte(r)

Anrede	<input type="radio"/> Herr *
	<input type="radio"/> Frau
Name	<input type="text"/>
Vorname	<input type="text"/>

Adresse	
Straße	<input type="text"/>
Hausnummer	<input type="text"/>
Postleitzahl	<input type="text" value="Wählen Sie einen Wert"/>
Ort	<input type="text"/>

Kontakt	
Telefon	<input type="text"/>
E-Mail	<input type="text"/>

Geben Sie bitte an, wieviele Kinder Sie anmelden möchten

Anzahl	<input type="text" value="1"/>
--------	--------------------------------

NÄCHSTER SCHRITT >

Leerplichtcontrole

Agentschap voor Onderwijsdiensten
Cel Leerplichtcontrole
 Hendrik Consciencegebouw
 Koning Albert II-laan 15, 1210 BRUSSEL
leerplichtcontrole@vlaanderen.be

In te vullen door de
 behandelende afdeling
 dossiernummer

Waarvoor dient dit formulier?

Met dit formulier gaat de cel Leerplichtcontrole van het Agentschap voor Onderwijsdiensten na of uw kind aan de leerplicht voldoet en onderwijs krijgt.

Wie vult dit formulier in?

Een ouder of de persoon die de minderjarige onder zijn bewaring heeft, vult dit formulier in.

Gegevens van uw kind

voor- en achternaam

straat en nummer

postnummer en gemeente

telefoonnummer

geboorteplaats

geboortedatum

dag maand jaar

Gegevens over het onderwijs dat uw kind volgt

- Uw kind is ingeschreven in een school, een centrum voor deeltijds onderwijs of een middenstandopleiding. **Vul de gegevens van de onderwijsinstelling in.** Voeg bij dit formulier een attest van de onderwijsinstelling, ook als uw kind ingeschreven is in een buitenlandse onderwijsinstelling.

naam

straat en nummer

postnummer en gemeente

land

telefoonnummer directeur

- Uw kind bezit al een diploma secundair onderwijs, een getuigschrift van het tweede leerjaar van de derde graad of een kwalificatiegetuigschrift van het buitengewoon secundair onderwijs. Voeg bij dit formulier een kopie van het attest.
- Uw kind volgt individueel huisonderwijs (thuis) of collectief huisonderwijs (privéschool). Voeg bij dit formulier een verklaring van huisonderwijs. U vindt dat formulier op <http://onderwijs.vlaanderen.be/hoe-organiseer-ik-huisonderwijs>.
- Uw kind is vrijgesteld van de leerplicht. Voeg bij dit formulier een kopie van de beslissing van de commissie van advies voor het buitengewoon onderwijs (CABO) of de beslissing van het Zorgpunt Onderwijsinspectie.
- U vermoedt dat uw kind in orde is met de leerplicht. **Waarom vermoedt u dat uw kind in orde is met de leerplicht?** Voeg bij dit formulier een bewijsstuk om uw antwoord te staven.
-

U vermoedt dat uw kind niet in orde is met de leerplicht. **Waarom vermoedt u dat uw kind niet in orde is met de leerplicht?**

Voeg bij dit formulier een bewijsstuk om uw antwoord te staven.

.....

Ondertekening

Ik bevestig dat alle gegevens in dit formulier naar waarheid zijn ingevuld.

datum

dag maand jaar

handtekening

voor- en achternaam

.....

Aan wie bezorgt u dit formulier?

Bezorg dit formulier aan het Agentschap voor Onderwijsdiensten. U vindt het adres bovenaan op dit formulier. U kunt dit formulier ook mailen naar leerplichtcontrole@vlaanderen.be.

Privacywaarborg

AGODI verwerkt uw persoonsgegevens in het kader van het algemeen belang van uw kind. Als u niet wilt dat we uw gegevens verwerken, kunt u dat melden door te mailen naar dpo.agodi@ond.vlaanderen.be. U kunt ook altijd mailen om te vragen welke persoonsgegevens we verwerken en u kunt ze laten verbeteren of verwijderen. We vragen dan een bewijs van uw identiteit zodat we uw gegevens niet meedelen aan iemand die er geen recht op heeft. Als u vragen hebt over de manier waarop we uw gegevens verwerken, kunt u contact opnemen via het bovenvermelde e-mailadres of telefoonnummer. Bent u het niet eens met de manier waarop we uw gegevens verwerken, dan kunt u zich wenden tot de bevoegde toezichhoudende autoriteit. Ons beleid op het vlak van gegevensverwerking vindt u op <http://www.agodi.be/over-ons/privacyverklaring>.