

# Lead Piece

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# A country-wide electoral district for Belgium's federal Parliament\*

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On June 10 2007 a new Belgian federal parliament was elected. The next day the usual procedures for the formation of a new federal government were started. But it would be 176 days later before a new federal government was formed, just before the New Year of 2008, after several failures even to find an agenda or a procedure for fruitful negotiations. It was however only a caretaker cabinet, led by the head of the outgoing government, Guy Verhofstadt, leader of the Flemish liberal party *Open VLD*. In March 2008 Yves Leterme, the leader of the Flemish Christian-democratic party CD&V, the largest party in Parliament after the June 2007 election, became the Prime Minister of a new, but again short-lived federal coalition government. In July 2008, as a result of no progress being made on some key demands made by his party, Leterme offered the resignation of his government to the king. The offer was turned down, but the manoeuvre was used to transfer the negotiation of these demands to an *ad hoc* "dialogue between communities", i.e. Belgium's Dutch-speakers and French-speakers. The Leterme government plodded on a few more months but could not survive the clumsy handling of some local manifestations of the global financial crisis. In December 2008, Yves Leterme was forced to resign, and his party comrade Herman Van Rompuy had to take over.

This story shows that the formation of a new government and its continued functioning turned out to be an exceptionally laborious enterprise. It faced the usual challenge of bridging the different views and ideologies of the parties that have to govern together in a coalition. But the gridlock resulted from a clash between the conflicting demands of two sets of parties, each corresponding to one of Belgium's two main language groups. The Dutch-speaking political parties had promised their electorate that a government could only be formed on the condition that further devolution would be secured. On the other hand, the French-speaking political parties had promised their own electorate that they would not accept these new demands. Both tried as long as possible to stick to these electoral pledges, resulting in neither of them giving in.

This kind of governmental crisis is not a new phenomenon in Belgium. To the contrary: long and painful negotiations between the two language groups have become a normal feature of the system. The gradual transformation of the unitary Belgium into a federal state was a long and sometimes painful process. For example, between 1977 and 1981 there were no less than seven cabinets, all falling apart because they were not able to find an acceptable compromise about the institutional hardware of a new Belgium. When in 1993 the first article of the Constitution was changed to define Belgium as a federal state, political stability seemed to have been restored. Between 1991 and 2007 all four federal governments went to the very end of their term, without being torn apart by the tensions between Francophones and Flemings. Yet the spectacular return of political gridlock in the aftermath of the June 2007 election suggests that there is still something wrong with Belgium's institutional capacity to deal with its linguistic and territorial divisions.

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In this chapter, we argue that the design of the electoral system is one of the major problems, since it offers insufficient incentives to display the spirit of accommodation that is needed for a divided society to be smoothly governed. Part one offers a short background sketch of the basic ingredients of the Belgian divide. Part two describes the institutional solution that was gradually put into place at the end of the 20<sup>th</sup> century. Part three identifies the solution as typically consociational, with full emphasis on segmental autonomy and power-sharing devices. However, emphasizing autonomy and inclusion of both groups in the decision-making process does not guarantee a smooth functioning and even less a high capacity for decision-making and change. Part four presents an electoral reform – a country-wide electoral district – that we have been advocating along with colleagues from all Belgian universities and that would go some way, we shall argue, towards remedying the shortcomings of Belgium’s federal set up.

### *1. Belgium’s linguistic and territorial divide*

The conflict that led to the territorial transformation of the Belgian state is in the first place a linguistic matter. When Belgium was created in 1830 after seceding from the short-lived Kingdom of the Low Countries, the political elite of the new state spoke French throughout the country, and French was therefore also the obvious choice as the language of government and administration. However, the majority of the population spoke no French. Belgium is cut in two by an old language frontier that runs from west to east (Geyl, 1962: 211). It divides the country into a southern area where French is spoken – now called Wallonia – and a northern area where Dutch is spoken – now called Flanders.

Nonetheless, the adoption of French as the sole official language was regarded as self-evident. Not only was French the language of the state-building elite – including those living in the north – but in 1830, French was also the language of modernity and liberalism, and the *lingua franca* of royal courts and diplomatic circles. Dutch, on the other hand, was the language of the northern Low Countries, i.e. precisely the country from which the new Belgium had seceded, and it was also perceived as the language of Protestantism, the dominant confession in the northern Low Countries, whereas both the Dutch-speaking and French-speaking parts of the new Belgium were, if religious at all, homogeneously Catholic. It also went without saying that Brussels would become the capital city of Belgium. The city is, however, located north of the language frontier. Its role as the capital city of the newly independent state rapidly strengthened its predominantly Francophone character, and fed its gradual expansion into its historically Dutch-speaking hinterland.

These facts are the raw material for understanding Belgium’s modern language conflict, and conflict it becomes when in the course of the 19<sup>th</sup> century the inhabitants of the part of the country where varieties of Dutch are the vernacular of the mass of the people started asking for the formal recognition of Dutch as a second official language of Belgium, and in particular for the right to use Dutch for educational, administrative and political purposes in the Northern part of the country. This process almost naturally led to a territorial solution (Murphy, 1988). From the 1920s on, the rules governing the use of language by public authorities and the language used as the medium of education relied on the creation – or rather the acceptance of the existence – of three linguistic territories: one for Dutch, one for French, and one – the Brussels area – where both languages can be used.

Obviously, a territorial organization requires the drawing of boundaries. This is seldom easy when ethnic, linguistic or religious tensions are present. Belgium has been no exception. Until today two conflicting principles have been invoked. One stipulates that the language to be used for official business is determined permanently on the basis of the historical distinction between the north and the south of the country. The alternative principle stipulates that official linguistic boundaries can and should be adjusted in line with changes in the composition in the population. According to this principle, the boundaries can shift in order to accommodate demographic movement and linguistic shifts. Whenever they did shift, they led to the transfer of historically Dutch-speaking territory into the bilingual area, and sometimes eventually into the Francophone area. Unsurprisingly, the historical principle

has tended to be supported exclusively by Dutch-speakers, who feel that a safely protected territory is needed to safeguard their lower status language. French speakers, instead, tend to invoke the principle that official boundaries should track real-life trends, including the spread of the stronger language. The use of language has therefore gradually been organized on territorial premises, but without agreement on the operational principles for the drawing of the territorial boundaries.

Different languages, and different views on the way in which language shift needs to be given free rein or hemmed in, are not the only differences between the north and the south of Belgium. In terms of economic development, Flanders and Wallonia have differed from the very early days of the Belgian state. Industrialization came quite early, and was very much concentrated in the south, while the north remained agricultural for much longer. But after the end of the Second World War the steel-and-coal-based Walloon economy started declining, whereas Flanders attracted investments in new economic activities – for which the harbour of Antwerp was, and remains, a major asset. The economic balance of the country therefore shifted. In the early 1970s, GDP per capita became higher in Flanders than in Wallonia, and since then the gap has kept increasing. In 2006 GDP per capita was € 21.559 in Wallonia and € 29.992 in Flanders, while the unemployment rate was 5 per cent in Flanders and 12 per cent in Wallonia. This emphasis on Belgium’s North-South economic divide is somewhat misleading, however, because well over one quarter of the country’s GDP is produced on less than 1% of its territory, in the Brussels Region and its immediate surroundings. But the dramatic shift in the balance of economic power between Flanders and Wallonia is nonetheless a crucial ingredient in Belgium’s present situation.

By contrast, the political difference between North and South has remained relatively stable. As soon as all layers of the population were allowed to participate in parliamentary elections, the north and the south returned quite different results. At the first elections with some sort of universal male suffrage in 1894, the 72 Flemish seats and the 18 Brussels seats all went to representatives of the Catholic Party. Of the 62 Walloon seats, 14 went to the Catholic Party, 20 to the Liberal Party, and the remainder to the Socialist Party, which first entered parliament with 28 representatives, all elected in Wallonia. Although the differences did not remain as sharp – not least because of the introduction of proportional representation in 1900 – the two parts of the country still display significantly different electoral behaviour. Table 1 shows the results of the federal elections of 2007 for Flanders and Wallonia separately per party family. These reveal that for each party family the results are very different. However, these regional differences do not increase over time. They have always been important.

**Table 1: Results of the elections to the federal parliament in 2007 for Flanders, Wallonia and Brussels (percentage of the votes)**

	Flanders	Wallonia	Brussels
<b>Christian democrats</b>	29.6	15.7	16.5
<b>Socialists</b>	16.3	29.5	23.4
<b>Liberals</b>	18.7	31.1	34.7
<b>Populist radical right</b>	18.9	5.5	6.0
<b>Greens</b>	6.2	12.7	15.0
<b>Others</b>	10.3	5.5	4.4

To these different electoral results one must add another crucial ingredient of the Belgian problem. The results in table 1 are presented per *party family*, and not per party, because there are no country-wide parties any more. The traditional parties – Christian democrats, liberals and socialists – fell apart into two separate and unilingual parties between 1968 and 1978. The Greens and the populist radical right parties are younger, but have never existed as Belgian parties. They have developed in the party system of each of the language groups separately. For the federal elections, it is only in the central electoral district of Brussel-Halle-Vilvoorde (BHV) – which comprises the Brussels region and 35 Flemish municipalities – that the parties of the two language groups compete with each other.

## **2. *The institutions of the Belgian federation***

The unitary Belgium of 1830 is now long gone. Several constitutional reforms have rebuilt the Belgian state into a federation. The linguistic regions that were created to regulate the use of language provide its building blocks, albeit in a fairly complex way. Belgium is both a federation of three territorial regions and three languages communities. The regions are called Flanders, Wallonia and the Brussels Capital Region, with clear (though not uncontested) territorial borders. They have been given a broad set of powers, e.g. over environmental policy, public works, public transport, housing, and important aspects of economic policy. The three language communities are called the Flemish Community, the French Community and the German-speaking Community. The communities basically offer services to individuals in the areas of education, culture and welfare policy. The Flemish Community offers these services in Flanders and in Brussels. The French Community offers them in Wallonia and in Brussels. Hence, in the territory of the Brussels Region the operations of the two main language communities overlap. The German-speaking Community, composed of some 73.000 people living in two areas next to the German border (transferred from Germany to Belgium after the First World War) offers its services in those areas, which are part of the Walloon Region. The twofold nature of the federation is rather awkward, but it is a subtle compromise. At a first level, it often presented a deal between pro-Community Flemings – who prefer a one-against-one conflict – and pro-Region Francophones – who might be advantaged by a two-against-one configuration. At a deeper level, it constitutes an attempt to articulate two types of concerns. The “community” component should assuage, at least for the time being, both many Flemings’ fear they will lose all control over Brussels, where the Flemish residential presence keeps shrinking, and many Francophones’ fear of a weakening of the solidarity between Brussels and Wallonia. On the other hand, the regional component reflects some awareness of the fact that efficient policy making requires all decentralized powers to be exercised by one government, responsible to all those sharing the same territory.

The first constitutional reform of 1970 laid down this double structure, but it was only in 1989 that Brussels was given the status of a Region, and only in 1995 that the roof was put on the house with the first direct election of the three regional parliaments. The constitutional reform of 1970 was also extremely important for the changes it introduced in the functioning of the central state. The rules laid down at that time define the way in which decision-making operates at the federal level today, as well as the way in which the constitution can be further modified. Two principles were then deeply enshrined into the Belgian political system: a neat separation between the language groups, and an obligation to govern together.

The separation between the language groups was introduced both into the parliament and in the government. All members of the House of Representatives, whatever their origins, belong to either the Dutch, or the French language group. That membership is defined by the territory in which the members of parliament have been elected. Those elected in constituencies of the Flemish region belong automatically to the Dutch language group and those elected in Wallonia belong automatically to the French language group. For MPs elected in the central Brussel-Halle-Vilvoorde (BHV) district the language in which they take their oath defines the group to which they belong. The full separation of the party system into

Francophone and Flemish parties actually predefines the choice that these MPs will make. Subsequent reforms of the electoral system and of the parliament, have only reinforced this split and the role ascribed to the descriptive representation of language groups. Since 1995, the Senate has been elected in two electoral districts: one for Flanders and the central BHV district, and one for Wallonia and the central BHV district. The Belgian members of the European Parliament are elected in the same way and, as in the Senate, with a fixed number of seats available for each language group and an overlap in the territory of BHV, where voters can choose for either of the two districts.

The members of the federal government also clearly belong to one of the two language groups. Again the split party system leaves no doubt about the membership. Since 1970 therefore not one single politician formally represents voters outside of his or her language group. Politicians might claim to do so, but their position in the institutions gives them a clear and unambiguous label.

The neat separation of the language groups allows for the organization of the second principle: the obligation to include both groups within the federal decision-making process. This is done in a variety of ways. First, the federal government (i.e, Belgium's cabinet) has to be composed of an equal number of Francophone and Dutch-speaking Ministers. Only the Prime Minister is supposed to be 'linguistically asexual', but the party to which he belongs leaves no doubt about his linguistic status. Since 1970 all Prime Ministers have been Dutch speakers, except for a one year period in 1972-73, and a two month period in 1978. The rule of decision-making in the federal government is unanimity. The cabinet never votes. This linguistic 'parity' assures the governing of the country by the two major language groups.

In the parliament the Flemish group is larger than the Francophone one, reflecting the 60:40 per cent demographic ratios. It can, however, not use that majority to impose its will on the minority. The normal rule of decision making for the federal House of Representatives is simple majority, but the minority has a veto power. It is called the 'alarm bell procedure'. Whenever three quarters of a language group declares that a proposal might be accepted that harms the interests of that group, it can activate the alarm bell. The parliamentary procedure is then suspended for thirty days, during which the government needs to find a solution. And with parity in its composition and unanimity as the decision-making rule, the solution of the government can only be one that is acceptable for both language groups. If no solution is found, the government will have to resign. But to form a new government, possibly after electing a new parliament, both language groups will still need to find a compromise. Moreover, to change the constitution a two-thirds majority is needed. Yet for most articles that define the political institutions of regions and communities, and for the so-called Special Laws that implement these basic principles, a majority is needed in each language group, i.e. a concurrent majority, as well as an overall two thirds majority.

The same logic of strict separation of the political personnel into language groups and the obligation to govern together and to avoid a veto by one of the language groups has been built into the institutions of the Brussels region. It has indeed become a fully-fledged region, as the Francophone parties requested, but, institutionally speaking it has not become a Francophone region, as the Flemish parties feared. Dutch-speaking parties are guaranteed 17 out of the 89 seats in the regional Parliament, and two out of the four ministerial positions in the regional government, while the minister-president supposed to be, like the federal Prime Minister, linguistically *a-sexué* (as the semi-official terminology puts it). To some extent this picture is a mirror image of the federal institutions. The Brussels institutions display the Belgian logic of separation and inclusion. This logic is a consociational logic, albeit one in which the parity principle usually outweighs the proportionality principle. With two actors, the proportional distribution of power and resources is not the most important device. The common agreement needed for governing lays far greater stress on the right of both actors to be present in the decision-making process and hence on the veto power of each language group.

### 3. *Consociational Belgium*

In a piece written nearly three decades ago, Arend Lijphart left no doubt as to how he wanted to label Belgium, 'What is remarkable about Belgium is not that it is a culturally divided society – most of the countries in the contemporary world are divided into separate and distinct cultural, religious, or ethnic communities – but that its cultural communities coexist peacefully and democratically. What is more, Belgium can legitimately claim to be the most thorough example of consociational democracy, the type of democracy that is most suitable for deeply divided societies' (Lijphart, 1981: 1). If the Belgian federation – still very much in the making when Lijphart wrote – is consociational, it needs prudent leaders willing to accommodate and to govern with the leaders of the other language group. The devolution of powers to the regions and communities, however, has taken away from joint decision-making quite a few powers for which the formulation and implementation of a common policy has been, or would be difficult. For the remaining federal powers a common policy is required and therefore an agreement is needed. That is obviously also the case for all matters relating to the state structure itself. Only an agreement between elites willing to compromise can offer a way out.

Functioning consociational democracy requires prudent leadership. Prudence may result from a learning process, from the awareness that a conflictual attitude leads to total gridlock, and possibly even to violent clashes (Lijphart, 1977: 99). Prudent leaders are willing to bridge the gap over the possibly deep differences which divide the population. Functioning consociational democracy also requires that the elites want to keep the political system alive and value the latter's survival above the interests of their own groups. It means that they are willing and able to play a double role, to be advocates on behalf of their own rank and file and compromise seekers at elite level. Compromising therefore needs to come at an acceptable price. If compromising leads to a substantial loss of trust (and hence votes) from the followers, prudent leadership is not likely to develop (Horowitz, 1985: 347).

This is indeed one of the major problems for the functioning of Belgium. If we look back at the last fifty years, we can observe the capacity to find compromises when needed. It was never easy, but exactly at times when terms like 'regime crisis' were being used by political commentators, a new, often unforeseeable, compromise was found. It is important to note though that these agreements were reached in a political system that was not yet a fully-fledged federation. Political agreements had to be found in the central government (and parliament). The absence of an agreement acceptable for both language groups meant the end of the current central government, or the non-formation of a government. That could go on for a while, but the longer it took, the more problematic it became for all parties. The very high systemic price to be paid for the absence of an agreement – for instance in terms of pressure on the currency or public sector deficits – provided the incentive for the elite to be both creative, and accommodating, and hence to concoct an acceptable compromise that could keep the system going again for a while.

This institutional environment has changed in ways that have tended to reduce the pressure to find a compromise, and increased the probability of long and enduring political crises. Since Belgium has become a federation, it has more than just a federal government. Many powers are now in the hands of the regions and communities. As a result, the formation or survival of the federal government is less important. In other words: the pressure to display an accommodating attitude in what used to be the only center of power is far weaker than it was before (Jans, 2001; Swenden & Jans, 2006; Deschouwer, 2005; 2006). This is also the case because of the expansion of the powers of the European Union. The melting of the Belgian frank into the euro, for example, strongly limits the dangers of a financial crisis when the country is not able to produce or to keep alive a working government. As a result of federal powers having shrunk from above and from below, it is both less important and more difficult to form federal governments and to keep them in place.

No less relevant have been the changes in the pattern of party competition. For a long time – actually until the end of the 1990s – there were two dominant parties in Belgium. Christian Democrats were by far the largest party in Flanders, and therefore almost always were a governing party. The Socialists were by far the largest party in the south. The most natural coalition was therefore one between the Christian democratic and the Socialist families.

Since the turn of the century, however, this domination has gone. In each of the two party systems party competition is very high. All potential governing parties are very much afraid of losing votes. Even a slight electoral decline can have quite important consequences. Consequently, party elites are more scared than ever of having to pay the electoral cost of the compromises they accept.

This increased electoral competition happened to materialize precisely when the electoral cycles for the different levels of the federation became desynchronized. In 1995 and 1999 the federal and regional parliaments were elected on the same day, but since then they have developed their own rhythm of five years for the regional parliaments, and four years for the federal parliament. In the absence of country-wide political parties, distinct from the linguistically defined parties that compete for the regional elections, the federal elections and the regional elections are not really different.

As explained earlier, by the late 1970s all three Belgium-wide parties had divided into two separate parties, one Flemish and one Francophone. Consequently, whatever the type of election, the same parties compete for the electorate of their own language group. The next election for all parties is not the next election at the same level, but the next election *tout court*. There have been elections in 2003 (federal), 2004 (regional) and 2007 (federal), and more elections are scheduled for 2009 (regional), 2011 (federal) and 2013 (regional). This is driving all political parties into a nearly permanent state of electoral campaign. As a result, the likelihood of an accommodating attitude on the part of politicians governing, or wanting to govern, at the federal level has been dramatically reduced.

#### ***4. A country-wide electoral district?***

There is definitely something wrong with the functioning of the Belgian federation. Its federal governmental level lacks decision-making and problem-solving capacity, and most suggestions to improve the functioning of the federal state defend a further devolution of powers to the regions and communities: if the federal government does not work, it should be given less work to do. This thinking fits in neatly with the trend that has characterized Belgium's institutions since the 1970s: the gradual hollowing out of the powers of the central government. Suggestions to improve the decision-making capacity of the federal governmental level are seldom heard. There is, however, one idea that propped up now and then in the last couple of decades, was worked out in some detail shortly before the 2007 federal election and soon became the subject of a lively debate: the idea of creating a federal or country-wide electoral district for the federal elections.

When in 1979 Belgium had to decide on the procedure for the election of the Belgian members of the European Parliament, the idea of a country-wide electoral district appeared for the first time. It was suggested by the Flemish Christian-Democrat leader and then Belgian Prime Minister Leo Tindemans, who was hoping to score highly among both linguistic groups. His Francophone coalition partners were diffident, and the government opted instead for an election of Belgian MEPs in two separate unilingual community-wide electoral districts, in line with the classical 'splitting' logic outlined earlier. The idea reappeared in the 1990s, as Belgium was becoming a true federation, but this time applied to federal elections (see e.g. Van Parijs 2000a, 2000b). It did not arouse much interest, however, until a group of academics, known as the 'Pavia Group', and coordinated by the authors of this chapter, drafted a detailed scheme, tested it among politicians and lawyers, and then presented it to the press on February 14, 2007 (Deschouwer & Van Parijs, 2007; [www.paviagroup.be](http://www.paviagroup.be)). The proposal was picked up by some parties, fiercely attacked by others, and eventually made it to the institutional agenda.

#### ***A truly federal Parliament for a truly federal government***

The basic idea is simple and straightforward. Of the 150 members of the federal House of Representatives, 15 should be elected in an electoral district that covers the whole territory of

the Belgian state — henceforth called the federal district. So far the federal House is elected in 11 districts, coinciding with the provincial boundaries, except for the central BHV district, which encompasses the whole of the Brussels Region and part of a Flemish province. Almost all MPs are therefore currently elected in unilingual districts where the parties of only one language group compete.

Once a federal electoral district is created, voters will have two votes. Their first vote will be cast for one of the lists — or some of the candidates featuring on one of the lists — presented in a provincial electoral district. The distribution of seats among these districts will be distributed, as now, in proportion to the population of each province. A second vote will be cast for one of the lists — or some of the candidates featuring on one of the lists — presented in the federal district, common to all voters, irrespective of where they live.

Any candidate will be allowed to stand both on a provincial list and on a federal list. And most, if not all, of the candidates on a federal list can be expected to do so, for the following reasons. They may not be sure of being among the fifteen elected in the federal district, and therefore it is safety call for them to be in a good position on a provincial list. Or, they are certain to be among the fifteen elected, but if they enjoy such popularity their party would be foolish not to also place them on a provincial list.

Thus fifteen out of the 150 people elected to the House will have a claim to being truly federation-wide MPs. But a far greater proportion of the 150 eventually elected, in all likelihood a significant majority among them, will have been candidates in the federal district. To win as many votes as possible in this district, it will be in their interest to campaign also in the other language group, with a fair chance of success if they manage to highlight their commitment to causes that are not divisive along linguistic lines. This will hold, in particular, for the top politicians of all the parties with the ambition to form and lead the federal government, those whose promises and declarations will be most binding for the action of the next government. Not only will their total personal vote affect, as it does now, their pecking order in their party and in the country, but this vote and the way it is distributed across the country will affect the legitimacy with which they will claim and exercise the functions to which they aspire.

For this reason, the number of seats to be allocated in the federal district is not that important. It could conceivably be increased beyond fifteen. But if this is done without a corresponding increase in the total size of the House, the district magnitude in the provincial districts would drop and that would create higher thresholds for the smaller parties. The degree of proportionality would be severely reduced, while the Constitution requires the electoral system to be proportional. On the other hand, increasing the number of seats in the federal House would be an unpopular measure, unless combined with an appropriate compensation. Bear in mind that the full implementation of the federal structure in 1995 increased the total number of parliamentary seats — federal and regional — from 369 to 503. However, increasing the number of seats in the House might possibly be compensated by a reduction of the number of seats in other assemblies. The most attractive and most probable version of such compensation would consist of scrapping the direct election of part of the senate — 25 Dutch-speakers and 15 French-speakers — thus leaving a Senate composed exclusively of people elected to the regional parliaments.

Whether fifteen or more members of the federal House are elected in the newly created federal district, the reform sketched would significantly alleviate the democratic deficit from which Belgium's federal system suffers. The current organization of elections without federal parties does not offer the possibility of a true dialogue between the governing elite at the federal level and the population of the federation as a whole. All those competing seriously in the federal district will face incentives to propose mutually acceptable solutions for institutional matters, instead of simply expressing the demands of their own language group. A federal district would re-introduce *pre-electoral incentives* — absent since the Belgium-wide parties fell apart — to display a disposition to compromise that is needed to govern, in power-sharing fashion, at the federal level. The proposal aims thereby to strengthen the potential for prudent leadership and political accommodation, by compensating for

institutional developments that have dramatically weakened it. Given the absence of federal political parties, the emergence of a federal system that reduced the importance of the central government has seriously reduced the capacity of the country's political elites to promote or at least accept the principles of power sharing.

### *Quota per language group*

As is often the case with institutional engineering, however, it is crucial to anticipate the various political actors' response to the proposed set up, and to fine-tune the latter so as to avoid perverse effects. For this reason, the Pavia Group's proposal fixes before the election the number of seats allocated to each language group in the federal district. The proportions simply match as closely as possible the proportions of members of the House belonging to the two language groups in the previous legislature. If 15 seats are to be allocated, this means that 9 will go to Dutch-speakers and 6 to French-speakers. The lists put forward by the various parties in the federal district will accordingly consist of a maximum of 6, 9 or 15 names. Only lists containing 9 Dutch speakers and 6 French speakers can present 15 candidates.

Some simple and sufficiently uncontroversial criterion for recognition as a French speaker or a Dutch speaker will be required. In the light of past experience, and bearing the threat of political sanctions in mind, sponsoring by three members of the relevant language group of the previous House should do the trick. The allocation of seats between the lists and the candidates can proceed using the standard d'Hondt system, under the constraint of the linguistic quota. That means that a list can have its next candidate elected, as long as he or she belongs to a language group for which the quota has not yet been reached. If this quota has been reached, the seat is allotted to the next candidate on the same list from the other language group. If the list is unilingual, the seat is allotted to the next list that can claim the seat and has candidates from that language group (see table 2).

**Table 2: Simulation of seat distribution for a federal electoral district**

Imagine three lists are participating in the election. List A is a list with 6 candidates, all French-speaking. List B is a list with 9 candidates, all Dutch-speaking. List C has 15 candidates of which 6 are French-speaking and 9 are Dutch-speaking.

The proportional distribution of seats between the lists – using the D'Hondt divisors – gives list A 6 seats (numbers 1, 3, 5, 8, 10, 13), List B 6 seats (numbers 2, 4, 6, 9, 12, 14) and List C 3 seats (7, 11 and 15). On each list the candidates are ranked according to their preference votes. That defines the order in which they can be elected.

List A		List B	List C	Quota	
				Flemish	Francophone
Seat 1	First candidate				1
Seat 2		First candidate		1	
Seat 3	Second candidate				2
Seat 4		Second candidate		2	
Seat 5	Third candidate				3

Seat 6		Third candidate		3	
Seat 7			First candidate (assume Francophone)		4
Seat 8	Fourth candidate				5
Seat 9		Fourth candidate		4	
Seat 10	Fifth candidate				6
Seat 11			Second candidate – must be Flemish	5	
Seat 12		Fifth candidate		6	
Seat 13	Quota is full – seat cannot be filled				
Seat 14		Sixth candidate		7	
Seat 15			Third candidate – must be Flemish	8	
Seat 16			Fourth candidate – must be Flemish	9	
<b>TOTAL</b>	5	6	4		

Seat number 16 also has to be allocated, since seat number 13 could not be filled by list A. List A thus loses one seat because it is unilingual. An extra seat goes to the bilingual list C.

The use of quota might at first sight be at odds with the spirit of the proposal. Yet it is not. The aim is to offer electoral incentives for politicians to campaign in both language groups. In the absence of quota, there is a risk — indeed a certainty in the foreseeable future — that many voters will be reluctant to support a politician from the other language group for fear of contributing to a reduction in the representation of their own group in Parliament. In the absence of quotas, the federal election would quickly degenerate into a race between the language communities — which it now is to a large extent in the BHV electoral district, where such a regime is in place. That is exactly what the federal district must not be. In the version of the federal district proposed by the Pavia Group, catching a vote from the other language group will not alter the numerical parliamentary representation of the language group to which a candidate belongs. It will not decrease but rather increase considerably the incentive for parties and candidates to court the voters across the linguistic border. If parties

and voters' strategies are no longer frozen by fear of disproportionality, there is far more to gain from making one's promises and actions more palatable to others. The quotas make it possible to leave intact the existing power-sharing devices. All members of the federal parliament will keep belonging to one language group. This is needed to protect the Francophone minority, and for the double majorities required for some institutional reforms. A country-wide electoral district is intended to strengthen the democratic legitimacy and the problem-solving capacity of the federal governmental level, but without destroying the existing power-sharing principles and devices. Its introduction would not ignore or attempt to erase the differences between the language groups. Nor is it intended to resurrect country-wide political parties.

It is precisely because there are no such parties that other devices are needed to link the federal politicians to the population of the federation as a whole. Parties belonging to the same ideological family might decide to form common lists for the fifteen federal seats. This would make them look better, as they could present a full list, and would also guarantee that they would never lose a seat in case one of the quotas is filled. Moreover, their leaders would be given a better chance of winning higher votes across the linguistic frontier, as each voter can tick several names on the same list. Parties belonging to the same ideological family could also present separate lists, while deciding to pool their votes, as allowed in the Pavia Group's formula. But in any event, they would still present unilingual party lists in both Flanders and Wallonia. Indeed, it cannot even be ruled out that, as regionalization deepens, separate Brussels parties may arise within each political family. The proposal of a federal electoral district is fully consistent with such developments. Its purpose is to provide an electoral set up that facilitates the government of a divided society in the absence of country-wide political parties.

### *Conclusion*

By way of conclusion, we offer two remarks, one strategic and one philosophical.

It is seldom a piece of cake to get an electoral reform through, if only because those currently empowered to change the rules are in power thanks to the rules they are asked to change. The reform proposal described and motivated in this chapter is no exception. Its adoption requires small changes in two articles of Belgium's federal constitution, and hence a two thirds majority in both the House and the Senate. Is it possible to convince two thirds of Belgium's top politicians that a change of this sort is in their personal interest? We doubt it. Is it nevertheless possible to convince enough opinion leaders that this is a remedy the Belgian system urgently requires, to convince enough political leaders that there is something in it for them, if not for the sake of gaining power, at least for the sake of exercising it, and to put enough moral pressure on the rest, so that the required super-majority can be patched together despite the opposition of secessionist parties? The future will tell.

On the bright side, it may be noted that the Prime Minister who took over from Yves Leterme on the 30<sup>th</sup> of December 2008, Herman Van Rompuy, publicly expressed his support for the idea, and that his two deputy Prime Ministers in charge of institutional reform have been supporters of the Pavia proposal from the start. But it will be hard for the proposal to emerge from self-interested bargaining between the linguistic blocks of political parties. What is supposed to be in the general interest cannot be offered nor accepted as compensation for a concession on the most salient contentious issues, such as the splitting of the BHV electoral district or the expansion of the Brussels Region.

If there is hope, it comes from a linguistically well balanced pressure from "civil society". It was crucial for the proposal's prospects that it should be associated with a bilingual set of academics rather than with a linguistically tainted political party. And it is crucial that it should keep being supported by journalists, and other opinion leaders, from both sides of the linguistic frontier. The June 2007 federal election was won in a decisive way by Flemish Minister-President Yves Leterme. But it was won with votes garnered only on one side of the linguistic frontier, and celebrated only under Flemish flags. The government formation

process that followed was extraordinarily laborious. The government it eventually produced reached no deal on the key divisive issues, remained undermined by mutual distrust and did not survive what should have remained a minor incident. If enough people are able to see in this sad sequence of events, not the failings or bad luck of individual people, but a major defect of the system in which they are caught, progress is not out of reach.

Finally, let us briefly turn from political strategy to political philosophy. Among the many critiques expressed against the Pavia Group proposal in the course of the rich debate it triggered, the most profound is perhaps the one best articulated by Bart De Wever, president of the New Flemish Alliance (N-V-A), a Flemish nationalist party that formed an electoral cartel with Yves Leterme's Flemish Christian Democrats until its collapse in September 2008. Proposing a federal electoral district, on this view, is a form of 'creationism'. The Belgian state failed to create a Francophone Belgian nation in the nineteenth century. It gave up the idea of creating a bilingual Belgian nation in the twentieth century. The federal district is too weak an instrument, and it comes too late, to create a Belgian nation. All it can do, if anything, is hinder the process through which the Flemish nation and, if such a thing exists, the Walloon nation, can become full-fledged states. Only with the consolidation of two states matching these two nations will the never-ending process of transformation of Belgium's institutions come to a rest.

The political philosophy that underlies the Pavia proposal is different. No one could deny that being able to function in one language makes life easier for a democratic polity. For this reason, devolution to linguistically more homogeneous entities was a wise decision. The survival of Belgium is no aim in itself, and if all matters could sensibly be devolved in this way, why not? But they cannot, essentially because any sensible management of Brussels and its hinterland requires them to be under a single authority, and because neither an absorption of the Brussels Region by either of the other two nor an absorption by the Brussels Region of its hinterland (namely the richest provinces of both Flanders and Wallonia) belong to the realm of the possible. Instead of wasting one's time dreaming about nation-states that will never and should never exist, one must design and implement institutions that improve the working of polities that are not and will never become nation-states, including for the sake of moving more smoothly, as Flemish nationalists wish, towards more thorough-going devolution. Belgium is one such polity, and the European Union is another. Such institutional engineering is not a losing battle against the democratic imperative of linguistic homogeneity. It is an essential part of the piecemeal shaping of the sort of institutions that the countries and super-countries of today's world will increasingly need.

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