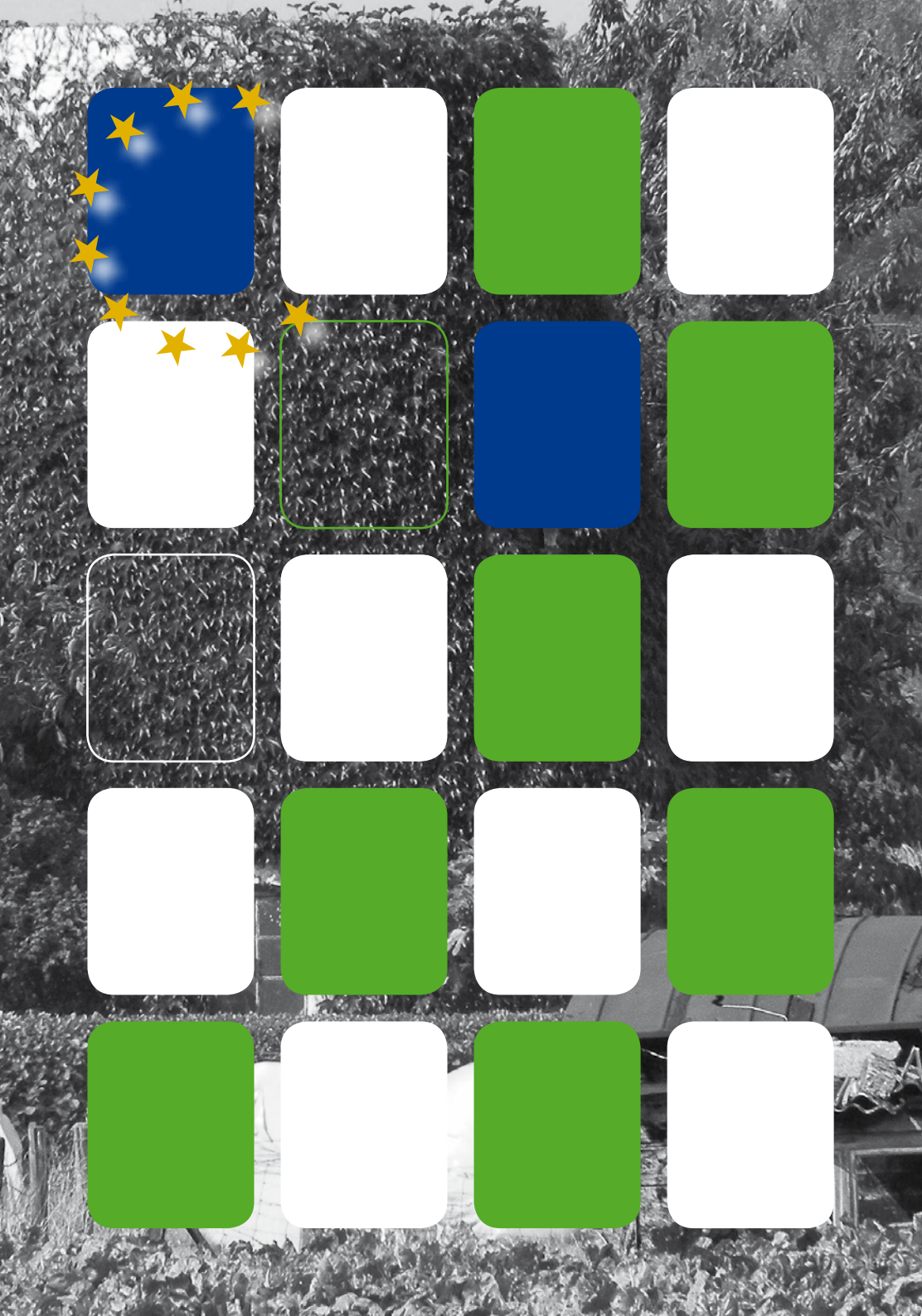
Language and Territoriality

in Flanders in a historical and international context

Prof. dr. Hendrik Vuye
Professor of Constitutional Law and Human Rights
University of Namur

AGENTSCHAP VOOR BINNENLANDS BESTUUR
de Rand



Preface

Flanders welcomes a growing number of expats and foreign speakers on its densely populated territory in Europe. Naturally, European Brussels is the magnet par excellence, but more and more Europeans are settling in the Vlaamse rand, just outside Brussels. Which is understandable, because it is good living there.

Today, more than one in five of the residents of the 19 Flemish municipalities around Brussels are of foreign origin. This even amounts to 30% in the six municipalities with facilities. The Vlaamse Rand is internationalising. Currently, only 40% of the families with new-born children speak Dutch as their main language at home. This conclusion was drawn by VUB researchers in a recent report.

All these foreign newcomers are confronted with our 'strict' language legislation. We speak Dutch here. You probably notice this the most in the contacts with public services. Letters and publications of the municipalities are in Dutch. Counter clerks speak Dutch and so do police officers, postmen, nurses of the Child and Family Agency, and bus drivers on buses of De Lijn. And if your children attend a Dutch-speaking school, the teachers there also speak Dutch, including to the parents. No French, no English, no German. Recently a BBC journalist reported that Flanders is probably the only place in the world where people can speak a language but are not allowed to. I can understand that sometimes it is hard for you to understand.

Yet, we do not wish to make it difficult for you. Dutch is our mother tongue and the official language of our federated state, as well as one of the two official languages of Brussels. The same goes for French in the French Community and German in the German-speaking Community. Dutch is the first language for over 22.8 million Europeans. This is a lot more than the number of people who have beautiful languages such as Danish, Greek, Portuguese, Finnish, Czech or Swedish as their local speech. Yet, the Dutch language is not a predominant language vis-à-vis the French language. This shows from the rapid Frenchification of the officially bilingual Brussels, which also extends to the municipalities in the Flemish periphery around Brussels. This has a lot to do with the polyglottism of the Flemish people. We can speak foreign languages and like parading this ability. That is probably why you do not hear a lot of Dutch being spoken in your environment. Why learn Dutch when the Flemish people are able to speak other languages? I can understand that sometimes it is hard for you to understand.

Moreover, it seems unclear to many of you where this country is headed. The language status of the Vlaamse Rand is often on the political negotiation table. This causes

uncertainty. Why learn Dutch when the French-speaking politicians want to make the Vlaamse Rand bilingual? I can understand that sometimes it is hard for you to understand.

I would like to help you understand. The language rules in Flanders are not different from those in Wallonia. This may sound a bit strange, but the subdivision into language areas is the only possibility for us to live together. Any other solution would be worse than the so-called "problem" which is to be fought. The policy in the Vlaamse Rand is not stricter than in other countries with several official languages or similar metropolitan problems. This publication by Hendrik Vuye, Professor of Constitutional Law at the University of Namur, will guide you through the Belgian language jungle and today's policy in the Vlaamse Rand, and will approach matters from an historical and political perspective. This publication reflects the plea he held before the expat community on 8 December 2010 during an extra edition of Speakers' Corner, the series of lectures which was organised by npo de Rand for foreign speakers, within the framework of the Belgian EU Presidency.

Hopefully, this publication will help you to understand us better and to appreciate our language laws and language policies. Mutual respect builds many bridges. Because we will continue to welcome you in the future. To enjoy interesting international company, to learn from each other, to enter into debate. In whichever language. As long as we understand each other from time to time.

Luc Van den Brande
Former Flemish Minister-President and President of the Liaison Agency Flanders-Europe

Table of Contents

Preface: Why is Belgium the way it is?

1. Why is Belgium not bilingual?

Many foreigners ask why Belgium is not bilingual. After all, it seems so logical? Maybe, it even could have been. José-Alain Fralon, who worked as a correspondent for Le Monde in Brussels for quite some time, writes in his La Belgique est morte, vive la Belgique (2009) how different things could have been. He returns to 21 July 1831 and describes a fictitious alternative version of the taking of the oath by Leopold I. The King first takes the oath in French. The crowd is delirious with joy; Belgium has a King! After a short while, the King takes the oath in Dutch. He realises that this is a very sensitive matter, since this is the language of the armies of the ousted William I. The crowd is baffled, some people are even furious. Still, Leopold I knows that the majority of his subjects speak 'Flemish'. He wants to be the King of the entire country, not just of the French-speaking bourgeoisie. This is precisely why he takes the oath in both languages. Leopold I turns out to be a political genius, realising from the start how big a challenge it will be for him to have both language communities of this country live together.

In reality, Leopold I was not that much of a political genius. He only took the oath in French. It would last until 1909 before Albert I would be the first king to also take the oath in Dutch.

Belgium did not become bilingual because this was prevented by the Belgian revolution of 1830. In 1827, the liberal and catholic opposition against William I had reconciled to work together on joint grievances. These grievances included the pursuit of a parliamentary regime with direct elections and ministerial responsibility, freedom of religion and education, freedom of press and association and the abolition of the language imposition ('taaldwang'). To the Belgian revolutionaries it was unthinkable for Belgium to become a bilingual country. Laws and decrees were solely published in French. Belgium was a French-speaking nation. The language issue and language policy of William I of Orange helped lay the foundations for the Belgian revolution. The King had proclaimed Dutch a language of administration in the Flemish provinces. This language imposition was rejected by the united opposition. The new Belgium decided in favour of language freedom.

As a result, French became the language of the Belgian revolution, the language of the victor. Dutch was the language of the enemy, the language of the ousted and of the Orangist opposition within the new state. Moreover, a Dutch standard language was not yet spoken in Flanders, but rather a variety of dialects. French became the language of administration as well as the language of culture in the new Belgium. It

is really no coincidence that the Ghent writer Maurice Maeterlinck, who received the Nobel Prize for Literature in 1911, wrote in French. This is fully in line with the spirit of the times when French was the language of culture in Flanders.

2. Why states are not bilingual

Nearly all federal states are organised in keeping with the territoriality principle. This even applies to states that are predominantly monolingual, like the United States of America. In a federal state, each federated state exercises its competences within a particular territory. This is an application of the territoriality principle.

Sometimes, language and territoriality are linked. This is the case in countries where several languages are spoken that are locally embedded. Switzerland and Canada, for instance, are divided into language areas. Within each language area privileged status is granted to one language, and sometimes even to several languages. In the federation itself different official languages are usually spoken.

The Belgian choice for territoriality is therefore no exception. Quite on the contrary, as the territoriality principle is applied in most federal states.

3. Misunderstandings about Belgium

There are a lot of misunderstandings about territoriality. Foreign observers think that the Belgian State was organised on a territorial basis under pressure of the Flemish Movement ('Vlaamse Beweging'). They believe that the monolingual language areas have come about under pressure of the Flemings. This is not the case. Belgium was territorially organised because the Walloons did not want a bilingual Belgium. I will discuss this later on.

There are other misunderstandings about the constitutional organisation of Belgium. The Belgian federated states vote standards that are on an equal footing with laws. Consequently, there is no hierarchy between the standards adopted by the federated state parliaments and the standards adopted by the federal parliament. In this respect, Belgium is the opposite of Germany where the rule 'Bundesrecht bricht Landesrecht' applies. Many observers are of the opinion that this lack of hierarchy in the standards is the result of the Flemish strive for independence. They are wrong. This "equal footing" was a demand of the French speakers. They feared that the Flemish majority in the national parliament would overrule the French-language decrees.

A similar misunderstanding exists about the parity of the ministerial council that was introduced in 1970. This stipulates that, with the possible exception of the Prime Minister, there must be an equal number of Dutch-speaking and French-speaking federal Ministers, despite the fact that Belgium is home to about 6 million Flemings compared to 4 million French speakers. This parity is described as a protection of the French-speaking minority. It is correct that these days this rule protects the French-speaking minority. However, in 1970 this was also a protection measure of the Flemish majority. The Harmel Government, which was in office from 1965 to 1966, for instance, still counted more French-speaking than Dutch-speaking Ministers. Belgium is a country where the majority had to be protected through techniques which elsewhere serve to protect minorities. This may sound strange, but this is how it is.

4. Territoriality and human rights

Territoriality does not affect human rights, but is often used as a way to organise a state. The European Court of Human Rights has had to tackle the Belgian territoriality principle several times already. This principle was never found to be in contravention of human rights.

In the judgment 'Mathieu-Mohin and Clerfayt v. Belgium' the Court rules that the territoriality principle is a legitimate choice, because it is designed to achieve an equilibrium between the various federated states[1]. In the Belgian language disputes the Court rules that the language regions ensure language homogeneity in areas where the majority of the population speaks only one language. The fact that as a result of this the legislation discourages the establishment of French-speaking schools in the Dutch language area is not an arbitrary intervention from the authorities[2].

Yet, territoriality is often described by French speakers as 'le droit du sol', as opposed to 'le droit des gens'. These metaphors wrongly give the impression that citizens have no – or fewer - rights when the territoriality principle is applied. The proposition that territoriality is in violation of the fundamental rights is manifestly wrong, given the judgement by the European Court of Human Rights. Territoriality is not a breach of human rights, but a polity which allows different language communities to live together in peace.

1 All notes on page 41

Belgium is a federal state

5. Language areas

Article 4 of the Constitution states that Belgium is composed of four language areas: the Dutch language area, the French language area, the bilingual area of Brussels-Capital and the German language area. These language areas are not federated states with autonomous competences, but territorial subdivisions. For this reason, language areas do not have governments and parliaments; they are simply demarcations within the Belgian State.

The Dutch language area encompasses the provinces of Antwerp, Limburg, East and West Flanders, and Flemish Brabant. The French language area consists of the provinces of Hainaut, Luxembourg, Liège, Namur and Walloon Brabant. The bilingual language area of Brussels is composed of the nineteen Brussels municipalities. Nine municipalities constitute the German language area in the east of Belgium: Amel, Büllingen, Burg-Reuland, Bütgenbach, Eupen, Kelmis, Lontzen, Raeren and St. Vith.

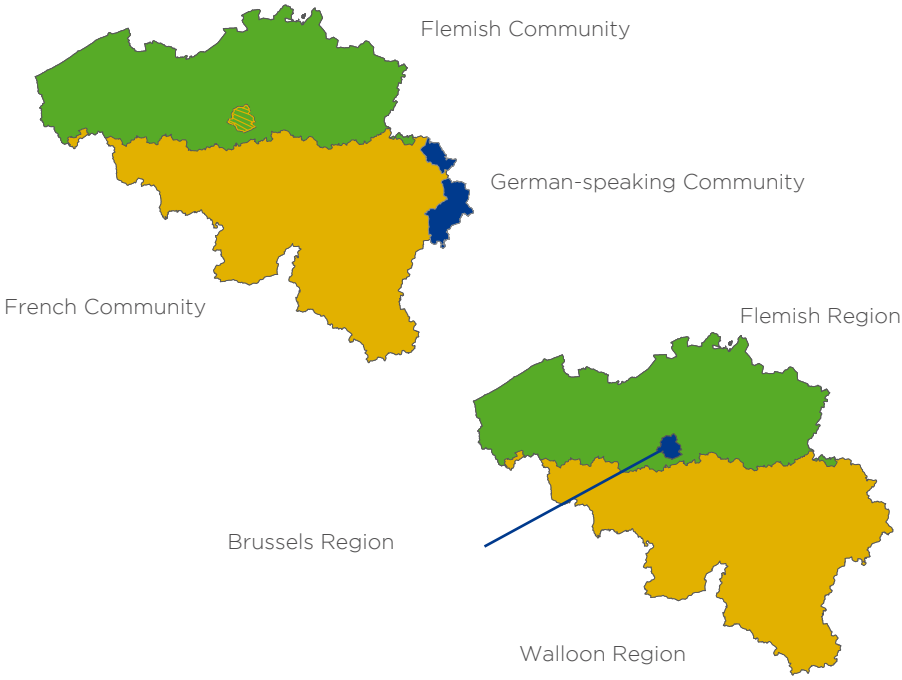
This demarcation into language areas is crucial in the Belgian State system. This is not just the case in the language legislation. The demarcation of the territorial competence of the federated states is based on the language areas as well.

6. Fédéralisme de superposition (superimposed federalism)

Belgium underwent five state reforms: 1970, 1980, 1988-89, 1993 and 2001. Unitary Belgium was transformed into a federal state consisting of two types of federated states: Communities and Regions. There are three Communities: the Flemish Community, the French Community and the German-speaking Community. Apart from that there are three Regions: the Flemish Region, the Walloon Region and the Brussels-Capital Region.

Regions are competent for matters such as economy, employment, infrastructure, spatial planning and environment. Communities are in charge of any matters relating to language, culture, education and care to people requiring help.

Although the Communities and Regions exercise different competences, their territories overlap. A Hasselt resident, for instance, lives on the territories of both the Flemish Region and the Flemish Community. An inhabitant of Namur on the other hand lives on the territories of both the French Community and the Walloon Region. In Belgium, a fédéralisme de superposition (superimposed federalism) thus exists, with several federated states exercising different competences within one and the same territory.



7. Personality principle or territoriality?

Article 5 of the Constitution defines the territorial competence of the Regions with reference to the provinces. The Flemish Region, for instance, is competent for the Flemish provinces, and the Walloon Region for the Walloon provinces. The German-speaking Community is competent for the German language area (Article 130 of the Constitution). This is all straightforward.

The situation of the French and Flemish Communities is much more complicated. There is one basic rule: the French and Flemish Communities are competent for the French and Dutch language areas respectively. However, sometimes competences are extended, other times they are reduced. The French and Flemish Communities are indeed also competent for some institutions - but not with respect to people - that are situated in the bilingual language area (Art. 127, §2 and 128, §2 of the Constitution). For instance, a Dutch-speaking school in the Brussels area comes under the regulation of the Flemish Community. The competence regarding language use, on the other hand, has been reduced (Art. 129, §2 of the Constitution). The Flemish Community is not authorised, for instance, to regulate the language use in the municipalities with facilities in the Dutch language area.

This specific regulation creates problems in terms of interpretation: are the competences of the French and Flemish Communities territorially limited? In simple terms, this question can be answered in two different ways. According to the interpretation of the French speakers a community is a collection of people who are connected with each other through the same language and culture. In fact, this interpretation closely links up with the common meaning of the words gemeenschap and communauté, as having something in common or sharing something with others. This meaning can also be found in expressions, such as religious community, church community... In constitutional law this interpretation is referred to as the personality principle (principe de personnalité). This interpretation implies that the French Community is competent for any people who share the French language and culture, including French speakers living in the Dutch language area.

The Flemings on the other hand advocate the territoriality principle. According to this interpretation, the competences of the Communities continue to be linked to a territory, i.e. the Dutch language area for the Flemish Community and the French language area for the French Community. The competences with respect to institutions exercised by both Communities on the territory of the bilingual language area of Brussels-Capital are exceptions which prove this rule. In addition, these competences pertain exclusively to the bilingual language area and do not allow either of these two Communities to intervene in another monolingual language area.

8. The jurisdiction of the Constitutional Court and the Council of State: territoriality principle

French-speaking politicians tend to use the territoriality principle rather easily in their political discourse. The 'droit des gens' prevails over the 'droit du sol'. However, this is judicial nonsense. Both the Constitutional Court and the Council of State rule that in Belgium the principle of territoriality applies.
Below, I briefly discuss a few landmark judgements. In a judgement of 26 March 1986 the Constitutional Court cuts the knot and opts for the territoriality principle[3]. According to the Court the Belgian Constitution has:

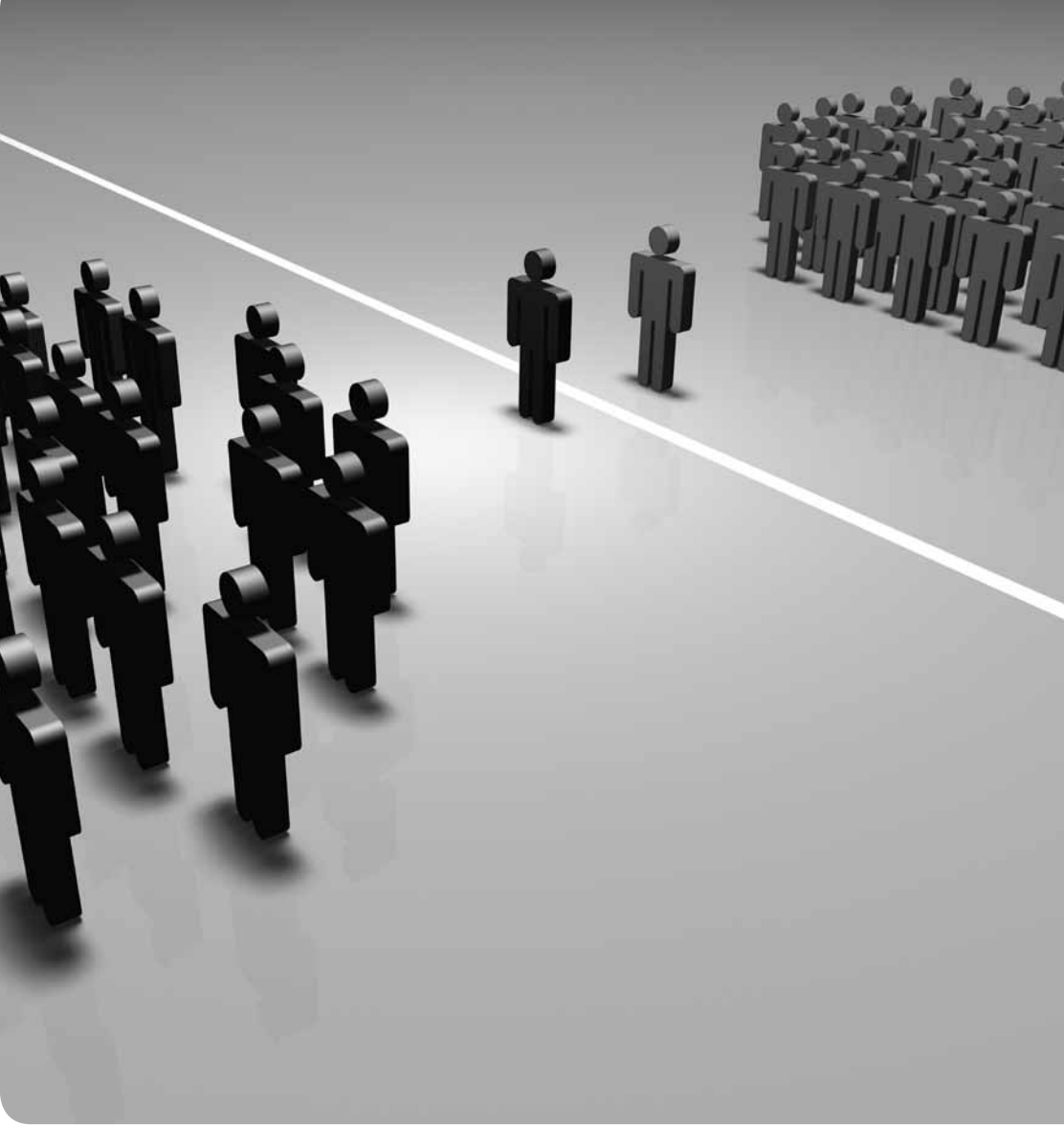
> *'"...laid down a division of exclusive territorial competences. Such a system requires that it must be possible to locate the subject of any regulation issued by the community legislator within the area for which it is competent, so that each concrete relation and situation is governed by one single legislator.'*

The Constitutional Court has further refined this jurisdiction in the Carrefour judgements[4]. The French Community subsidised an association which distributes a French-language magazine Carrefour in the Vlaamse Rand around Brussels, i.e. in municipalities belonging to the Dutch language area. Is this legal? A similar question is raised in another judgement: is the French Community allowed to allocate operational grants to the French-speaking music academy of Wezembeek-Oppem, a municipality in the Dutch language area[5]? In principle, this is not allowed. The French Community does not have any extraterritorial competences and can therefore not conduct any policy in Flanders. Neither can the Flemish Community pursue a policy on the territory of the French Community.

The Constitutional Court does accept, however, that the exercise of a competence by one Community may sometimes have extraterritorial consequences on the territory of another Community[6]. Still, this is not allowed just like that. The extraterritorial consequences may only be an additional consequence of a decision. In other words, the extraterritorial consequences must not be the essence or the intended aim of the measure. In addition, extraterritorial measures must not thwart the policy of the other Community. In this respect, the Court accepts for instance that there are extraterritorial consequences to allocating radio frequencies[7]. The fact is that radio waves do not stop at the language border. Still, radio broadcasts should not be organised in such a way that they are aimed at implementing a policy in another Community.

Despite this jurisdiction by the Constitutional Court, many French speakers continue to swear by the personality principle. This is even more peculiar if you know that

5 All notes on page 41



the Constitutional Court has been composed on a parity basis and thus consists of an equal number of Dutch speakers and French speakers. The bilingual Chamber of the Belgian Council of State recognises the territoriality principle as well[8]. For this reason, it cannot possibly be stated that the territoriality principle was imposed on the French-speaking minority by the Flemish majority. And yet, this is an often-heard view among French-speaking politicians. This illustrates how politics and law speak a different language sometimes.

Language and language legislation before WWII

9. Language, Constitution and language legislation in 1830-1831

The Belgian constitutional legislator rejects language imposition and opts for language freedom. Article 23 of the 1831 Constitution reads as follows: "L'emploi des langues usitées en Belgique est facultative ; *il ne peut être réglé que par la loi, et seulement pour les actes de l'autorité publique et pour les affaires judiciaires." (Article 30 of the current Constitution).* By languages spoken in Belgium is to be understood French, Dutch and German. The debates of the National Congress clearly reveal that the idea was to only regulate the language use of acts of public authorities. Between citizens there is freedom of language.

However, the parliamentary debates also show that regulating the public language use was understood as protecting the monolingual French speakers. No traces are found in the debates about any possible protection of the Dutch language. In this context it was argued that, on the grounds of language freedom, a case could be pleaded in Dutch, provided this did not result in lawyers who only spoke French being harassed. By regulating the languages used in court cases the constitutional legislator aimed to allow the legislator to impose the French language in certain cases. This specification was actually even superfluous. French was the language of administration and the courts, the language of the elite. What about lawyers who did not know any French? In a judgement of 12 May 1873 the Court of Cassation decided that lawyers are legally obliged to know French. Lawyers had to plead in French before the Court of Cassation, because some judges did not understand Dutch: "... *il faut que l'avocat parle, devant la juridiction qu'il a mission d'éclairer, la langue que comprennent tous ceux qui sont préposés à cette jurisdiction"*[9].

10. Language freedom and language legislation according to Belgian standards

As long as the legislator did not regulate the language use for acts of public authorities and court cases, there was freedom of language. In practice, this implied that the French language was predominant. The elite spoke French and this language was imposed on the basis of language freedom.

When the language use was finally regulated after all, the French language was imposed. A decree from the interim Government of 16 November 1830 and the Act of

19 September 1831, for instance, stipulated that only legal texts that were published in French had legal force; the text in Dutch was merely a translation *"pour les communes où l'on parle cette langue"*. The Government decrees of 16 and 27 October 1830 stated that the language of the military command was French. Article 4 of the latter decree read as follows: *"La langue française, étant la plus généralement répandue en Belgique, sera la seule employée dans les commandements et l'administration militaire"*. There was never any talk of protecting the Dutch language. A decree of 16 November 1830 provided that pleading in Dutch was allowed, on the sole condition that each of the parties involved (judge, lawyers and Public Prosecutor's Office) mastered the language.

In this way, a society is created where French is forced upon people on the basis of language freedom. Whenever some competition arose between French and Dutch after all, the principle of language imposition was applied and the French language was imposed. There has never been any real language freedom in Belgium. People were so convinced of the superiority of the French language that a start could never even be made on putting the languages on an equal footing.

"Le problème linguistique n'a guère frappé les constituants. [...] De là, les difficultés qui se sont fait jour et qui ont été aggravées par l'entrée en jeu du facteur démocratique", wrote the Liège professors Dor and Braas in 1935. The language of the Belgian revolutionaries in 1830 was French. They never for one moment thought that Dutch would develop into a standard language in Flanders. According to Professor Els Witte, they thought that French would be an official, common and homogenising language. French was to become the coordinating language of culture of the new state of Belgium.

There is no doubt about the intentions of the Belgian revolutionaries. In 1832, Charles Rogier, who had been a member of the revolutionary Government that declared Belgium's independence, wrote to Minister Raikem: *"Les premiers principes d'une bonne administration sont basés sur l'emploi exclusif d'une seule langue et il est évident que la seule langue des Belges doit être le français. Pour arriver à ce résultat, il est nécessaire que toutes les fonctions, civiles et militaires, soient confiées à des Wallons et des Luxembourgeois ; de cette manière, les Flamands, privés temporairement des avantages attachés à ces emplois, seront contraints d'apprendre le français et l'on détruira ainsi peu à peu l'élément germanique en Belgique."*

11. What does language freedom mean in practice: the Schoep case

Mr Schoep registered the birth of his child in Molenbeek. He wanted to do so in Dutch. The civil servant of the Registry of Births, Deaths and Marriages refused to draw up

the birth certificate in Dutch, as a result of which Mr Schoep left the town hall. He was prosecuted for not registering his child's birth and was given a sentence[10].
Schoep lodged a cassation appeal against this decision. According to the Court of Cassation, language freedom implied that Schoep had the freedom to speak Dutch, but that, on the basis of this language freedom, the civil servant and the municipal authorities had the right to draw up the certificate in French. *"Qu'il faut … admettre que si le citoyen a incontestablement le droit de se servir, pour faire une déclaration de naissance, de l'une de ces langues, l'administration communale … doit jouir du même droit pour dresser l'acte qui constate cette déclaration[11]."*

This language freedom could have been interpreted differently. During a parliamentary debate, Chamber member de Lehaye said the following about this matter: *"L'emploi des langues est facultatif en Belgique, mais cette faculté existe non pour les fonctionnaires publics, mais pour les administrés[12]."* However, the Court of Cassation opted to protect the privileges of the French-speaking bourgeoisie. The language freedom served two purposes. First, it was to allow French speakers to use French in Flanders, and secondly it was to maintain language homogeneity in Wallonia.

12. Consequences of this language freedom in the 1831 Constitution

Elite positions in each of the domains were taken by French speakers or by Flemings who were willing to Frenchify. The elite, including the Flemish, spoke French. This phenomenon is called a language shift. This happens when two language cultures with unequal social status meet. Language shifts always take place to the benefit of the socially dominant language. It can even be stated that 19th-century Belgium had two language borders: a territorial language border which separated Flanders from Wallonia as well as a social language border that separated the French-speaking elite from the Flemings.

In addition, Flanders went through a period of decline in the 19th century. Flemings often lived in poverty and many were seeking refuge in Wallonia which was prosperous at that time. Consequently, being Flemish became almost synonymous with underdevelopment and poverty.

As a result of this language freedom, public life was almost entirely Frenchified. Another important consequence of this language freedom is the Frenchification of the capital. In 1830, no less than 70% of its inhabitants spoke Brabantian, a Dutch dialect. Around 1880, French and Dutch were on an equal footing. Because there is no subnationality in Belgium, it is impossible to determine how many Flemings currently still live in the Brussels-Capital Region. We know for a fact that during the 2010 federal

10 All notes on page 41

elections less than 52,000 people from Brussels voted for lists of the Flemish Chamber of Representatives. Only 47,500 Brussels people voted for a list of the Flemish Senate. In 2003, the Flemish Senate lists still received more than 58,000 votes. According to Flemish demographers the number of Flemings amounts to 10 to 15 percent. According to some French-speaking demographers this is only 5 percent.

The Belgian language issue was at the same time a social issue. This is put aptly by Suzanne Lilar (1901-1992) in Une jeunesse gantoise. She describes her youth years which she spent in the Flemish city of Ghent during the first half of the 20th century. The low bourgeoisie was bilingual, but liked talking French, just like the high bourgeoisie. The latter "*... ne se contentait pas de parler français, elle affectait d'ignorer le néerlandais dont elle n'avait retenu que quelques locutions et commandements destinés à ses domestiques.*" The ordinary people spoke a Flemish dialect. She summarises it sharply: '... le langage révélait-il le milieu auquel on appartenait, ainsi venait-il renforcer le compartimentage des castes.'

Because of this preference for one single language a Belgian nation was and could never be actually formed. The Belgian revolution held the seeds of the Flemish Movement. The introduction of universal suffrage (1919) marked the end of this society of castes within the short term. The Flemish emancipation was part of the social emancipation. It was no coincidence that the first social legislation came about during the same period as the first language laws.

13. The first generation of language laws: limited language rights for Dutch speakers in Flanders

The Act of 17 August 1873 allowed the use of Dutch in criminal cases in Flanders. This law was only passed following a number of startling court cases. The most well-known is undoubtedly the 'Coucke and Goethals' case. Both were sentenced to death in 1860 by the Mons Assize Court. They were accused of robbery with murder. Their proceedings were held entirely in French. Coucke and Goethals were then decapitated in Charleroi, without them having understood one word of the trial due to the fact that they had an insufficient command of the French language. In 1862, it would turn out before that same Assize Court that they were not the main culprits of the robbery with murder.
The new language law made the use of Dutch compulsory when the defendants did not understand any French. The territorial scope of the law remained limited to Flanders. Moreover, the law did not apply to the Courts of Appeal in Brussels and Liège (at the time also competent for the province of Limburg). The 1891 language law would regulate the language use of these courts.

This first language law was not worthwhile at all. Not only did the scope remain limited to criminal cases, in addition the magistrates were French-speaking. Consequently, a lot of Flemish lawyers started their plea with the phrase: "Mon client m'autorise à plaider en français." René Victor, the founder of the Rechtskundig Weekblad, testifies that the world of the courts continued to be monolingually French. Despite the language freedom it was unthinkable to plead in Dutch before the courts of commerce. This was regarded as a revolutionary act. Apart from a few rare exceptions, no pleadings were ever held in Dutch before the courts of appeal. Nevertheless, the law was a major symbolic breakthrough: for the first time, the monolingually French character of Belgium was broken.

The Act of 17 August 1878 on the use of Dutch in administrative affairs stipulated that notices and communications from the central government - and not of the municipal and provincial authorities - had to be drawn up either in Dutch or in Dutch and French in Flanders. Civil servants used the Dutch language in their correspondence, unless the citizen or the municipal authority concerned showed a preference for the French language. In Brussels, the use of Dutch was only compulsory if the municipality or citizen opted in favour of this language. The law was intended to grant language rights to the Flemings in Flanders. However, at the same time the French-speaking minority in Flanders received full protection and Wallonia continued to be monolingually French.

On 15 October 1883, this was followed by the law on the use of Dutch in public secondary education. From then onwards, some subjects had to be taught in Dutch, including Dutch itself. Other subjects were taught in French and in Dutch. However, this law did not apply to private education. As a result, a lot of secondary schools continued to be monolingually French in practice. It was not until 1910 that the Franck-Segers law was passed which introduced a language legislation that also applied to private education.

The historian Henri Pirenne (1862-1935) writes in the last part of his Histoire de Belgique about the first language legislation: *"Seule la position historique du français en Flandre était menacée. Telle qu'elle se posait, la question n'impliquait ni lutte, ni hostilité entre Flamands et Wallons. Elle se circonscrivait au conflit, en Flandre même, de la majorité linguistique contre une minorité sociale."* Indeed, this first generation of language laws only grants limited language rights to Dutch speakers living in Flanders. The dominant position of French is not detracted from, not even in Flanders. Equality does by no means exist between these two languages, not even in Flanders. In fact, Flanders remained homogenously French in terms of language, but a number of language rights were granted to the Flemings on their territory.

Neither was there any reciprocity. Whereas French speakers were allowed to use French in Flanders, Flemings had to speak French in Wallonia. It is in this first generation of language laws that the concept of territoriality appeared for the first time. Wallonia continued to be linguistically homogeneous. In Wallonia the local language was regarded as the language of administration. This implied that the territoriality principle was introduced to maintain the monopoly of French in Wallonia. Up till today, Wallonia is still linguistically homogeneous.

14. From 'equality law' to 'séparation administrative'

The most important law from this period was without a doubt the 'equality law' ('loi d'égalité') of 18 April 1898. From that time onwards laws were voted, ratified, promulgated and published both in Dutch and in French. Royal and ministerial decrees were drawn up and promulgated in the two national languages.

The equality law was not passed by the Parliament without a struggle. There was opposition, especially from the Senate. When the Senate adopted an amendment which implied that only the French text would be voted in both Chambers and that the Dutch text was an official translation, this caused great public disorder. For the first time, there was general protest in Flanders. The language problems penetrated large sections of the Flemish population, which was also a first. From that time onwards, 'In Vlaanderen Vlaams' (Flemish in Flanders) became part of the collective Flemish consciousness.
This equality law was the first law to treat Flemings and French speakers on an equal footing. It was also the first language law that applied to the territory as a whole. The previous language laws granted only limited language rights to Dutch speakers in Flanders.

However, this did not mean that this equality became effective at once. The reason for this is that all acts and decrees dating from before 1898 were drawn up exclusively in French and had to be translated. This was to take years. It was not until 1923 that the Government established 'the committee, in charge of preparing the Dutch text of the Constitution, the Codes and the most important acts and decrees'. It would even last until 1967 before the Constitution was also officially available in Dutch. It took Belgium 136 years to also promulgate the Constitution in the language spoken by the majority of the Belgians!

The first language laws, and especially the equality law, helped lay the foundations for the Walloon Movement. In the south of the country the language legislation had

become synonymous with an infringement of the integrity of French speakers in Belgium. In 1898, the Ligue Wallonne de Liège organised a demonstration, the theme of which was *'Séparation plutôt que le joug du flamingantisme'.* The Walloons thus explicitly preferred 'la séparation administrative' (administrative separation) to bilingualism. The Walloons refused categorically to grant language rights to the Flemings in Wallonia. On 9 March 1910, this even caused an incident in the Senate[13]. It was suggested that a number of members of the Walloon labour judge councils – the current labour courts – had to understand Dutch. The advocates of this measure argued that this was necessary, given the large number of Flemish workers in Wallonia. The reactions from the French speakers were sharp. The Minister for Industry and Work, Hubert, stated: *"S'ils veulent travailler en pays wallon, ils n'ont qu'à apprendre la langue."* The fact that French is also spoken in Flanders is considered to be the most natural thing in the world. The monolingualism in Wallonia, on the other hand, must not be affected. Senator Hanrez warns that "*... si les tentavives de certains groupes de flamingants devaient avoir pour résultat d'imposer le flamand dans toute la Belgique, il y aurait à craindre, il n'y a pas de doute à cet égard, une véritable révolte d'une partie de la population"'* After the vote, the Minister of State, Emile Dupont, shouted out in annoyance: "Vive la séparation administrative!"

15. Flemish and social emancipation go hand in hand

Belgium became a democracy only at a late stage. Universal multiple male suffrage was introduced in 1893, and universal single male suffrage in 1919. Women were not entitled to vote until 1948. Since then, politicians elected in Flanders also have to take into account the many voters who do not know French.

The democratisation results in emancipation. It is not without reason that Henri Pirenne wrote that in Flanders "...la francisation de la bourgeoisie commençait à apparaître comme une insulte au peuple dont elle sollicitait les suffrages". In reality this emancipation would be a slow process which did not progress without any problems. The French-speaking elite had a hard time accepting it. In his famous Lettre au Roi sur la séparation de la Wallonie et de la Flandre (1912) the Walloon politician, Jules Destrée, wrote that the Flemings have stolen Flanders: *"Ils nous ont pris la Flandre, d'abord. Certes, c'était leur bien. Mais c'était aussi un peu le nôtre."* The demand of Flemish in Flanders was legitimate as long as it "se bornait à réclamer l'usage facultatif du flamand en Flandre". According to Destrée, this demand has become *"un cri de guerre signifiant l'usage exclusif de la langue locale"*. Fully convinced of the fact that the French language was the cement of the Belgian State, Destrée even writes: "Ils ont pris notre langue.".

Elsewhere he writes his famous sentence: *"Vous régnez sur deux peuples. Il y a en Belgique des Wallons et des Flamands ; il n'y a pas de Belges."*

The demand for the equal treatment of Dutch and French provoked acid reactions from many French speakers. It instilled in them a great fear of a bilingual Belgium. The obligation to learn Dutch was considered an insult. That is why Belgium has never become a bilingual state. Not Flanders, but French-speaking Belgium has always opposed bilingualism.

16. The second generation of language laws: the Administrative Language Act of 1921

On 22 November 1918, King Albert I held his King's Speech in the Chamber of Representatives. This was a very special moment, because the King made his entry in Brussels as one of the victors of WWI. Albert I announced all kinds of necessary reforms, including the equality of both national languages. A new generation of language laws was in the pipeline.

The law on language use in administrative affairs of 31 July 1921 was to give concrete form to this royal promise. For the first time, the law recognised the territoriality principle and put the monolingualism of the Flemish provinces first.

Language areas were demarcated. From then on, the Dutch language area consisted of the provinces of Antwerp, East and West Flanders, and Limburg, and the districts of Leuven and Brussels, with the exception of the Brussels metropolitan area. The French language area encompassed the provinces of Liège, Luxembourg, Hainaut, Namur and the district of Nivelles (the present province of Walloon Brabant). The State, and the provinces and municipalities of these monolingual language areas used the language of the language area. Contrary to the language law of 17 August 1878 this new language law thus also applied to local authorities.

The Brussels metropolitan area was composed of 17 municipalities[14]. In practice this meant that two municipalities were added to the Brussels metropolitan area, namely Sint-Pieters-Woluwe and Sint-Stevens-Woluwe. Moreover, the law stipulated that other municipalities could be added to this metropolitan area by Royal Decree. The province of Brabant and the municipalities of the Brussels metropolitan area were free to choose the language to be used by their in-house services as well as the language they used to communicate with the central government. Sint-Stevens-Woluwe was the only municipality to opt for the Dutch language. From then onwards, any communications to the public were made in the two national languages.

14 All notes on page 41

The language border, however, was not fixed, but could be changed. Article 3 of this language law provided that if the ten-yearly census showed that the majority of the population had changed in terms of language, the municipal council could decide to change the linguistic register. In addition, the monolingual character of the Dutch language area was relative. Provinces and municipalities could, for instance, decide to add the other language to the language that was imposed by the Administrative Language Act. If requested by 20% of the municipal council voters or by 15,000 voters in municipalities with more than 70,000 municipal council voters, any communications to the public had to be done in both languages. In some large Flemish cities, such as Leuven and Hasselt, such a request was submitted successfully.

The language law of 1921 introduced the territoriality principle. This was fully applicable to Wallonia, where the local language became the language of administration. In Flanders, on the other hand, the territoriality principle went hand in hand with a far-reaching protection of French speakers. Territoriality thus had a different meaning to the north and to the south of the language border.

17. The language laws of the Thirties

The second generation of language laws also includes several laws from the 1930s. The law of 5 April 1930 'Dutchified' the Ghent state university, following a first, but only gradual, 'Dutchification' in 1923.

The 28 June 1932 law on language use in the administration took over a lot of principles from the Administrative Language Act of 1921. All administrative bodies depending on the State, the provinces or the municipalities had to use the language of the language area concerned. The possibility to add the other national language was abandoned.
From now on, the Brussels metropolitan area consisted of 16 municipalities; Sint-Stevens-Woluwe which was home to less than 30% of French speakers, was added to the Dutch language area again. The municipalities from the Brussels metropolitan area chose the language of their in-house services. Communications to the public were made in French and Dutch from now on.

Yet, the language border could still be changed. As soon as it showed from the ten-yearly language census that at least 30% of the inhabitants of a municipality spoke the other language, the principle of external bilingualism applied. When the language census revealed that there was a different language majority, the language of administration was changed. Municipalities no longer had to take any initiative to that end. The law of 14 July 1932 regulated the language regime in nursery, primary and secondary education. This law established the principle 'local language is language of

instruction', both for public and private education. For Brussels, the principle 'mother tongue is language of instruction' was applied. The 'liberté du père de famille' in the monolingual language areas was thus broken. The law of 15 June 1935 governed the language legislation in court cases. In principle, the local language was the working language of the courts.

Contrary to the first generation, the second generation of language laws applied to the territory as a whole. The local language became the language of administration in the monolingual language areas. Yet, the language border could still be changed. The Administrative Language Act of 1932 enhanced the regional monolingualism. The Walloon Movement which had, up till then, held on to a bilingual Flanders as pillar of the country's unity, opted in favour of the language integrity of Wallonia. 'Le bilinguisme est mort, personne ne le ressucitera', declared the Namur politician, François Bovesse. Wallonia in no uncertain terms advocated territoriality.

Language legislation after WWII

18. The language censuses of 1947 and 1960

In the system of the Administrative Language Act of 1932 the language census had direct consequences. If 30% of the population declared speaking a language other than the official language of the municipality, the municipality had to attend to these inhabitants in their own language. If 50% of the population declared speaking another language, the language border was shifted. Such a system could never effect pacification between the Communities: each language census inevitably lead to a language dispute.

Due to the Second World War, the next language census was not organised until 1947. The Flemings were very critical of the organisation. People were asked, in an ambiguous way, to indicate the language which they spoke 'exclusively or most of the time'. In many places the language census was said to have been influenced by the census takers themselves. The fact that the census was organised so shortly after WWII, at the time when the repression of the collaborators was at its fiercest, is claimed to have urged many people to choose the French language. Tensions were running so high that the results were declared as late as in 1954. As a result of the census, Evere, Ganshoren and Sint-Agatha-Berchem were annexed to the Brussels metropolitan area, which now counted 19 municipalities. Drogenbos, Wemmel, Kraainem and Linkebeek were home to more than 30% of French speakers and became externally bilingual. The image of the constantly extending Brussels oil stain was born.

The announced language census of 1960 created new tensions between the Communities. It was generally expected that the oil stain would become even larger. That is why the language census was postponed. Tensions between the Communities were running so high that the Government had no choice but to tackle the problem. Three new language laws were introduced.

19. The language laws of 8 November 1962, 2 August 1963 and 30 July 1963

The first language law by the Minister for Home Affairs, Gilson, demarcated the language border. The legislator abandoned the principle of the language census. As a result, the language border could no longer be changed. This fixed language border was to serve as a barrier to the progressing Frenchification. The second language law regulated Brussels and its environment. These language laws of 8 November 1962 and 2 August 1963 were coordinated afterwards in the laws on language use of 18 July 1966 (abbreviated as Administrative Language Act).

The new language legislation subdivided the country into four language areas: the Dutch language area, the French language area, the German language area and the Brussels-Capital language area. The first three language areas were monolingual. The language area of Brussels-Capital (the nineteen municipalities) was bilingual. From then onwards, only one language of administration was used in the monolingual language areas.
This legislation changed the language status of a number of municipalities. The most remarkable element was the transfer of the municipality of Voeren from the French-speaking province of Liège to the Flemish province of Limburg, and the transfer of Comines and Mouscron from West Flanders to French-speaking Hainaut.

Several groups of municipalities were granted a 'special language regime' with so-called facilities. The randgemeenten (municipalities situated in the periphery of Brussels) Drogenbos, Kraainem, Linkebeek, Sint-Genesius-Rode, Wemmel and Wezembeek-Oppem were presented with their own specific regulation, viz. facilities for French speakers. As hinted by the name randgemeenten, these municipalities are situated in the periphery around Brussels. In 1963, the six randgemeenten did not yet belong to a language area. They formed a separate administrative district. In the political jargon it was referred to as 'l'arrondissement en l'air'. The randgemeenten were added to the Halle-Vilvoorde district by the law of 23 December 1970. Since then, the randgemeenten have been part of the Dutch language area.

The language border municipalities ('taalgrensgemeenten') are situated in the French and Dutch language areas and offer facilities to foreign speakers. Flanders has six municipalities with facilities for French speakers: Bever, Herstappe, Mesen, Ronse, Spiere-Helkijn and Voeren. Wallonia has four language border municipalities with facilities for Dutch speakers: Edingen, Komen-Waasten, Moeskroen and Vloesberg.
In addition, each of the municipalities of the German language area also provides facilities to French speakers. The municipalities from the Malmedy region, located in the French language area, in their turn offer facilities to German speakers. It concerns Malmedy and Weismes.

20. The language border and facilities cast in stone

It is often written, mainly by French-speaking authors, that the language legislation of 1962-63 was not the fruit of a compromise. At least the language law of 1962 is said to have been imposed on the French speakers by the Flemish majority in the Parliament. This criticism is unjustified. Both language laws were adopted by a majority of the members of parliament in keeping with the then prevailing rules. 130 Chamber members voted in favour of the language law of 1962; 56 voted against and 12 abstained from voting. This is an overwhelming majority. The fact that the no voters came from Wallonia and Brussels does not in any way detract from this.

In addition, this criticism loses sight of the fact that essential parts of this language legislation were subsequently recorded in the Constitution, which requires a two-thirds majority by Belgian constitutional law. This happened in 1970 with the language areas – and consequently also the language border – (Art. 4 of the Constitution) and in 1988 with the facilities. Therefore, it cannot be said that a language pact was imposed on the French speakers; otherwise they would never have embedded this in the Constitution.
These articles of the Constitution 'cast' the language border and facilities 'in stone'. As a result, they can only be modified by special majority law. The federal parliament has two language groups to vote such laws: a French-speaking group and a Dutch-speaking group. The special majority law requires a double majority in both parliamentary Chambers: a two-thirds majority and a 50-percent majority in each language group. 'Casting in stone' therefore implies that neither Flemings nor French speakers can redesign the language border on their own initiative.

21. Regulation of language use as community competence

In 1970, the regulation of language use was transferred to the Flemish and French Communities for: 1° administrative affairs, 2° education in institutions that are established, subsidised or recognised by the authorities, 3° social relations between employers and their personnel, as well as the instruments and documents of enterprises that are required by law and regulations (Art. 129, §1 of the Constitution)[15]. The legislator is not allowed to regulate any matters other than the ones that have been mentioned above[16].

However, the federal authorities continue to be competent for regulating the use of language in the municipalities with facilities (Art. 129, §2 of the Constitution). This must be regulated by special majority law. The federal authorities also maintain their competence for any 'services whose scope of activity extends beyond the language area in which they are located'. The Constitutional Court states, for instance, that identity cards are basically the competence of such a service[17].

Since 1997, the German-speaking Community has only been competent for the language use in education in institutions that are established, subsidised or recognised by the authorities (Art. 130, §1, 5° of the Constitution).

This community competence does not detract from the competences granted to the federal state by Article 30 of the Constitution. In this respect, the federal authorities are for instance still competent for language use in court cases. There is language freedom for any matters that are not mentioned in Articles 30, 129 and 130 of the Constitution.

16 All notes on page 41

The current language legislation in brief

22. Language freedom and language legislation

Language freedom is the rule in Belgium. The authorities can only limit this language freedom in areas that are exhaustively listed in the Constitution: acts of public authority and administrative affairs[18]; legal cases; education in institutions that are established, subsidised or recognised by the authorities; social relations between employers and their personnel, as well as the instruments and documents of enterprises that are required by law and regulations (Art. 30, 129 and 130 of the Constitution). In brief it can be stated that language use can only be regulated with regard to the relation between authorities and citizens. 'Regulating' can be understood to mean that the use of a particular language is imposed, that the use of a particular language is prohibited and even that it is prohibited to prohibit the use of a particular language[19].

The language use between citizens is entirely free. Contacts between citizens are private and do not fall within the scope of the language legislation. Two citizens in Bruges can, for instance, draw up a rental agreement in French. This freedom also applies to traders who make publicity. A publicity campaign of a private company does not come under the language legislation. Labelling, instructions for use and certificates of guarantee, on the other hand, are regulated. They must be drawn up in a language that is understandable for the average consumer, given the language area where the goods or services are provided to consumers (Art. 10 of the 6 April 2010 Act on market practice and consumer protection).

23. Belgium has four language areas

Article 4 of the Constitution stipulates that there are four language areas. The Dutch, French and German language areas are monolingual. The Brussels-Capital area is bilingual.

Article 4, sub-paragraph 2 of the Constitution provides furthermore that each municipality of the Kingdom belongs to one of the language areas. This means that a municipality can never be part of two language areas. It also implies that a municipality can never be withdrawn from the subdivision into language areas.

The Constitution thus mentions two types of language areas. This distinction between monolingual and bilingual language areas has legal consequences. The concept of 'language area' is not merely descriptive, it is also a legal concept. In an advisory

opinion of 5 September 1972 – the so-called Voeren advisory opinion – the legislation department of the Council of State points out that 'on pain of denying any meaning to the subdivision into language areas, one cannot get round the conclusion that the language of the language area, upon determination of a legal regulation for the language use in that area, must have precedence even when, for reasons of local circumstances, a special regulation is laid down which deviates from the generally prevailing regulation'[20].

This interpretation is fully endorsed by the Germis judgement of 17 August 1973, which was passed by the administrative jurisdiction department of the Council of State[21]. Municipal council member Els Germis demanded the annulment of a series of administrative acts performed during a meeting of the Beersel municipal council. The French language had been used for these administrative acts, including the taking of the oath of some municipal council members and the appointment of some aldermen. Beersel, however, is a municipality that is situated in the Dutch language area. The Council of State annulled the administrative acts. It ruled as follows:

> *'Considering that the constitutional legislator, by stating in Article 3bis (currently Art. 4) that there are four language areas in Belgium, has not wanted to draw any ethnographic conclusions – but after the example of the 1963 legislator – has wanted to introduce a legal concept; that 'language area' in the constitutional regulations does therefore not imply a region in which a certain language is in fact spoken, but an area in which a certain language must be spoken by law or with regard to which a certain language is to be used'*

The Council ruled that the language of administration in the monolingual language areas is the language of the language area. The languages of administration in the bilingual language area are French and Dutch. This jurisdiction was subsequently reaffirmed on several occasions[22]. This means that municipal mandate holders in the Dutch language area must use the Dutch language when taking the oath or making any oral or written interventions...

The Germis case pertained to Beersel municipality which was part of the Dutch language area and which does not provide any facilities for French speakers. Could the reasoning that was followed be applied just like that to municipalities with facilities belonging to the Dutch language area? Again, the Council of State gave an affirmative answer to this question. The reason for this is that the facilities apply to some of the people that are governed, namely that part of the population that prefers to use a language other than that of the language area, but not to the administrative bodies[23].

24. Language use in administrative affairs

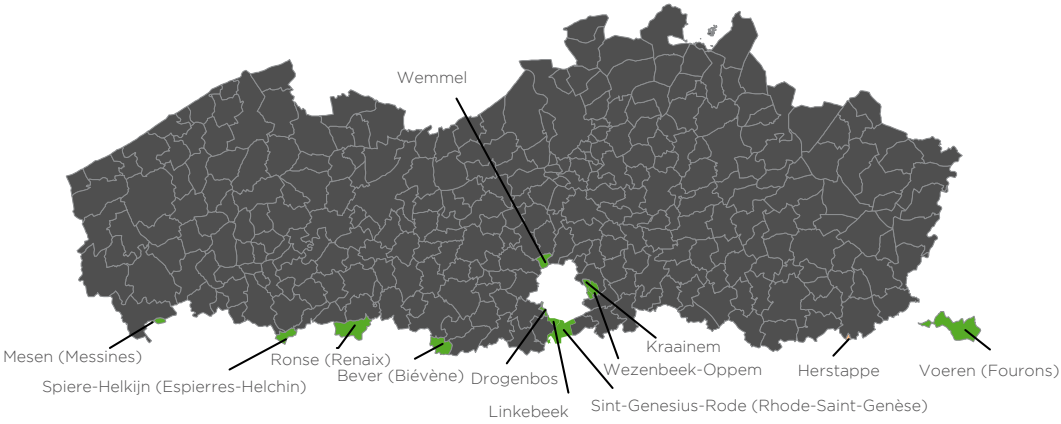
The Administrative Language Act has a wide scope and regulates the language use in public services. The Administrative Language Act is to be abided by, not jut by public services, but also by people or companies that act in the general interest and by order of the authorities. Consequently, publicity for a public service comes under the Administrative Language Act. A private clinic does not fall within the scope of the language legislation. A public hospital on the other hand does. Moreover, the Administrative Language Act not only applies to the administrative bodies, but also to the citizens who address the administration[24].

In a monolingual language area the language of the language area is the language of administration. There are a number of exceptions to this basic rule. Yet, these do not detract from the fundamental monolingualism. The most well-known exception, namely the facilities, is discussed later on in greater detail. However, there are other situations in which the authorities are compelled to deviate from this basic rule, for instance for the central services and the implementing services that are spread across Belgium. The central services, such as the federal public services (FPS), serve the entire Belgian territory. Implementing services are services which are not responsible for policy management, but which also cover the whole Belgian territory, for instance the Royal Meteorological Institute KMI. Such services use the language of the language area when distributing documents, but citizens can also request a copy in another national language. Sometimes, international language regulations oblige the authorities to deviate from the rule 'local language is the language of administration'. This is the case for instance for the international driver's licence (Convention on Road Traffic of 8 November 1968).

The languages of administration in the bilingual language area of Brussels are both French and Dutch. This implies that the authorities must understand both languages. There are a number of exceptions to this basic rule, for instance for the Community Commissions in Brussels. The Flemish Community Commission, a decentralised authority of the Flemish Community, and the services that are dependent on it, use the Dutch language. The French Community Commission uses the French language.

25. Facilities are (merely) facilities and do not imply bilingualism

Facilities are exceptions to the monolingualism of a monolingual language area. They allow the citizens to use a language other than the language of the language area in their contacts with the administration. As indicated earlier, the facilities do not apply to the administrative bodies. They must use the language of administration.



The facilities do not detract from the fundamentally monolingual character of the language area[25]. Moreover, the facilities must not damage the fundamentally monolingual character which is guaranteed by Article 4 of the Constitution. If the legislator develops a system of facilities, he must abide by the higher legal standard, viz. Article 4 of the Constitution. The Constitutional Court ruled as follows about the Dutch language area in judgement 26/98:

> *'B.4.1. Although the coordinated laws on the language use in administrative affairs provides a special regulation for French-speaking inhabitants in the randgemeenten which allows them to conduct their relations with the local services in French and impose on these services the obligation to use the French language in specific circumstances that are further specified in these laws, this regulation does not detract from the fundamentally monolingual character of the Dutch language area to which these municipalities belong. This implies that the language that is to be used there in administrative affairs is in principle the Dutch language and that provisions which allow the use of another language should not result in the precedence of the Dutch language which is guaranteed by Article 4 of the Constitution being detracted from.'*

This means that the legislator in a monolingual area must not introduce any regulation with facilities that in practice comes down to bilingualism. Facilities are exceptions to the monolingualism, but they do not imply bilingualism. They are merely special rights that have been granted to the citizens of the municipalities with facilities.

26. The interpretation of the facilities: the circular 'Peeters'

The facilities must be interpreted in the light of Article 4 of the Constitution. The Council of State already ruled in the Germis judgement that the facilities, as exceptions to the fundamentally monolingual character of the language area, must be strictly interpreted[26]. The Constitutional Court stated that the regulation with facilities was not to detract from the monolingual character of the language area[27], which means that the facilities must not be interpreted in such a broad manner that in practice they come down to bilingualism.

In several municipalities with facilities of the Dutch language area an administrative practice had come about which was described as "once French-speaking and in need of facilities, always French-speaking and in need of facilities". This meant that a citizen who had at one time requested a document in French, would subsequently always receive documents from the municipality in French. The circular by Flemish Minister for Local and Provincial Affairs, Leo Peeters, aimed to put an end to this practice. The circular of 16 December 1997 governed the language use in municipal authorities of the Dutch language area. Later on, it was supplemented with the circular 'Martens' which contained a similar regulation for the services provided by the Public Centres for Social Welfare. Both circulars were reaffirmed in 2005 in a circular by Minister Marino Keulen. The most debated rule from these circulars is that the municipalities with facilities must as a rule send all the documents to the citizens in Dutch. Afterwards, people who wish to receive a French translation must apply for this at their own initiative for each separate document.

This interpretation of the facilities was not new. A circular of 7 October 1997 by Minister-President Luc Van den Brande already imposed this interpretation on the services of the Flemish Government. All these circulars advance the non-repetitive nature of the facilities. This means that facilities are not automatically granted, but only at people's explicit request. The underlying reasoning was that facilities promote integration and that they should not be a means to pursue or enforce general bilingualism.

However, the French speakers from the randgemeenten emphatically rejected this interpretation. Nevertheless, the Council of State dismissed their appeal for annulment. The judgements of 23 December 2003 confirmed the interpretation that facilities cannot or must not be repetitive[28].

26 All notes on page 41

' ... that this shows that, in order to be in conformity with the Constitution, the interpretation of the rights of those who want to be governed in French in the randgemeenten, must be in keeping with the privileged status of Dutch in those municipalities; that for this reason the aforementioned broad interpretation of these rights, held by the requesting party, which is the Public Centre for Social Welfare of such a randgemeente, does not tally with this; that this interpretation and the specified administrative practice which seems to be based on this basically result in a system of bilingualism, which even registers the language preference of people in databases[29].'

In a recent judgement of 19 June 2008 the Council of State even ruled that the interpretation which the Flemish Government gives to the facilities in its circulars is the only correct interpretation, having regard to Article 4 of the Constitution[30].

French speakers have emphatically rejected these judgements as judgements of a Dutch-speaking Chamber of the Council of State. Yet, the Council of State is a court composed of independent and impartial state councils. In addition, the legal reasoning followed by the Council in these judgements, namely an interpretation in keeping with the Constitution, is fairly traditional by Belgian law. Since the Waleffe judgement (1950) of the Court of Cassation it has been established that when a standard allows several interpretations, the interpretation that is in agreement with the Constitution prevails[31].

Sometimes, it is also argued that the Flemish authorities are not authorised to amend the Administrative Language Act. This goes without saying. Article 129, §2 of the Constitution provides that only the federal legislator can regulate this matter. In addition this must be done by special majority. However, this does not prevent the Flemish government, as the 'tutelage' government of the local authorities, from being authorised to interpret the Administrative Language Act. This is only possible when the federal law leaves room for interpretation, which is indeed the case. The circulars thus do not amend the Administrative Language Act in any way, but merely impose a certain interpretation on the subordinated administrations.

27. Language use in municipal councils and the Board of Mayor and Aldermen: as many viewpoints as courts

On the basis of Article 129, §1 of the Constitution, Communities can regulate the language use in administrative affairs. A regional Act of 6 December 1972 stipulates that the working language in municipal councils and the Board of Mayor and Aldermen is

Dutch. The regional Act of 3 May 1972 states that the oath must be taken in Dutch. However, these regional Acts do not apply in the randgemeenten and municipalities with facilities where the federal legislator regulates the language use (Art. 129, §2 Constitution). The Constitutional Court and the Council of State have been in disagreement about this language use in the randgemeenten and facilities with municipalities for a long time already. In a judgement of 26 March 1986 the Constitutional Court ruled that Article 4 of the Constitution does not contain any rules governing the language use[32]. This means that Article 4 of the Constitution does not oblige the bodies of the municipalities to use the language of the monolingual language area. A few months later the Council of State ruled that Article 4 of the Constitution does very much imply that the bodies of the municipalities in the Dutch language area must use the Dutch language[33]. Both supreme courts thus interpret Article 4 of the Constitution in a fundamentally different way as far as the language use of the bodies of municipalities is concerned.

With the Pacification Act of 9 August 1988 the legislator has regulated some aspects of the language use in the randgemeenten and language border municipalities[34]. This Act defines that mandate holders of the randgemeenten and language border municipalities must master the language of the language area. However, this knowledge is merely presumed. For the appointed mandate holders (such as the Mayor) this presumption is refutable; for the elected mandate holders it is irrefutable (for instance, municipal council members).

This Act has not been able to settle the dispute between the Constitutional Court and the Council of State either. In fact, the Council rules that not only Article 4 of the Constitution obliges the bodies of the municipality to use Dutch in the Dutch language area, but also Articles 10 and 23 of the Administrative Language Act[35]. This applies to the municipal council members as well as to the Mayor and Aldermen. However, according to the Constitutional Court both articles apply to the Mayor and Aldermen alone, and not to municipal council members[36]. The interpretation of both supreme courts differs in this respect as well.

The position of the Constitutional Court cannot be maintained. According to this Court, a Mayor or Alderman who takes the floor in the municipal council comes under the scope of Articles 10 and 23 of the Administrative Language Act. This implies that the municipal council is an 'in-house service' in the meaning of the Official Language Act. But does this not mean that that same municipal council is also an 'in-house service' when a municipal council member is speaking? How can a municipal council be an 'in-house service' at one time and not be an 'in-house service' at another time? The Pacification Act too implies that not just the Mayor and Aldermen, but also the municipal council members must use the language of the monolingual language area.

In fact, this act stipulates that the mandate holders of the randgemeenten and language border municipalities must master the language of the language area to the extent which is required to carry out the mandate concerned. This means that this language must also be used to exercise the office. Why else would the legislator set the condition of mastering a specific language if it were not even necessary to use that language? Or else, if the obligation of using the language would not exist, making such a requirement in terms of language knowledge would not even be relevant. Why would a municipal council of Kraainem for instance have to know Dutch, if he is not even obliged to use Dutch?

28. Language use in business

The Administrative Language Act contained one provision about language use in business. Commercial companies must use the language of the language area where their operational headquarters are located for the instruments and documents for their personnel that are required by law (Art. 52). A translation can be provided, however.

In the bilingual language area the Dutch language must be used when the documents are intended for Dutch-speaking personnel; the French language when the documents are intended for French-speaking personnel. The basic rule in business continues to be language freedom. Only the language use of official documents was regulated. There is language freedom, for instance, in any oral communication with the personnel. In Brussels and in the municipalities with facilities this regulation still applies.

Article 129, §1 of the Constitution allows the Flemish regional legislator to regulate the social relations between the employers and their personnel, as well as the instruments and documents of enterprises that are required by law and regulations.

Job vacancies do not come under the scope of social relations between employers and their personnel[37]. The reason for this is that no individualised relation exists yet between the author of the job vacancy and the people who could respond to it. The language use of discussions and written correspondence between the potential employer and a job applicant, on the other hand, can be regulated by the legislator. The reason is that in this case a relation has already been established between employer and employee, albeit prior to the conclusion of the labour agreement[38].

The regional Act of 19 July 1973 governs the language use in industry for the Dutch language area. The regional Act was published in the Belgian Official Gazette as

38 All notes on page 41

recently as September and was heavily criticised by the French speakers. They kept calling it 'le décret de septembre'. This name was afterwards taken over by the Flemings.

The September Act applies to any enterprises – including non-commercial businesses – which have their operational headquarters in the Dutch language area, with the exception of the municipalities with facilities. Dutch is to be used for any written and oral communication with employees and for any official documents. Although a translation can be provided, the document drawn up in Dutch is the only official document. If a company employs a large number of foreign speakers, it can even be obliged to deliver a translation, upon the request of the employees' representatives.

29. Language of instruction

The Act of 30 July 1963 governs the language of instruction in nursery, primary, secondary, mainstream, technical, arts or special education. The language of instruction is Dutch in the Dutch language area, French in the French language area and German in the German language area. In the bilingual language area of Brussels-Capital the language of instruction is Dutch or French, depending on the choice of the head of the family. Consequently, the bilingual language area does not provide bilingual education. These rules apply to schools established by the authorities themselves and to recognised or subsidised schools. In private schools there is freedom of language use.

In the municipalities with facilities the language of instruction is Dutch. Solely for nursery and primary education (and not for secondary education) a derogating regulation is in place. If requested by several heads of family, the local authorities can be obliged to establish French-speaking nursery and primary schools. These schools are subsidised by the Flemish authorities. In reality, this takes place in each of the six municipalities with facilities and in the language border municipality of Ronse.

These schools fall within the scope of the normative provisions and the administrative supervision by the Flemish authorities. By virtue of Article 5 of the Special Act of 21 July 1971, the educational inspection, as practical implementing measure, is carried out by the French Community[39]. According to the Constitutional Court this practical implementing measure does not detract from the territoriality principle, viz. the exclusive competence of the Flemish authorities to act in a regulatory capacity[40].

These French-speaking schools in the municipalities with facilities are aimed at promoting the integration of French speakers. That is why the Language of Instruction

Act stipulates that the pupils from these schools must receive intensive education in the Dutch language.

People wishing to enrol their children in a French-speaking school in a municipality with facilities must prove that they are French speakers and actually live in the municipality. This means that Dutch-speaking children from Kraainem cannot go to a French-speaking school in Kraainem, which is a municipality with facilities. And neither can French-speaking children from Zaventem (Dutch language area). They can however choose a French-speaking school in the French language area or in Brussels. The language use of colleges of higher education and universities is regulated by the Flemish Parliament Act of 4 April 2003 on the reorganisation of higher education in Flanders (Art. 90ff). The language of administration is Dutch. In principle, the language of instruction is also Dutch. In bachelor and master programmes a different language can be used for course components (1) which have a foreign language as subject and are taught in that specific language, (2) which are taught by foreign speaking visiting professors or lecturers or (3) which, with the consent of the institution's management board, are followed at a different institution for higher education. Except for the language subjects and the subjects followed at another institution, the student always has the right to take exams in Dutch. The Flemish Parliament Act also contains exceptions which allow courses to be organised in a language other than Dutch.

30. Language use in court cases

The Act of 15 June 1935 on the language use in court cases is founded on the following basic rules. First, there is the monolingualism of proceedings, which means that the entire lawsuit is conducted in only one language. Secondly, the territoriality principle applies: the language of the language area is the legal language.

In the bilingual language area both languages can be used. Proceedings in civil cases are conducted in the language of the originating application of the case, unless the defendant immediately asks for the proceedings to be continued in another language. Such a request to continue the case in another language can also be formulated by defendants who are resident in the randgemeenten and the language border municipalities Voeren and Komen-Waasten. Such a request can also be formulated for the police courts of Halle and Vilvoorde. In principle, the judge can refuse to comply with the request if case elements show that the defendant has sufficient knowledge of the language in which the originating application is drawn up.

Similar rules apply to the preliminary inquiry, the inquiry and the criminal courts.

Conclusion: territoriality and pacification

31. Flanders is not an island with its own language legislation

Contrary to what many people think, Flanders does not apply different rules than Wallonia in terms of language use. In principle, the local language is also the language of administration, the legal language and the language of instruction in both parts of the country. The territoriality principle thus not only applies to Flanders, but also to Wallonia.

In addition, language freedom is the rule. The language use can only be regulated by the (regional) legislator in relations between citizens and authorities. This means that anyone who lives in Belgium is entirely free to choose the language he or she wants to use in family relations. The language one speaks with the neighbours, in the sports club or in social life is entirely free to decide. Everyone uses the language of his or her choice in the restaurant, at the bakery's or in the pub. In principle, there is also language freedom in the commercial world. It is allowed to make publicity in another language. A restaurant in Flanders, for instance, can choose a French or English name. Belgium thus does not have a legislation like Quebec where the 'Charte de la langue française' states that the French language must be predominantly present on signboards and documents, brochures, menus and wine lists.

32. The language border as guarantee for pacification

The language border was demarcated in 1962-63. This language legislation constitutes the great Language Pact between Flemings and French speakers and outlines the new Belgium. However, this language border was somewhat porous, since facilities were granted in some municipalities.

Retiring Prime Minister Gaston Eyskens voted against the language law of 1963. He described the facilities in the randgemeenten as a time bomb under the relations between the Communities. This could never lead to pacification. He turned out to be right.

It is striking, however, that pacification was achieved in the language border municipalities. How can this difference between the language border municipalities and the randgemeenten be explained? The reason is fairly simple: the language border municipalities no longer question the language border. Why was this pacification for a long time unsuccessful in the language border municipality of Voeren? Because the border was questioned by the party of Happart 'Retour à Liège'. Yet, it became

clear in Voeren as well that as soon as the border is no longer questioned, pacification is achieved between the Communities. Why are there no community tensions in the Walloon municipalities with a prominent Flemish presence, such as Bevekom? Because the Flemings who live there do not demand any facilities and do not question the language border. It is a law of the Medes and Persians: clear borders make good neighbours.

33. The periphery around Brussels

In the periphery around Brussels there has never been any pacification between the Communities. Why not? Because the borders are questioned on a constant basis. The party Fédéralistes Democrates Francophones (FDF) was established to fight the Language Pact of 1962-63. Therefore, it is no wonder that the FDF and other French-speaking parties demand that Brussels be extended by the six randgemeenten. French-speaking politicians go much further and even demand competences for the French Community in the Dutch language area. These extra-territorial competences should allow them for instance to establish French-language libraries or cultural centres in Flanders.

The demand to extend Brussels or to allocate extra-territorial competences to the French Community questions the borders of Flanders. The borders of Wallonia, on the other hand, are never questioned. Neither has there ever been any reciprocity. As long as French-speaking politicians do not understand that pacification presupposes fixed borders, there will never be any form of pacification in the periphery around Brussels. The language border is not a sociological or geopolitical mistake. Quite on the contrary, it is the best guarantee for pacification between the Communities.

Moreover, the French speakers pay a high price for the fact that they keep questioning the border between Brussels and Flanders. Why does Flanders not accept the Framework Convention for the Protection of National Minorities? Because everyone knows that this Convention will not really be used to protect minorities, but to further undermine the language border. In the current political context the Convention cannot even guarantee pacification. A lot would be possible if the border was not constantly questioned. Just like any other state, Flanders accepts that the territory of a modern democracy is inhabited by citizens who speak a different language. These are fully-fledged residents and a modern state protects its minorities. The condition is of course that this minority recognises the federated state of Flanders. People cannot live in Flanders and at the same time turn their backs on it. After all, people cannot live in Flanders and at the same time demand that the legislation of the French Community be applied?

34. Some recent initiatives put in the proper light

Flemish initiatives are frequently shown in a bad light. People often read for instance that the Flemish Housing Code imposes on tenants of social houses the obligation to know Dutch. This is incorrect. The Housing Code merely expects them to be willing to learn Dutch in order to achieve a basic command of the language. That is all. The willingness to learn Dutch is quite different from the proficiency to speak Dutch. With this provision the regional legislator has tried to find a solution to the problems of coexistence that occur in certain social housing complexes in Flanders. According to the explanatory memorandum which is appended to the Housing Code the aim is to facilitate communication between tenants and lessors and to improve coexistence in social housing estates. The purpose of the Housing Code is precisely to guarantee the right to housing of all residents. The Constitutional Court which is composed on a parity basis did not see anything wrong in this Housing Code. The Code was in any case not found to be in violation of the fundamental right to decent housing which is laid down in Article 23 of the Constitution[41].

The same goes for the Flemish Parliament Act 'living in one's own region'. This Flemish Parliament Act is designed to tackle a well-known problem. In some places in Flanders high land prices lead to social displacement. Financially stronger groups push away less wealthy population groups. That is why the Flemish Parliament Act stipulates that, for land that is designated on the regional plan as residential extension area in 69 selected Flemish municipalities (especially in the periphery around Brussels, in de border region with the Netherlands and along the Coast), buyers must prove that they have some sort of connection with the municipality. They can do so, for instance, by showing that they are already living or working in the municipality or that their children go to school there. The scope of application remains limited to residential extension areas that are still to be developed. These are areas that can only be built on when the municipality proves, on the basis of a housing needs study, that there is a need for additional housing. This Flemish Parliament Act as well is considered discriminating by French speakers in Belgium. Yet, the fact is that in the field of social housing Wallonia also uses 'la priorité communale' as a criterion.

35. 'Le droit des gens', but a lack of reciprocity

It is often said that the French speakers defend the principle of personality and the Flemings the principle of territoriality. We have shown earlier that this is incorrect from an historical point of view. It is the French speakers who have opted for territoriality and not the Flemings.

41 All notes on page 41

French speakers only choose in favour of the personality principle when it concerns the Flemish Community. Through 'le droit des gens' they want to acquire all kinds of competences in the Dutch language area. However, when it concerns the French language area, they defend the territoriality principle. There is thus no reciprocity at all. French speakers demand rights in Flanders, but are not prepared to grant rights to Dutch speakers in French-speaking Belgium. This lack of reciprocity has been a constant in the linguistic relations in Belgium since 1830. For Wallonia it is the territoriality principle that applied in the past and is still valid today. If Flanders were to apply this same principle, this would be in contravention of 'le droit des gens'.

Both the Constitutional Court and the Council of State rule in their jurisdiction that the Belgian State is organised on the basis of the territoriality principle. Therefore, the personality principle is superseded as legal concept. This concept was rejected by the supreme Belgian courts of law. However, as a political concept the personality principle is still very much alive. It is indeed on the basis of this principle that French speakers continue to demand rights in Flanders in their political discourse.

In addition, French speakers unremittingly question the Flemish borders, whereas the Walloon and Brussels borders cannot be changed. This lack of reciprocity also reveals itself in the debate on the electoral district of Brussels-Halle-Vilvoorde. This bilingual constituency must give French speakers living in Flanders the right to vote for French-speaking candidates. Again, there is no reciprocity at all in this matter. French speakers demand rights in Flemish Brabant, but consider it the most natural thing in the world that Flemish people do not have these same rights in Walloon Brabant. 'Le droit des gens' is clearly not a reciprocal right which applies to all citizens. French speakers like reproaching Flanders that their language rights are undermined. They often claim that Flanders does not respect the language legislation. However, as shown earlier, this viewpoint was never confirmed in any of the numerous judgements by the Constitutional Court and the Council of State. Even the European Court of Human Rights has never seen anything wrong with the Belgian language legislation.

Finally, there is hardly any reciprocity as far as the application of the language legislation is concerned. The language legislation in the bilingual area of Brussels-Capital is designed to protect the Dutch-speaking minority. The French-speaking Brussels municipal authorities deny this language legislation in the most overt way. Even the Brussels institutions have promulgated several so-called linguistic courtesy agreements which circumvent the language legislation by allowing recruitment contracts with job applicants who do not meet the requirements regarding language knowledge. These linguistic courtesy agreements were repeatedly annulled by the Council of State[42]. Apparently, 'le droit des gens' does not count in Brussels. With some exaggeration one can even state that Brussels has no language legislation at all. So who is really denying the (language) rights of whom in Brussels?

Notes

1. *ECHR, 2 March 1987, "Mathieu-Mohin and Clerfayt v. Belgium", Application No. 9267/81, §57. See also ECHR, 17 May 1985, "Georges Clerfayt, Pierre Legros and Others v. Belgium", Application No. 10650; ECHR, 8 September 1997, "Clerfayt v. Belgium", Application No. 27120/95.*
2. *ECHR, 23 July 1968, "Case relating to certain aspects of the laws on the use of languages in education in Belgium", Application Nos. 1474/62, 1677/62, 1691/62, 1769/63, 1994/63 and 2126/64, § 7.*
3. *Constitutional Court, 26 March 1986, no. 17/86, 3.B.7.c.*
4. *Constitutional Court, 3 October 1996, no. 54/96; Constitutional Court, 10 March 1998, no. 22/98; Constitutional Court, 29 April 1999, no. 50/99; Constitutional Court, 17 May 2000, no. 56/2000; Constitutional Court, 20 November 2001, no. 145/2001.*
5. *See: Constitutional Court, 21 March 2000, no. 30/2000.*
6. *Constitutional Court, 3 October 1996, no. 54/96, B.7.1-B.7.2.*
7. *Constitutional Court, 24 June 2003, no. 92/2003, B.14.2.*
8. *Council of State, 10 December 2001, nos. 101.706-101.710 (Flemish Community); Council of State, 12 February 2008, nos. 179.511 and 179.510 (Flemish Community).*
9. *Cass., 12 May 1873, Pas., 1873, I, 179, conclusion of the Advocate-General MESDACH DE TER KIELE.*
10. *Corr. Brussels, 18 February 1873, Pas.,1873, III, 73 and Brussels, 21 March 1873, Pas., 1873, II, 166.*
11. *Cass., 19 May 1873, Pas., 1873, I, 181, conclusion of the Advocate-General MESDACH DE TER KIELE.*
12. *Parliamentary Minutes, Chamber of Representatives, 22 April 1873, 944.*
13. *Parliamentary Minutes, Senate, 9 March 1910, 345ff.*
14. *The following municipalities belonged to the Brussels metropolitan area in 1921: Brussels (amalgamated with Haren, Laken, Neder-over-Heembeek), Anderlecht, Oudergem, Etterbeek, Vorst, Elsene, Sint-Pieters-Jette, Koekelberg, Sint-Jans-Molenbeek, Sint-Gillis, Sint-Joost-ten-Node, Schaarbeek, Ukkel, Watermaal-Bosvoorde, Sint-Lambrechts-Woluwe, Sint-Pieters-Woluwe and Sint-Stevens-Woluwe.*
15. *About the difference between Art. 30 and Art. 129 of the Constitution: Constitutional Court, 26 March 1986, no. 17/86, 3.B.4.c; Constitutional Court, 14 December 1988, no. 70/88, B.5.b.*
16. *Constitutional Court, 9 November 1995, no. 72/95, B.7.3.*
17. *Constitutional Court, 30 June 1999, no. 74/99, B.9.*
18. *About the difference between acts of public authority and administrative affairs: Constitutional Court, 26 March 1986, no. 17/86, 3.B.4.c; Constitutional Court, 14 December 1988, no. 70/88, B.5.b.*
19. *Constitutional Court, 26 March 1986, no. 17/86.*
20. *Advisory opinion of the Council of State, legislation department of 5 September 1972, Parl. Documents, Chamber, 1971-1972, no. 282/5.*
21. *Council of State, 17 August 1973, no. 15.990 (Germis).*
22. *Council of State, 3 February 1976, no. 17.414 (Deffense); Council of State, 20 March 1979, no. 19.522 (Carlier); Council of State, 6 April 1982, no. 22.186 (Verheyden); Council of State, 24 May 1983, no. 23.282 (municipality of Sint-Genesius-Rode); Council of State, 24 May 1983, no. 23.283 (Bautmans); Council of State, 24 May 1983, no. 23.284 (municipality of Kraainem and Van Campen); Council of State, 8 November 1983, no. 23.658 (election of members of OCMW Wezembeek-Oppem); Council of State, 23 December 1983, no. 23.853 (election of members of OCMW Wezembeek-Oppem).*
23. *See: Council of State, 4 July 1967, no. 12.510 (Delbeke); Council of State, 6 April 1982, no. 22.186 (Verheyden), Judicial Code, 1982-83, 24, note W. LAMBRECHTS; Council of State, 24 May 1983, no. 23.282 (municipality of Sint-Genesius-Rode); Council of State, 24 May 1983, no. 23.284 (municipality of Kraainem and Van Campen); Council of State, 8 November 1983, no. 23.658 (election of members of OCMW Wezembeek-Oppem).*
24. *Council of State, 23 March 1999, no. 79.431 (Wezenbeek-Oppem), 4.1.2.4.*
25. *Constitutional Court, 10 March 1998, no. 26/98, B0.4.1; Constitutional Court, 3 May 2006, no. 65/2006, B.13.1 and B.17.3.*
26. *Council of State, 17 August 1973, no. 15.990 (Germis).*
27. *Constitutional Court, 10 March 1998, no. 26/98, B.4.1; Constitutional Court, 3 May 2006, no. 65/2006, B.13.1.*
28. *Council of State 23 December 2004, no. 138.860 (Kraainem), no. 138.861 (Gregoire); no. 138.862 (Linkebeek); 138.863 (Bolle), no. 138.864 (OCMW Linkebeek).*
29. *Council of State 23 December 2004, no. 138.860 (Kraainem), 4.5; no. 138.861 (Gregoire), 3.5; no. 138.862 (Linkebeek), 3.5; 138.863 (Bolle), 4.5, no. 138.864 (OCMW Linkebeek), 4.5.*
30. *Council of State, 19 June 2008, no. 184.353 (Wezenbeek-Oppem).*
31. *Cass., 20 April 1950, Pas., 1950, I, 560, conclusion by Procurator General CORNIL.*
32. *Constitutional Court, 26 March 1986, no. 17/86, 3.B.6; Constitutional Court, 10 March 1998, no. 26/98, B.4.1-B.4.2.*
33. *Council of State, 30 September 1986, no. 26.941 (Motte), no. 26.942 (Walraet), no. 26.943 (Broers), no. 26.944 (Happart) and no. 26.945 (Peeters); Council of State, 15 January 1987, no. 27.410 (election of members of OCMW Wezembeek-Oppem); Council of State, 15 January 1987, no. 27.411 (Cobbaert); Council of State, 12 June 1990, no. 35.187 (Walraet), 2.2.1; Council of State, 23 March 1999, no. 79.431 (Wezembeek-Oppem), 4.1.2.2.*
34. *An appeal for annulment of this Act was dismissed: Constitutional Court, 23 May 1990, no. 18/90.*
35. *Council of State, 12 June 1990, no. 35.187 (Walraet), 2.2.1; Council of State, 23 March 1999, no. 79.431 (Wezembeek-Oppem), 4.1.2.2; Council of State, 29 June 2001, no. 97.257 (Linkebeek).*
36. *Constitutional Court, 26 March 1986, no. 17/86, 3.B.4.c; Constitutional Court, 10 March 1998, no. 26/98, B.3.4.*
37. *Constitutional Court, 9 November 1995, no. 72/95, B.11.2.*
38. *Constitutional Court, 9 November 1995, no. 72/95, B.12.2.*
39. *Constitutional Court, 29 July 2010, no. 95/2010, B.35.; idem Constitutional Court, 20 October 2010, no. 124/2010.*
40. *Constitutional Court, 29 July 2010, no. 95/2010, B.31.1-B.31.2 and B.36.*
41. *Constitutional Court, 10 July 2008, no. 101/2008.*
42. *Council of State 8 April 2003, no. 1118.134 (Vlaams Komitee Brussel); Council of State, 8 April 2003, no. 118.135 (Nieuw-Vlaamse Alliantie); Council of State, 27 May 2004, no. 131.811 (Vlaams Komitee Brussel); Council of State, 21 April 2005, no. 143.469 (Vlaams Komitee Brussel); Council of State, 16 July 2006, no. 156.436 (Vlaams Komitee Brussel); Council of State, 7 July 2006, no. 161.084 (Vlaams Komitee Brussel).*

Hendrik Vuye (°1962) is a Doctor of Law and holds a Master's degree in Criminology and Philosophy. He currently lectures the subjects 'Constitutional Law' and 'Human Rights' at the University of Namur. Until 2008, he was attached to the University of Anwerp for the subject 'Foreign Legal Systems'. From November 2007 to late August 2009 he was dean during the start-up of the new faculty of law at the University of Hasselt.

Apart from his scientific activities and impressive list of publications, he often writes columns for De Morgen and De Standaard. He is also frequently interviewed by foreign and domestic media about the Belgian constitutional and political situation.


photographer Filip Claessens

Colophon

This brochure is an initiative by npo 'de Rand ' and the Agency for Local and Provincial Government of the Flemish authorities. It was compiled on the occasion of the Speakers' Corner which was organised by npo 'de Rand ' at the Colonial Palace of Tervuren on 8 December 2010.

Responsible publisher:
Eddy Frans
Director npo 'de Rand'
Kaasmarkt 75
1780 Wemmel
Composition
Marijke Verboven, de Rand
Lay-out
Sylvie Van de Waeter, Agentschap voor Binnenlands Bestuur
Print
Flemish Public Administration
Digital Printing Service
Depotnumber
D/2010/3241/440

Why is the use of languages so complicated in Belgium? Why are the language laws here so different from elsewhere? Are they really that different?

Ever since the creation of Belgium in 1830, the multilingualism of its population has posed a constant challenge to the policymakers. The current language laws illustrate the creative compromises which Belgium is so famous for. Nevertheless, the agreements made still offer food for political debate, especially with regard to Brussels and the Vlaamse Rand. Even the large international community in that area has difficulty sometimes in comprehending the situation. In addition, the domestic policy of the Flemish Government in the Rand already made the international press a number of times. Hendrik Vuye, Professor of Constitutional Law at the University of Namur, guides you through the Belgian linguistic conflict in a comprehensible way. He takes us back to the moment Leopold I takes the oath. Or how it should have happened in a Belgium that was supposed to be bilingual, according to some. From that moment on, Vuye guides the reader through the language-political history of the country. In doing so, he tries to clear up a number of persistent misunderstandings. Therefore, his discourse will be a real eye opener, to both Flemish and foreign readers.
The introduction is written by Luc Van den Brande, former Flemish Minister-President and current President of the Liaison Agency Flanders-Europe. This publication reflects an edition of Speakers' Corner which non-profit organisation 'de Rand' organises additionally within the framework of the Belgian EU Presidency. Speakers' Corner is a series of debates which feature Flemish prominant speakers discussing topical issues before an audience of foreign speakers. This publication is available in Dutch, French and English.