

Linguistic Diversity and Linguistic Minority Issues in Belgium

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The management of linguistic diversity is a complex political and administrative issue. Several multilingual countries such as Belgium, Canada, Spain or Switzerland have elaborated their own political structures, their own constitutional and legislative provisions to safeguard the rights of their linguistic minorities. Such processes have usually taken place slowly. They may sometimes need some adjustments to new demographic realities, including through new state reforms. However, the appropriate management of the linguistic issues in these countries carried out with the collaboration of the population, their political representation and civil society organizations has certainly contributed up to now to thwart separatist forces, to maintain the cohesion of society and their territorial integrity. Centrifugal forces have not disappeared but have remained under control of these states. Despite and because of its weak points and its difficulties, the Belgian experience may be a source of inspiration and reflexion for other countries which are confronted to linguistic diversity but it is up to each state to imagine its own political solutions in the limits of the local current balance of powers.

State structures and linguistic communities in Belgium¹

Belgium is a federal state with a federal parliament, three regional parliaments (Flanders, Wallonia and Brussels-Capital) and three community parliaments (the communities of Dutch-speakers, French-speakers and German-speakers).² This double federalism (territorial federalism and community-based federalism) is a unique example in the world.

The country has been divided into four language regions (three monolingual and one bilingual): the Flemish Region (about 6 million inhabitants), the Walloon Region, (about 3.3 million inhabitants), the German-speaking Region (about 70,000 inhabitants living in 9 municipalities of the Walloon Region) and the bilingual Region of Brussels-Capital (about 1 million inhabitants)³. The 1962-1963 language laws fixed the boundaries of the linguistic regions.

After several reforms of the Belgian state in the last twenty years, competences for many policy areas were transferred from the federal to the regional level. Belgium's communities and regions are therefore now invested with legislative power in many areas which have the potential to directly affect (linguistic) minorities in various fields, such as employment and economic policy, housing, culture, education and the use of language in administrative matters.⁴

¹ For a more detailed historical and analytical overview of linguistic minorities and related issues in Belgium, see K. Deschouwer, *Ethnic structure, inequality and governance of the public sector in Belgium*, United Nations Research Institute for Social Development, January 2004, at [http://www.unrisd.org/unrisd/website/document.nsf/d2a23ad2d50cb2a280256eb300385855/ec506a59176be044c1256e9e003077c3/\\$FILE/Deschou.pdf](http://www.unrisd.org/unrisd/website/document.nsf/d2a23ad2d50cb2a280256eb300385855/ec506a59176be044c1256e9e003077c3/$FILE/Deschou.pdf) (accessed 13 November 2007).

² Belgium has a population of about 10 million inhabitants. It consists of 10 provinces and 589 municipalities: 308 in Flanders, 262 in Wallonia and 19 in the Brussels-Capital Region.

³ The official language is Dutch in the Flemish Region, French in the Walloon Region and German in the German-speaking Region.

⁴ Council of Europe, Parliamentary Assembly Committee on Legal Affairs and Human Rights, Doc. 9536 *Protection of minorities in Belgium*, 5 September 2002, Explanatory Memorandum by Mrs. Nabholz-Haidegger, Rapporteur, para. 27; Council of Europe, Parliamentary Assembly, Resolution 1301 (2002) *Protection of Minorities in Belgium*, para. 8, at <http://assembly.coe.int/Documents/WorkingDocs/Doc02/EDOC9536.htm>

In Belgium, the territoriality principle *inter alia* requires that within each monolingual region, all communications between the public authorities and the public take place in the language of that region⁵.

In the various regions of the country, linguistic minorities are protected through various mechanisms. In Wallonia, the German-speakers have their own community parliament and government in charge of administration, school education, sport, tourism, culture, radio and television, and so on in their sub-region. In the Flemish Region, the French-speakers of six municipalities contiguous to the Brussels-Capital Region enjoy some linguistic facilities because they represent a large share or the majority of the local population. In the Brussels-Capital Region, the Dutch-speakers have a guaranteed political representation in the parliament despite their small number.

The German-speaking minority in the Walloon Region

The German-speaking Community is the smallest of the three Communities. It has a population of some 68,000 inhabitants and occupies an area (German-speaking Region) of 854 km². The seat of the Community institutions is in Eupen, a local city.

The “Community Day” (National Day for the German-speakers) is held on 15 November, as set by decree⁶. The federal Constitution places the German-speaking Community in an equal footing with other Communities: it has the same competences and issues decrees.

The competences have been granted by an ordinary federal law and not by a special law, which can only be changed with a special majority (two-third of the members of the federal parliament along with a simple majority in each of the linguistic chambers of the federal parliament), as is the case for the other Communities and Regions.

The parliament of the German-speaking Community consists of 25 directly elected members from the German-speaking Region. One of them also sits in the federal senate. They take the oath in the German language.

The parliament issues decrees. These decrees are only valid in the German-speaking Region.

The French-speaking minority in the Flemish Region: the six municipalities with “language facilities”

The 1962-1963 language laws provided for “linguistic facilities” for the inhabitants of 27 communes with linguistically mixed populations and contiguous to a different linguistic region. They included the right to request that, in their dealings with the authorities (regarding i.e. administrative matters, education and relations between employers and employees), language other than that of the region in which the communes are located can be used. Ever since the adoption of a constitutional amendment in 1988, the linguistic facilities in these 27 municipalities cannot be changed except by a federal law with a qualified majority. 6 of these 27 municipalities⁷ lying in the Flemish region are contiguous to the Brussels Region and have a large share, sometimes a majority, of French-speaking inhabitants.

⁵ For instance, in Flanders, a building permit has to be requested and granted in Dutch, while in Wallonia, the whole procedure needs to take place in French. The same procedure applies to the issuing of voting lists.

⁶ Each community has chosen its own “community day” and set it by decree.

⁷ The municipalities in question are Drogenbos, Kraainem, Linkebeek, Sint-Genesius-Rode, Wemmel and Wezembeek-Oppem. The facilities include *inter alia* the right to request – in each individual case – communications in French with the local governments, instead of in Dutch (which is generally required in the monolingual Flemish Region).

While the Walloon Government applies the original laws concerning the use of languages in administrative matters in the municipalities with “facilities” of the Walloon Region, the Flemish Government has adopted decrees and circular letters “interpreting” the federal legislation on the “facilities.” Hence the tensions and the problems in the 6 municipalities with facilities of the Flemish Region near the Brussels-Capital Region.

School education is one of the areas of conflict. In principle, Dutch-language schools accept all pupils both from the 6 municipalities with facilities and from outside. However, the access to the local French-language schools is limited to the local French-speaking residents.

There are also a number of conflicting issues in the cultural sphere. According to a decree of the Flemish Parliament, public libraries can only be subsidized if at least 75% of the books are in Dutch. The result is the establishment of private libraries with more than 25% of the books in French. The financing of local French-language magazines by the French Community of Belgium has met with the opposition of the Flemish Government on the grounds that this is a violation of the territoriality principle. Several TV programmes aired from France have also been eliminated by the communal cable distributors.

Another source of controversy is the language to be used in municipal councils where the mayor and most of the councillors are French-speaking. According to the Flemish Government, the facilities only apply to the administered and only Dutch may be spoken in the meetings of the council. However, according to the French Community of Belgium citing a decision of the Court of Arbitration of 10 March 1998, the obligation to speak Dutch only extends to the mayor and his deputies, not to individual councillors.

In 1996, the Belgian Court of Arbitration — also called Constitutional Court — held in a judgment that “it is the duty of each legislator, within the limits of its competence, to ensure the protection of minorities”. In the same judgment, the court held that Flanders is responsible for protecting the rights of the “French-speaking minority established” in the Flemish municipalities where facilities for French-speakers are provided.⁸ This judgment has therefore implicitly introduced the theory that French-speaking citizens are a minority in the Flemish Region, at the very least in the Flemish municipalities with facilities for French-speaking citizens.

Rapporteurs of the Parliamentary Assembly of the Council of Europe have reported that there is “an increased tendency of the Flemish government to restrict, as far as legally possible, the use of the linguistic facilities, with the aim of reinforcing the Flemish, Dutch-speaking character of the region, including in the six municipalities in question. This tendency of the Flemish Government seems itself to originate in a perceived ‘Frenchification’ of the Brussels periphery, a fear to which some French-speaking politicians have probably contributed”.⁹

The Dutch-speaking minority in the Brussels-Capital Region

The Parliament of the bilingual Brussels-Capital Region (19 municipalities) consists of 89 directly elected members: 17 Dutch-speaking and 72 French-speaking. The Dutch-speaking minority is protected by a

⁸ Court of Arbitration, Judgment N° 54/96 of 3 October 1996, as found in Council of Europe, Parliamentary Assembly, Resolution 1301 (2002) “Protection of Minorities in Belgium”, para. 10.

⁹ Council of Europe, Parliamentary Assembly Committee on Legal Affairs and Human Rights, Doc. 9536 *Protection of minorities in Belgium*, 5 September 2002, Explanatory Memorandum by Mrs. Nabholz-Haidegger, Rapporteur, para. 11.

fixed quota of deputies despite the steadily decreasing number of Dutch-speaking voters¹⁰. The 89 elected members are divided into two language groups. With regard to Community matters (culture, education, tourism, health policy, and so on), they sit separately but they sit together in a joint assembly for the management of institutions that do not exclusively belong to a specific community.

The members of the Government also sit separately, according to the language group they form part of.

The Parliament issues ordinances. These govern the regional matters of Brussels. They have almost the same legal force as decrees. However, there is a control on the constitutionality of ordinances, which is not the case for decrees.

A domestic remedy: the Permanent Commission for Language Supervision

At the domestic level, a mechanism has been put in place to collect individual complaints against alleged violations of language legislation by the federal state, the communities, the regions, the provinces and all municipalities of Belgium¹¹ named the Permanent Commission for Language Supervision (PCLS). The Commission, which is an advisory body, has been mandated to investigate all violations of the administrative language legislation by any administrative body of the state.¹² The Commission is divided in a Flemish and a French section, each retaining competence over their respective regions. However, for the Brussels Region and for particularly sensitive areas such as municipalities with linguistic facilities and the protection of minorities, the PCLS convenes in a joint assembly made up of both sections.¹³

Belgium, national minorities and the Council of Europe

Belgium signed, but did not ratify, the Framework Convention for the Protection of National Minorities on 31 July 2001. Moreover, Belgium has issued a declaration accompanying its signature, stating that “the Framework Convention applies without prejudice to the constitutional provisions, guarantees or principles, and without prejudice to the legislative rules which currently govern the use of languages. The Kingdom of Belgium declares that the notion of national minority will be defined by the inter-ministerial conference of foreign policy”.¹⁴ However, Belgium has not yet been able to define this notion.

Because of the way the Belgian state is organised, the Framework Convention should be signed and ratified by all seven competent parliamentary assemblies before it can enter into force in Belgium. However, these ratifications have as of yet not taken place due to differing views on the matter that exist in the (Dutch-speaking) North and in the (French-speaking) South of the country.

¹⁰ Voting is compulsory in Belgium. At the last regional elections in June 2009, only 51 818 people out of a population of 1 million inhabitants voted for Flemish voting lists, a decrease of about 10,000 in five years.

¹¹ Ibid.

¹² Federale Overheidsdienst Binnenlands Zaken, “Vaste Commissie voor Taaltoezicht”, <http://www.ibz.be/code/nl/loc/instit.shtml> (accessed 29 October 2008).

¹³ Ibid.

¹⁴ See the website of the Council of Europe, at <http://conventions.coe.int/Treaty/Commun/ListeDeclarations.asp?NT=157&CM=8&DF=08/02/05&CL=ENG&VL=1> (accessed 11 December 2007).

Conclusions

Despite its genuine efforts and several deep state reforms meant to better accommodate its linguistic diversity, Belgium has accumulated a substantial deficit in good governance over the last decades. Some practices of the Flemish community have raised serious concerns among the French-speaking political parties and at the Council of Europe¹⁵.

It is therefore urgent for Belgium to ratify the Framework Convention for the Protection of National Minorities and to seriously take into consideration strong and repeated signals sent by the Council of Europe and the United Nations, such as

- the 23 July 1968 decision of the European Court of Human Rights in the “*Case relating to certain aspects of the laws on the use of languages in education in Belgium’ v. Belgium*”;
- the Council of Europe Parliamentary Assembly Resolution 1301 on the “*Protection of Minorities in Belgium*” (2002);
- the Report on the “*Protection of minorities in Belgium*” of the Council of Europe Parliamentary Assembly Committee on Legal Affairs and Human Rights (5 September 2002);
- the Resolution 276 (2008) “*Local democracy in Belgium: non-appointment by the Flemish authorities of three mayors*” of the Council of Europe Congress of Local and Regional Authorities;
- the Concluding Observations of the UN Committee on the Elimination of Racial Discrimination, *Consideration of Reports Submitted by State Parties under Article 9 of the Convention: Belgium* (7 March 2008)

The practice of linguistic tolerance, courtesy and mutual respect between the political parties of the two main communities would also greatly contribute to the solution of many problems.

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¹⁵ See full report « Human Rights in Belgium (2007-2008): Linguistic Issues and Linguistic Minority Issues” at <http://www.hrwf.net>