



Human Rights in Belgium
Linguistic Diversity and Linguistic Minority Issues
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Linguistic Diversity and Linguistic Minority Issues

State structures and linguistic communities in Belgium¹

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

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

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

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

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

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

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

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

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

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

The German-speaking minority in the Walloon Region

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

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

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

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

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

The French-speaking minorities in the Flemish Region: the 6 municipalities with “language facilities”

The 1962-1963 language laws provided for “linguistic facilities” for the inhabitants of 27 communes with linguistically mixed populations and contiguous to a different linguistic region. They included the right to request that, in their dealings with the authorities (regarding i.e. administrative matters, education and relations between employers and employees), language other than that of the region in which the communes are located can be used. Ever since the adoption of a constitutional amendment in 1988, the linguistic facilities in these 27 communes cannot be changed except by a federal law with a qualified majority. 6 of these 27 communes⁷ lying in the Flemish region are contiguous to the Brussels Region and have a large share, sometimes a majority, of French-speaking inhabitants. While the Walloon Government applies the original laws concerning the use of languages in administrative matters in the communes with facilities of the Walloon Region, the Flemish government has adopted decrees and circular letters “interpreting” the federal legislation on the facilities. Hence the tensions and the problems in the 6 communes near Brussels.

School education is one of the areas of conflict. In principle, Dutch-language schools accept all pupils both from the six communes with facilities and from outside. However, the access to the local French-language schools is limited to the local French-speaking residents. This practice is not consistent with the 23 July 1968 decision of the European Court of Human Rights: “Case relating to certain aspects of the laws on the use of languages in education in Belgium” v. Belgium⁸. By eight votes to seven, the Court held that “Section 7 (3) of the Act of 2nd August 1963⁹ does not comply with the requirements of Article

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

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

⁸ Application nr 1474/62; 1677/62; 1769/63; 1994/63; 2126/64).

⁹ “On the use of languages in administrative matters.” See full judgment at

14 of the Convention read in conjunction with the first sentence of Article 2 of the Protocol (art. 14+P1-2), in so far as it prevents certain children, solely on the basis of the residence of their parents, from having access to the French-language schools existing in the six communes on the periphery of Brussels invested with a special status, of which Kraainem is one.”

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

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

The Belgian Court of Arbitration — also called Constitutional Court — already held in a 1996 judgment that “it is the duty of each legislator, within the limits of its competence, to ensure the protection of minorities”. In the same judgment, the court held that Flanders is responsible for protecting the rights of the “French-speaking minority established” in the Flemish municipalities where facilities for French-speakers are provided.¹⁰ This judgment has therefore implicitly introduced the theory that French-speaking citizens are a minority in the Flemish Region, at the very least in the Flemish municipalities with facilities for French-speaking citizens.

Rapporteurs of the Parliamentary Assembly of the Council of Europe have reported that there is “an increased tendency of the Flemish government to restrict, as far as legally possible, the use of the linguistic facilities, with the aim of reinforcing the Flemish, Dutch-speaking character of the region, including the six municipalities in question. This tendency of the Flemish Government seems itself to originate in a perceived ‘Frenchification’ of the Brussels periphery, a fear to which some French-speaking politicians have probably contributed”.¹¹

The Dutch-speaking minority in the Brussels-Capital Region

The Parliament of the bilingual Brussels-Capital Region (19 municipalities) consists of 89 directly elected members: 17 Dutch-speaking and 72 French-speaking. The Dutch-speaking minority is protected by a fixed quota of deputies despite the steadily decreasing number of Dutch-speaking voters¹². The 89 elected members are divided into two language groups. With regard to Community matters (culture, education, tourism, health policy, and so on), they sit separately but they sit together in a joint assembly for the management of institutions that do not exclusively belong to a specific community.

<http://cmiskp.echr.coe.int/tkp197/portal.asp?sessionId=10182872&skin=hudoc-en&action=request>

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

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

¹² Voting is compulsory in Belgium. At the last regional elections in June 2009, only 51 818 people out of a population of 1 million inhabitants voted for Flemish voting lists, a decrease of about 10,000 in five years.

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

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

A domestic remedy: the Permanent Commission for Language Supervision

At the domestic level, a mechanism has been put in place to collect individual complaints against alleged violations of language legislation by the federal state, the communities, the regions, the provinces and all municipalities of Belgium¹³ named the Permanent Commission for Language Supervision (PCLS). The Commission, which is an advisory body, has been mandated to investigate all violations of the administrative language legislation by any administrative body of the state.¹⁴ The Commission is divided in a Flemish and a French section, each retaining competence over their respective regions. However, for the Brussels Region and for particularly sensitive areas such as municipalities with linguistic facilities and the protection of minorities, the PCLS convenes in a joint assembly made up of both sections.¹⁵

Belgium, national minorities and the Council of Europe

Belgium signed, but did not ratify, the Framework Convention for the Protection of National Minorities on 31 July 2001. Moreover, Belgium has issued a declaration accompanying its signature, stating that “the Framework Convention applies without prejudice to the constitutional provisions, guarantees or principles, and without prejudice to the legislative rules which currently govern the use of languages. The Kingdom of Belgium declares that the notion of national minority will be defined by the inter-ministerial conference of foreign policy”.¹⁶ However, Belgium has not yet been able to define this notion.

Because of the way the Belgian state is organised, the Framework Convention should be signed and ratified by all seven competent parliamentary assemblies, before it can enter into force in Belgium. However, these ratifications have as of yet not taken place due to differing views on the matter that exist in the (Dutch-speaking) North and in the (French-speaking) South of the country. The Flemish government and parliament claim that the only minority in Belgium is the German-speaking minority.¹⁷ The governments and parliaments of the French Community and the Walloon Region reason as follows: “[w]e maintain that minority status must be determined with reference to the Belgian state and to each of its federated entities. Accordingly, we take the view that French-speakers and German-speakers are language minorities at federal level,¹⁸ while French-speakers in Flanders, Dutch-speakers in the Walloon

¹³ Ibid.

¹⁴ Federale Overheidsdienst Binnenlands Zaken, “Vaste Commissie voor Taaltoezicht”, <http://www.ibz.be/code/nl/loc/instit.shtml> (accessed 29 October 2008).

¹⁵ Ibid.

¹⁶ See the website of the Council of Europe, at <http://conventions.coe.int/Treaty/Commun/ListeDeclarations.asp?NT=157&CM=8&DF=08/02/05&CL=ENG&VL=1> (accessed 11 December 2007).

¹⁷ Council of Europe, Parliamentary Assembly Committee on Legal Affairs and Human Rights, Doc. 9536 *Protection of minorities in Belgium*, 5 September 2002, Explanatory Memorandum by Mrs. Nabholz-Haidegger, Rapporteur, para. 22. The German speaking Community counts some 70 000 inhabitants.

¹⁸ For the French-speakers, since they constitute a numerical minority in Belgium – representing approximately 40% of the population, compared to nearly 60% for the Flemish-speaking – note of HRW International.

Region, Dutch-speakers in Brussels and French-speakers in the German-speaking region are language minorities at regional and community level”.¹⁹

Consequently, the European Commission for Democracy through Law (Venice Commission) of the Council of Europe has issued an opinion regarding the existence of linguistic minorities in Belgium. The Venice Commission finds that “in Belgium, in the light of the existing equilibrium of powers between the Dutch-speaking and the French-speaking at the state level, French-speakers are in a position of co-dominance and therefore do not constitute a minority within the meaning of the framework convention at this level, despite being numerically inferior to Dutch-speakers. German-speakers, instead, are to be considered as a minority in the sense of the framework convention at the state level”. The Venice Commission furthermore has concluded that “at the regional level, having regard to the distribution of competences between the various regions and communities and of the territorial division of the country, [...] French-speakers in the Dutch-language region and in the German-language region may be considered as a minority in the sense of the framework convention, as may Dutch-speakers and German-speakers in the French-language region”.²⁰

The Parliamentary Assembly of the Council of Europe (PACE) has followed the opinion of the Venice Commission in its Resolution 1301. The PACE concludes that “the following groups are to be considered as minorities in Belgium within the context of the framework convention: at state level, the German-speaking community; at regional level, the French-speakers in the Dutch-language region and in the German-language region, and the Dutch-speakers and German-speakers in the French-language region”. The PACE has also warned Belgium that the issuing of a declaration upon ratification that “would seek to exclude from the convention’s scope of protection a group of persons that, although not belonging to a minority at the state level, would be in danger of losing its identity by the operation of democratic institutions at the regional level, would probably have to be understood as a reservation incompatible with the object and purpose of the framework convention itself”, and would therefore be invalid.²¹

Linguistic incidents in 2007

Over the course of 2007, several linguistic issues arose in Belgium, some of which will be addressed below. The six-month long political crisis put the two main linguistic communities at odds, and their inability to create a federal government inflamed relations and provided a fertile ground for 'linguistic' provocations.

- During the 2006 local elections and the June 2007 federal elections, in a number of municipalities with facilities in the Flemish region around Brussels, voting letters were sent to the French-speaking inhabitants in French, allegedly in contravention with the general language regulation in this matter according to the Flemish interpretation of the federal linguistic legislation²². The language facilities offered to French-speaking inhabitants of these

¹⁹ Council of Europe, Parliamentary Assembly Committee on Legal Affairs and Human Rights, Doc. 9536 *Protection of minorities in Belgium*, 5 September 2002, Explanatory Memorandum by Mrs. Nabholz-Haidegger, Rapporteur, para. 23.

²⁰ European Commission for Democracy through Law, CDL-AD(2002) 1, *Opinion on possible groups of persons to which the Framework Convention for the Protection of National Minorities could be applied in Belgium*, 12 March 2002, paras 43 and 45. See [http://www.venice.coe.int/docs/2002/CDL\(2002\)021rev-e.pdf](http://www.venice.coe.int/docs/2002/CDL(2002)021rev-e.pdf)

²¹ Council of Europe, Parliamentary Assembly, Resolution 1301 (2002) *Protection of Minorities in Belgium*, paras 18-19.

²² In the communes with facilities of the Walloon Region, the inhabitants indicate once for all the language in which they want to receive their administrative documents (voting letters, taxes, etc.) while in the communes with facilities

municipalities do not imply an abrogation from the principle that for all actions performed by public authorities, the language of the region should be used.²³ Since the municipalities in question are located on the territory of the unilingual Flanders, the voting letters should consequently have been sent in Dutch according to the interpretation given to the linguistic legal framework by the Flemish government.²⁴ As a reaction to this infraction on language regulation, the Minister of Interior of the Flemish Regional Government refused to appoint the mayors of these municipalities until the matter had been duly investigated. This refusal in turn aggravated federal government talks that took place following the June elections. One of the political parties at the table, the small *Front des Francophones* (FDF; French-speaking Front) only represented in the Brussels region, demanded the appointment of the mayors before partaking in discussions concerning the reform of the Belgian state that were to take place during the government talks.²⁵ Moreover, after having been challenged to do so by the president of the FDF, the French-speaking members of the city council of these municipalities started to deliberate in French.²⁶ However, according to the interpretation of the linguistic legal framework by the Flemish government, this was also inconsistent with language regulation that stipulates that mayors, deputies and council members can only use the language of the region – if it is a unilingual region – during city council meetings.²⁷ The Flemish Minister of Interior consequently declared the decisions taken by the city councils that day as invalid and decided to permanently deny the appointment of the mayors in the municipalities.²⁸

- In November 2007, the city council of Hoeilaart, a municipality in the Flemish Region, situated between the Brussels Region and the Walloon Region and with a substantial number of French-speaking inhabitants, adopted regulations that, *inter alia*, set language conditions in connection with the acquisition of so-called social building ground.²⁹ The new city regulations demanded knowledge of the Dutch language as a precondition for candidates who desired to acquire one of the sixteen social building grounds on sale.³⁰ The mayor of Hoeilaart defended the city council's decision as follows: “[w]e are primarily selling social lots in order to allow people

of the Flemish Region, the French-speakers automatically receive administrative documents in Dutch and have to ask every time for the same documents in French. In Comines-Warneton/ Komen-Warneton (Walloon Region), there were 378 Dutch-speaking household heads out of a population of 17,669 inhabitants and only elected French-speaking councillors as of 1 January 2008. The Dutch-speakers of these communes could however receive their ID cards in Dutch and any other administrative document in their native language without any problem. The practice is the same in Mouscron/Moeskroen, a commune of 52,826 inhabitants, including 1,264 registered Dutch-speakers. The policy of these two communes is to avoid administrative harassment and a useless overload of administrative work.

²³ Omzendbrief BA 97/22 van 16 december 1997 betreffende het taalgebruik in gemeentebesturen van het Nederlandse taalgebied.

²⁴ See Council of Europe, Parliamentary Assembly Committee on Legal Affairs and Human Rights, Doc. 9536 *Protection of minorities in Belgium*, 5 September 2002, Explanatory Memorandum by Mrs. Nabholz-Haidegger, Rapporteur.; Council of Europe, Parliamentary Assembly, Resolution 1301 (2002) *Protection of Minorities in Belgium*.

²⁵ *De Morgen*, “FDF eist benoeming Franstalige burgemeesters Rand”, 7 October 2007.

²⁶ *De Morgen*, “Keulen vernietigt besluiten drie faciliteitengemeenten”, 23 October 2007; Omzendbrief BA 97/22 van 16 december 1997 betreffende het taalgebruik in gemeentebesturen van het Nederlandse taalgebied, II. C.

²⁷ Omzendbrief BA 97/22 van 16 december 1997 betreffende het taalgebruik in gemeentebesturen van het Nederlandse taalgebied, II. C.

²⁸ *De Morgen*, “Keulen vernietigt besluiten drie faciliteitengemeenten”, 23 October 2007; *De Morgen*, “Keulen benoemt Franstalige burgemeesters niet”, 14 November 2007.

²⁹ *Het Laatste Nieuws*, “Kabinet Keulen heeft twijfels over taalvoorwaarden in Hoeilaart”, 28 November 2007. Social building grounds are plots of land that are granted at a price lower than the market price by the municipality to persons with limited resources.

³⁰ *Het Laatste Nieuws*, “Kopers sociaal kavel Hoeilaart moeten Nederlands kennen”, 27 November 2007.

that are currently residing in Hoeilaart to stay here. Knowledge of the Dutch language is necessary to resist the high pressure of ‘Frenchification’.”³¹ The cabinet of the Flemish Minister of Interior has expressed serious doubts about the validity of the said language requirement, stating that “[p]ast proposals to introduce knowledge of a language [...] have made clear that knowledge of language or nationality cannot be a criterion in the granting of houses or building grounds”.³²

- On 26 November 2007, in the city of Genk (in the Flemish region), a French-speaking referee stopped a football match of the Cup of Belgium between a Flemish and a Walloon team (Genk-Charleroi) because large groups of Flemish supporters started shouting insulting slogans about Walloon people.³³ The French-speaking referee exercised his capacity under legislation regulating Belgian football³⁴, which called on him to halt play because of (what he deemed) “racist behaviour”.³⁵
- In Belgium in 2007, Turkish workers at an automobile components company in Flanders protested at the internal rule stating that workers caught using any other language than Dutch on three consecutive occasions are punishable with dismissal. Workers were told to speak Dutch at all times on the premises, for ‘security reasons’ and out of ‘respect for other workers’. Seventy percent of the company’s employees are of foreign origin. Some Turkish workers complained against these regulations and advocated that limited use of Turkish should be allowed.³⁶
- On 28 November 2007, the Belgian Constitutional Court declared unconstitutional the bridging measure under which Brussels police officers must acquire a certificate proving their Dutch-French bilingualism by the end of 2007.³⁷ After the reform of Belgian police in 2001, police officers in Brussels were given five years to achieve bilingualism. However, when this deadline passed on 1 April 2006, merely 52% of the police officers were in possession of a certificate proving their knowledge of the second language. The Federal Minister of Interior consequently prolonged this period until 31 December 2007. This measure was subsequently challenged in front of the Constitutional Court by NV-A (the cartel partner of CD&V, one of the political parties participating in the government talks following the federal elections in June 2007), which led to the above judgment.³⁸

³¹ Ibid. ‘Frenchification’ of a certain municipality on the territory of Flanders is the phenomenon caused by the fact that the amount of French-speaking inhabitants has risen starkly over the past decades in these municipalities, leading their Flemish inhabitants to fear a loss of cultural identity.

³² *Het Laatste Nieuws*, “Kabinet Keulen heeft twijfels over taalvoorwaarden in Hoeilaart”, 28 November 2007.

³³ *De Morgen*, “Bekermatch Genk stilgelegd na beledigingen tegen Walen”, 25 November 2007.

³⁴ See as well “Chants anti-Wallons: l’Union belge attend le rapport de l’arbitre”: <http://www.rtinfo.be/sport/news/article/130189/--Chants+anti-Wallons:+lUnion+Belge+attend+le+rapport+de+l'arbitre>

³⁵ On 2 November 2008, the supporters of the same Flemish football club again sang anti-Walloon songs during the match against Tubize/Tubeke, a commune with facilities in the Walloon Region, but the Flemish referee refused to stop the match despite the protests of the manager of AFC Tubize.

³⁶ Annual Report of the European Union Agency for Fundamental Rights (2008), p 46.

³⁷ Constitutional Court, Judgment n° 146/2007 of 28 November 2007.

³⁸ *De Morgen*, “Overgangsmaatregel voor tweetaligheid politie Brussel vernietigd”, 28 November 2007; *Le Soir*, “Les policiers devront être bilingues”, 30 November 2007.

Linguistic incidents in 2008

The confrontations between Dutch-speaking and French-speaking political parties continued unabated throughout most of the year. A federal government was finally formed following nine months of political crisis. It was, however, seriously hampered by a lack of agreement on the reform of the Belgian state between the political parties in the North and in the South of the country as they were clinging to incompatible views on the future of Belgium and the institutional architecture of the state. Among the issues opposing the two main linguistic communities, it is worth mentioning: the Flemish claims for further decentralisation of a number of federal institutions, the Francophone demands for an enlargement of the Brussels Region to the detriment of the territorial integrity of the Flemish Region, the unanimous Flemish demand for the scission of the electoral constituency Brussels-Halle-Vilvoorde lying in two regions into two separate constituencies (one wholly located in the unilingual Flemish Region, one in the bilingual Brussels Region), and so on.

These fundamental differences in agendas, repeated exchanges of inflammatory accusations, Francophone fears for the separatist agenda of some Flemish political parties, and for the dismantling of the State, created a climate of high tension between the political parties and led to a continuous deadlock.

Several negotiators and mediation groups were assigned the task of brokering a deal between the Dutch- and French-speaking parties in order to come to an agreement on the reform of the Belgian State. In autumn, the regions and the communities were involved in a new discussion format. However, all attempts failed to lead to an agreement. Moreover, at the end of December, Prime Minister Yves Leterme presented the resignation of his government because of an alleged interference of his cabinet and of the Minister of Justice in a court case opposing the small shareholders of the Fortis Bank to the Belgian State. On 30 December Herman Van Rompuy was appointed Prime Minister and most of the former ministers were reinstalled. The general expectation is that no major breakthrough will take place until the regional elections of June 2009.

The sketched political difficulties have proven to be the perfect fertile soil on which linguistic conflicts have continued to flourish in 2008. The most important of these issues will be discussed below.

The non-appointment by the Flemish authorities of mayors in three “municipalities with facilities”

This issue, already discussed in 2007 (See “Linguistic incidents in 2007”, first bullet point), continued to hamper Dutch- and French-speaking political parties in 2008 and even attracted the attention of the Council of Europe.

In May 2008 the Congress of Local and Regional Authorities of the Council of Europe sent a fact-finding mission to Belgium to examine in close detail the non-appointment by the Flemish authorities of three mayors, for violation of language legislation as interpreted by the Flemish government. In their report, the experts are critical of the manner in which the Flemish government handled the situation.³⁹

The experts start out by criticising the fact that the case has dragged on without a definite solution since January 2007, resulting in the absence of elected mayors in the three municipalities in question for well over a whole year. The report finds that this constitutes a disruption of the proper management of public

³⁹ Bureau of the Chamber of Local Authorities of the Congress of Local and Regional Authorities of the Council of Europe, CPL/BUR(14)2, *Information report on the fact-finding visit to Belgium concerning the non-appointment by the Flemish authorities of three mayors*, 21 May 2008.

affairs in these municipalities, since the reasonable timeframe within which the electorate could have expected a solution to the problem has been exceeded.⁴⁰

More importantly, the rapporteurs question the validity of the Flemish government's interpretation of language legislation in the sense that the mayor, his deputies and the members of the municipal council of all municipalities situated in the unilingual Flemish Region can only use Dutch in their deliberations. They particularly consider troublesome the prohibition of the use of French during meetings of the municipal council in the so-called "municipalities with language facilities," as the majority of their population is French-speaking.⁴¹

The report even goes as far as stating that this situation "may be interpreted as a violation of the Preamble to the European Charter of Local Self-Government".⁴² The report furthermore states that even if the Flemish government's allegations are well-founded from a legal viewpoint, the measures taken (*i.e.* the refusal to appoint mayors who have received a clear majority in the popular vote) are disproportionate in light of article 8.3 of the European Charter of Local Self-Government.⁴³

Article 8.3 requires that administrative supervision of local authorities be exercised proportionally, meaning that interventions by the controlling authority should be proportionate to the interest(s) the intervention is supposed to protect.⁴⁴ Although the report does not state this explicitly, the refusal by the Flemish Minister of the Interior to appoint the mayors in question must thus be understood as a violation of article 8.3 of the European Charter of Local Self-Government. In their concluding remarks, the rapporteurs refer to the issue as one that raises serious and worrying questions in relation to said Charter. As a result, the Congress of Local and Regional Authorities decided to continue the debate on the issue and to draw up draft recommendations at its next meeting on 31 October 2008.⁴⁵

The Minister for the Interior of the Flemish Region, Marino Keulen, felt misunderstood and offended by the report and its conclusions, stating that it does not take the structure of the Belgian state into account⁴⁶ and the obligation to use Dutch in municipalities with language facilities located on Flemish territory is – contrary to what the report implies – intended to foster integration.⁴⁷

One month after the release of the discussed report, the Flemish Chamber of the Belgian State Council ruled exactly the contrary of the findings of the experts of the Council of Europe. In its judgment of 19 June 2008, the State Council affirmed the validity of the Flemish interpretation of language legislation in the famous Circular Letter BA 97/22 (more widely known as "Circular Letter Peeters", after its author).⁴⁸ The case had been brought before the State Council by the municipality of Wezembeek-Oppem, the mayor of which had not been appointed. They argued that the Flemish government does not have the competence to interpret the federal language legislation and that its interpretation of said legislation was incorrect. The State Council confirmed the validity of the Flemish government's interpretation of the

⁴⁰ Ibid., para. 12.

⁴¹ Ibid., para. 17.

⁴² Ibid., para. 18.

⁴³ Ibid., para. 23.

⁴⁴ Article 8.3 of the European Charter of Local Self-Government, 15 October 1985.

⁴⁵ *Council of Europe*, "Belgium: Congress to continue debating non-appointment of three mayors in October", 26 May 2008, at

<https://wcd.coe.int/ViewDoc.jsp?id=1304771&Site=Congress&BackColorInternet=e0cee1&BackColorIntranet=e0cee1&BackColorLogged=FFC679> (accessed 12 September 2008).

⁴⁶ *Le Soir*, "Marino Keulen: "Je me sens mal compris et offensé"", 29 May 2008.

⁴⁷ Ibid.

⁴⁸ State Council, Judgment n° 184.353 of 19 June 2008. For the content of the Circular Letter see above: "Linguistic incidents in 2007", first bullet point and footnote 15 and 19).

federal language legislation, including the provision demanding the use of Dutch – and prohibiting the use of French during meetings of municipal councils – in all municipalities on the territory of the Flemish region, including the 6 with language facilities in the periphery of Brussels⁴⁹ and in Fouron/Voeren⁵⁰, an enclave in the Walloon Region contiguous to the border with The Netherlands.

The elected mayor of Wezembeek-Oppem did not recognize this judgment because it had been pronounced by the entirely Flemish twelfth Chamber of the State Council and was thus “the Flemish interpretation of the law”.⁵¹ The FDF party also questioned the impartiality of the Flemish Chamber and reacted to the judgment by demanding the enlargement of the Brussels bilingual region as the only solution to the protection of the rights of the inhabitants of said municipalities.⁵²

On 2 December 2008, the Chamber of Local Authorities of the Council of Europe Congress of Local and Regional Authorities, meeting in Strasbourg, under the chairmanship of Dubravca Suica, Mayor of Dubrovnik (Croatia)⁵³, adopted a resolution⁵⁴ and a recommendation⁵⁵ on the situation of local democracy in Belgium, opening a monitoring procedure on local democracy in this country.

The Congress recommended that the Belgian authorities:

- a. encourage the Flemish Minister of the Interior to appoint without further delay the three mayors whose lists were elected so as to put an end to the disruption in the management of public affairs;
- b. review the language laws, and in particular the way in which they are applied in municipalities with so-called special language arrangements, to allow the use of both French and Dutch by municipal councillors and by the mayor and aldermen at the meetings of the municipal council;
- c. encourage the adoption of the system of election of mayors by the municipal council or by the citizens, which would reduce the regional authorities’ control of the municipalities and ensure compliance with the relevant provisions of Recommendation 131 (2003) of the Congress;

⁴⁹ In the communes with facilities of the Walloon Region, the inhabitants indicate once for all the language in which they want to receive their administrative documents (polling summons, etc.) while in the communes with facilities of the Flemish Region, the French-speakers automatically receive administrative documents in Dutch and have to ask every time for the same documents in French.

⁵⁰ In this rural commune with a long history of linguistic tensions (especially in the 1960s-1970s), there are currently about 4,200 inhabitants: 25% are Dutch citizens; 52% are Dutch-speakers and 48% French-speakers. There are 6 French-speaking and 9 Dutch-speaking councillors. (See: “Communautaire: Il y a “faciliteiten” et “facilités”” in *Le Soir*, 6 December 2008)

⁵¹ *De Standaard*, ““Arrest Raad van State is Vlaamse interpretatie van wet””, 12 July 2008; *De Standaard*, ““ Alleen uitbreiding Brussel zal communautaire afkoeling toelaten””, 13 July 2008.

⁵² *De Standaard*, ““ Alleen uitbreiding Brussel zal communautaire afkoeling toelaten””, 13 July 2008.

⁵³ See “The Congress opens a monitoring procedure on local democracy in Belgium”:

<https://wcd.coe.int/ViewDoc.jsp?id=1381221&Site=DC&BackColorInternet=F5CA75&BackColorIntranet=F5CA75&BackColorLogged=A9BACE> (accessed 7 December 2008)

⁵⁴ Local Democracy in Belgium: Non-appointment by the Flemish authorities of three mayors. See [https://wcd.coe.int/ViewDoc.jsp?Ref=RES276\(2008\)&Language=lanEnglish&Ver=original&Site=Congress&BackColorInternet=e0cee1&BackColorIntranet=e0cee1&BackColorLogged=FFC679](https://wcd.coe.int/ViewDoc.jsp?Ref=RES276(2008)&Language=lanEnglish&Ver=original&Site=Congress&BackColorInternet=e0cee1&BackColorIntranet=e0cee1&BackColorLogged=FFC679) (accessed 7 December 2008)

⁵⁵ See full text of Recommendation 258 (2008): [https://wcd.coe.int/ViewDoc.jsp?Ref=REC258\(2008\)&Language=lanEnglish&Ver=original&Site=Congress&BackColorInternet=e0cee1&BackColorIntranet=e0cee1&BackColorLogged=FFC679](https://wcd.coe.int/ViewDoc.jsp?Ref=REC258(2008)&Language=lanEnglish&Ver=original&Site=Congress&BackColorInternet=e0cee1&BackColorIntranet=e0cee1&BackColorLogged=FFC679) (accessed 7 December 2008)

d. reconsider the reservations they lodged with regard to Article 3 paragraph 2, Article 8 paragraph 2 and Article 9 paragraphs 2, 6 and 7 and thereby comply with all the provisions set out in the European Charter of Local Self-Government;”

and further recommends that “*the Parliamentary Assembly, the European Commission against Racism and Intolerance (ECRI) and the Commissioner for Human Rights* take account of the above observations and recommendations when considering whether Belgium has honoured its commitments.”

The Flemish Housing Code, a linguistic issue

The Flemish Housing Code is a decree that regulates the social housing market in the Flemish Region. Its article 92, §3 sums up obligations imposed on potential tenants applying for social housing. In relevant parts, the article states that the person applying for a social rental house located is required to show a willingness to learn Dutch in order to be eligible.⁵⁶ However, in municipalities with language facilities, the Housing Code stipulates that this requirement should not diminish the language facilities enjoyed by the French-speaking inhabitants.⁵⁷

The Government of the French Community lodged a complaint before the Constitutional Court of Belgium. It argued that article 92, §3 of the Flemish Housing Code violates articles 10, 11 and 23 of the Belgian Constitution, providing respectively for the right to equality before the law, the prohibition of discrimination and the right to adequate housing, as well as article 16 *bis* of the law of 8 August 1980 concerning the Reform of the Institutions, which introduces language facilities in certain municipalities in Belgium.

In its judgment, the Constitutional Court did not follow the argumentation of the plaintiff and found that the Flemish Housing Code did not violate the Belgian Constitution or the law of 8 August 1980.⁵⁸ However, the Constitutional Court did clarify certain aspects of the Housing Code. On the one hand, it confirmed that the obligation to show commitment to learn Dutch is – as evidenced by the preparatory works of the Flemish Parliament for the Flemish Housing Code – a mere commitment and cannot be bound to any specific results.⁵⁹ It can thus not entail an obligation to demonstrate any knowledge of Dutch, nor the administration of a test to prove this knowledge.⁶⁰ On the other hand, the Constitutional Court stated that the commitment to learn Dutch cannot be required of French-speaking inhabitants of municipalities with language facilities who wish to enjoy the language facilities granted to them while applying for social housing, because otherwise the phrase “that this requirement should not diminish the language facilities” would not have any real purpose.⁶¹

While the Flemish government hailed this judgment confirming the legality of its Housing Code, the president of the French Community also hailed it for its confirmation of the rights of the French-speaking population in the six municipalities with facilities abutting on the bilingual Brussels Region.

However, after the judgment of the Constitutional Court, the Flemish government released new directives on the implementation of the Flemish Housing Code in the municipalities with facilities. The new

⁵⁶ Article 92, §3, 6° of the Decree of 15 December 2006 concerning the amendment of the Decree of 15 July 1997 concerning the Flemish Housing Code, *Belgisch Staatsblad* 19 February 2007.

⁵⁷ Article 92, §3, 7° of the Decree of 15 December 2006 concerning the amendment of the Decree of 15 July 1997 concerning the Flemish Housing Code, *Belgisch Staatsblad* 19 February 2007.

⁵⁸ Constitutional Court, Judgment n°. 101/2008 of 10 July 2008.

⁵⁹ *Ibid.*, para. B.18.2.

⁶⁰ *Ibid.*

⁶¹ *Ibid.*, para. B.37.

directives demand that possible tenants clearly state that they are not willing to learn Dutch.⁶² It is feared that in the future this might lead to discrimination and diminish French-speaking citizens' chances of actually acquiring social housing.⁶³

The Flemish Housing Code has also drawn the attention of the Committee on the Elimination of Racial Discrimination (CERD) of the United Nations. In its otherwise rather general observations on Belgium's report under the Convention on the Elimination of Racial Discrimination, the specific paragraph on the Flemish Housing Code stands out as a clear pointing of the finger by the CERD towards the Flemish authorities. The Committee voices its concern about the adoption of the Flemish Housing Code because the obligation contained therein to show a commitment to learn Dutch could – in the Committee's opinion – lead to indirect discrimination of non-Dutch speakers.⁶⁴ The Minister for Interior of the Flemish Region has reacted angrily to the conclusions of the CERD, stating that both the Belgian State Council and the Constitutional Court have held that the Code does not infringe upon anyone's basic rights and that “on the contrary, we want to make sure people function better in Flanders”.⁶⁵

The European Commission has also been made aware of the issue of the Flemish Housing Code by the government of the Walloon Region, but it has as of yet not delivered a final opinion on whether the Code entails (indirect) discrimination.

The Housing Code: deviations and abuse

In June 2008, a number of Flemish municipalities began to instrumentalize the Housing Code to fight against a perceived risk of Frenchification of their territory.

The municipalities of Zaventem, Zemst and Londerzeel started selling a number of public plots of land, but requested from potential buyers that they speak Dutch or at least show a commitment to learn the language.⁶⁶

The municipality of Vilvoorde went even further and asked potential buyers of one of the 15 social houses on sale to deliver proof of their knowledge of Dutch, if necessary by passing a language test.⁶⁷ A commitment to learn the language was thus no longer sufficient in Vilvoorde.

The municipality of Geraardsbergen in turn demanded a commitment to learn Dutch as a requirement to enjoy the social security wage.⁶⁸

These municipalities were hiding behind the Flemish Housing Code in defending their own regulations. When asked for his comments, the Minister for the Interior of the Flemish Region indicated on several occasions that he questioned their validity, stating that the imposition of language requirements for the rental of social housing finds its legal basis in the Flemish Housing Code, but that there does not exist a

⁶² Ibid.

⁶³ *De Standaard*, “OCMW-voorzitter Rode vreest discriminatie Franstaligen”, 16 July 2008.

⁶⁴ Committee on the Elimination of Racial Discrimination, *Consideration of Reports Submitted by State Parties under Article 9 of the Convention. Concluding Observations. Belgium*, 7 March 2008, CERD/C/BEL/CO/15, para. 16.

⁶⁵ *De Standaard*, “Keulen boos op VN over Wooncode”, 12 March 2008.

⁶⁶ *Le Soir*, ““Te koop, voor Vlamingen””, 26 June 2008; *Le Soir*, “Leterme appelle au calme”, 27 June 2008 ; *De Standaard*, ““Schild en vriend” voor wie sociale woning wil kopen”, 26 June 2008.

⁶⁷ *Le Soir*, ““Te koop, voor Vlamingen””, 26 June 2008; *De Standaard*, ““Schild en vriend” voor wie sociale woning wil kopen”, 26 June 2008; *De Standaard*, “Geen Nederlands, geen goedkope woning”, 25 June 2008.

⁶⁸ *Le Soir*, “Leterme appelle au calme”, 27 June 2008 ; *De Standaard*, ““Schild en vriend” voor wie sociale woning wil kopen”, 26 June 2008.

legal basis for the imposition of these requirements in other (social) fields.⁶⁹ However, these comments merely reflected the Minister's personal opinion and they by no means entail legally binding obligations for the municipalities in question. The municipalities decided to keep the regulations in place.

In the case of Vilvoorde, a formal complaint against the municipal regulation was launched with the Governor of the Province of Vlaams-Brabant,⁷⁰ but in his decision the Governor confirmed the constitutionality of the municipal regulation in Vilvoorde.⁷¹ While there is no reason to assume that the Governor would act any different if complaints would be raised in the other examples, it will be interesting to see whether the Minister for the Interior of the Flemish Government will now be officially seized on appeal in the case of Vilvoorde and whether he will confirm his opinion (on the invalidity of the regulation in a legally binding decision).

The European Commission analysed the situation in the municipalities of Zaventem, Vilvoorde, Geraardsbergen and Londerzeel and asked the municipalities in question to provide additional explanation on the measures that – in the opinion of the Commission – “should probably be regarded as entailing indirect discrimination”.⁷²

On the specific case of Zaventem, CERD has also voiced its concerns of indirect discrimination.⁷³

In related matters (and as a follow-up to the case mentioned under the second bullet point of “Linguistic incidents in 2007”), the municipality of Hoeilaart abolished the previously existing requirement of knowledge of Dutch to be eligible to purchase plots of land made available by the city for the construction of social housing.⁷⁴ The mayor of Hoeilaart stated that the cancellation decision was not motivated by the position of the Flemish Minister of the Interior on the matter but was the consequence of a legal advice petitioned by the city, indicating that “there is a great chance that a potential buyer who does not meet the requirement, would win a possible case in court”.⁷⁵

Municipal regulations restricting the public use of the French language

In Merchtem, Halle, Overijse and Wemmel, municipal regulations were enacted to promote the local use of Dutch and to limit the use of French. In Merchtem, regulations were adopted that dictated the sole use of Dutch as the language of communication at school between children, teachers and parents, while another municipal regulation obliged salesmen at the city market to delete from their advertising boards all French translations of products on sale.⁷⁶ The latter regulation was however annulled by the Minister for the Interior of the Flemish Region, following an official complaint.⁷⁷ In Wemmel a regulation

⁶⁹ *De Standaard*, “Minister twijfelt aan taalvereiste bij aankoop sociale woning”, 9 July 2008; *De Standaard*, “Europa stelt vragen bij “discriminatie””, 10 September 2008.

⁷⁰ Under Belgian law, the Province is the authority immediately responsible for the supervision of municipalities and the Governor of the Province the first authority to complain to about municipal regulations. Only following the decision of the Governor, the Minister for the Interior of the Flemish Government can be seized of the matter and pronounce a legally binding opinion.

⁷¹ *De Standaard*, “Woningverkoop Vilvoorde schendt Grondwet niet”, 17 October 2008.

⁷² *De Standaard*, “Europa stelt vragen bij “discriminatie””, 10 September 2008.

⁷³ *Ibid.*

⁷⁴ *De Standaard*, “Nederlands geen vereiste voor grond in Hoeilaart”, 31 January 2008.

⁷⁵ *Ibid.*

⁷⁶ *Le Soir*, “Leterme appelle au calme”, 27 June 2008 ; *Le Soir*, “La langue à la maison est-elle bien le néerlandais?”, 3 June 2008.

⁷⁷ *Ibid.*

prohibited the use of French on the market.⁷⁸ Similar regulations were then already in force in Dilbeek and Sint-Pieters-Leeuw.⁷⁹

In Halle shopkeepers were obliged to use Dutch for any commercial publicity.⁸⁰ In Overijse, the municipality opened a complaints office where inhabitants could denounce shopkeepers using languages other than Dutch in their windows and on their publicity, although – or maybe because – 45% of the inhabitants of Overijse are not Dutch-speaking.⁸¹ The Flemish Minister for the Interior denounced the regulation for violating the Belgian Constitution and sent a letter to the municipality of Overijse demanding an explanation.⁸² Talks on the matter were consequently organised between the Minister and the Mayor of Overijse, in which the latter promised to make changes to the complaints mechanism.⁸³ However, the Mayor did not indicate what the changes would consist of precisely and he made it clear that, in any case, the complaints office will continue to exist.⁸⁴

The mayor of Ronse, one of the Flemish municipalities with language facilities situated along the border with the Walloon Region, wrote a letter to Prime Minister Yves Leterme, demanding the abolition of the language facilities in Ronse⁸⁵. He expressed fears for an increased flow of French-speaking people from the Brussels Region into his city, *inter alia* in search of social housing, after the Constitutional Court held that the Flemish Housing Code's requirement to show commitment to learn Dutch does not apply in municipalities such as Ronse.⁸⁶

In the summer of 2008 the municipality of Liederkerke enacted a regulation that allows the head monitor of the municipal playing grounds to refuse children who do not speak Dutch.⁸⁷ The mayor of Liederkerke argued that too many French-speaking children from Brussels had used these municipal leisure infrastructures the year before and had caused communication problems which disturbed their functioning.⁸⁸ The Flemish Minister for the Interior demanded the municipality of Liederkerke to remove this prohibition from its regulation, "because it violates the Antidiscrimination Law" and to allow French-speaking children on the municipal playing grounds.⁸⁹ Following the annulment of its regulation by the Flemish Minister for the Interior, the municipality of Liederkerke introduced a new regulation. The new regulation still states that Dutch is the primary language used on the municipal playing grounds and that troublesome elements can be removed or denied entrance.⁹⁰ However, the "discriminatory" direct link between both provisions in the sense that non-Dutch speaking children can be refused entrance because they are automatically assumed to be troublesome, has been removed.⁹¹

⁷⁸ *Le Soir*, "Leterme appelle au calme", 27 June 2008.

⁷⁹ *Ibid.*

⁸⁰ *Ibid.*

⁸¹ *Le Soir*, "Une étoile bleue à Overijse?", 17 June 2008.

⁸² *Le Soir*, "Une étoile bleue à Overijse?", 17 June 2008 ; *Le Soir*, "Overijse, in het Vlaams only", 16 June 2008 ; Flemish Government, Cabinet of the Minister for the Interior, "Oproep tot verklikking in Overijse: "dit is Middelleeuws"", 12 June 2008, at

http://www.vlaanderen.be/servlet/Satellite?c=MIN_Publicatie&cid=1217902552163&lyt=1141721448163&p=1100605267170&pagename=ministermarinokeulen%2FMIN_Publicatie%2FPublicatie_met_relatiesMIN&ppid=1102609848018&site=ministermarinokeulen&subtype=Persbericht (accessed 22 October 2008).

⁸³ *De Morgen*, "Keulen heeft constructief gesprek met bestuur Overijse", 24 June 2008.

⁸⁴ *Ibid.*

⁸⁵ *De Standaard*, ""Schaf die faciliteiten af"", 25 July 2008.

⁸⁶ *Le Courier de l'Escaut*, "Renaix en a marre des facilités", 24 July 2008 ; *De Standaard*, ""Schaf die faciliteiten af"", 25 July 2008.

⁸⁷ *De Standaard*, "Liederkerks speelplein beperkt toeloop anderstaligen", 26 March 2008.

⁸⁸ *Ibid.*

⁸⁹ *De Standaard*, "Liederkerks speelplein moet Franstaligen toelaten", 26 March 2008.

⁹⁰ *Het Nieuwsblad*, "Omstreden reglement speelplein wordt aangepast", 17 May 2008.

⁹¹ *Ibid.*

Linguistic issues in Brussels

In the Brussels Region, the situation is largely different. French-speaking people constitute the majority of the population and Dutch-speaking people only a small numerical minority. Consequently, the primary language used in Brussels is French and Dutch-speakers frequently complain about infringements of their linguistic rights.

In 2008, a number of linguistic issues persisted throughout the Brussels Region such as the sub-standard provision of services by public servants to Dutch-speakers and the insufficient provision of municipal school education in Dutch.

In 2007 (the most recent year for which complete statistics are available), nearly 90% of the contractually appointed civil servants in Brussels did not possess the legally required “language diploma” proving their bilingualism, as compared to 4% of the permanently appointed staff.⁹² The apparent reason for this disparity is the fact that the municipalities of the Brussels Region seem to only strictly implement language legislation when there is a risk of complaint with the Council of State. Complaints are only admissible for permanent and not for interim staff.⁹³

In the area of education, problems appear to be systematic: 8 out of the 19 municipalities of Brussels do not provide school education in Dutch.⁹⁴

In 2008, the municipality of Anderlecht was found in violation of language legislation by the Permanent Commission for Language Supervision on seven separate accounts, including in cultural matters, for the exclusive use of French in the city council and for issues of communication with its citizens.⁹⁵ The latter case concerned a brochure with practical information about the city and community life which was only made up in French, not in Dutch.⁹⁶

In another area, substantial progress has however been registered: the poor knowledge of Dutch in the hospitals of Brussels and the consequent negative effects on the access to public health for Dutch-speakers.

In 2005, the Parliamentary Assembly of the Council of Europe⁹⁷ adopted a resolution in which it was stressed that ineffective implementation of regulations on bilingualism in public hospitals in Brussels lead to problems of communication between (Dutch-speaking) patients and the medical staff and may thus have a negative impact on access to health care for Dutch-speakers.⁹⁸ However, the Council of Europe recognized that the problem is caused less by a lack of goodwill than by the lack of an appropriate policy to increase the knowledge of Dutch in hospitals in Brussels.⁹⁹ Since 2005, a wide variety of measures have been taken to improve the situation. These measures have included the organisation of a project in

⁹² *De Morgen*, “Slecht gesteld met tweetaligheid Brussels gemeentepersoneel”, 16 October 2008.

⁹³ *De Standaard*, “Brussel leeft taalwetten niet na tenzij het moet”, 17 October 2008.

⁹⁴ *Ibid.*

⁹⁵ *BrusselNieuws*, “Tweetaligheid in Anderlecht op laag pitje”, 21 October 2008,

<http://www.brusselnieuws.be/artikels/politiek/tweetaligheid-in-anderlecht-staat-op-laag-pitje/?searchterm=taalwet> (accessed 27 October 2008).

⁹⁶ *Ibid.*

⁹⁷ Council of Europe Parliamentary Assembly, Resolution 1469, “Language problems in access to public health care in the Brussels-Capital region in Belgium”, 2005,

<http://assembly.coe.int/Mainf.asp?link=http://assembly.coe.int/Documents/AdoptedText/ta05/ERES1469.htm> (accessed 27 October 2008).

⁹⁸ *Ibid.*

⁹⁹ *Ibid.*

which the “House of Dutch”, a Brussels-based organisation focused on the promotion of Dutch in Brussels, provided Dutch classes to the medical staff.

In its 27 November 2008 issue, *Brussel Deze Week* recognized that bilingualism had substantially increased in Brussels hospitals: 81% of the medical staff is now bilingual against 64% two years ago.¹⁰⁰ In private hospitals bilingualism is not obligatory but by the end of 2008 the “House of Dutch” had already started training 400 medical staff in seven hospitals and the program is expected to be extended.¹⁰¹

Football and racism

On 2 November 2008, supporters of the Flemish football club of Genk¹⁰² again sang anti-Walloon songs during the match against Tubize but the (Flemish) referee refused to stop the match despite the protests of the manager of AFC Tubize.¹⁰³

“In Belgium, the circular letter OOP 40¹⁰⁴ issued by the Federal Minister of Home Affairs on 14 December 2006 was sent to all first league football clubs, to all Belgian mayors and chiefs of police, and to the Belgian Football Association in January 2007. The circular letter clarifies provisions of the 1998 Football Law, and aims to tackle racist chanting in football stadiums, as well as racist, xenophobic, anti-Semitic and homophobic insults. The policy is one of low tolerance towards all symbols, denigrating chanting and hateful or offensive words targeting specific population groups such as Jews, Muslims, gays and lesbians, disabled people, AIDS patients, which are all explicitly described in the circular.”¹⁰⁵

The circular letter prohibits any form of racism against “a person, a group, a community or their members on the grounds of race, skin colour, descent, national or ethnic origin, sexual orientation, handicap, health of this person, of some members of the targeted group or community.”

¹⁰⁰ Taalbeleid ziekenhuizen voldoet, maar meer (Vlaams) geld is nodig
<http://www.brusselnieuws.be/artikels/politiek/taalbeleid-ziekenhuizen-voldoet-maar-meer-vlaams-geld-is-nodig/?searchterm=Tweetaligheid%20in%20Brusselse%20ziekenhuizen> (accessed on 7 December 2008)

¹⁰¹ *Brussel Deze Week*, « Hospitaal, taalplan, taalpen », 25 December 2008, p. 5

¹⁰² See footnote 28 above.

¹⁰³ See “Racisme anti-wallon à Tubize” (Le Soir, 3 novembre 2008)

<http://www.lesoir.be/sports/football/chants-anti-wallons-lors-du-2008-11-03-656913.shtml>

See as well “Chants anti-Wallons: l’Union belge attend le rapport de l’arbitre”:<http://www.rtlinfo.be/sport/news/article/130189/--Chants+anti-Wallons:+lUnion+Belge+attend+le+rapport+de+l'arbitre>

¹⁰⁴ See full text at <http://reflex.raadvst-consetat.be/reflex/pdf/Mbbs/2007/07/02/105597.pdf>

¹⁰⁵ Annual Report of the European Union Agency for Fundamental Rights (2008), p 24.

***Human Rights Without Frontiers* recommends that**

Belgium

- ratify the Framework Convention for the Protection of National Minorities
- take into consideration
 - the 23 July 1968 decision of the European Court of Human Rights in the “*Case relating to certain aspects of the laws on the use of languages in education in Belgium’ v. Belgium*”;
 - the “*Opinion on possible groups of persons to which the Framework Convention for the Protection of National Minorities could be applied in Belgium*” by European Commission for Democracy through Law (12 March 2002);
 - the Council of Europe Parliamentary Assembly Resolution 1301 on the “*Protection of Minorities in Belgium*” (2002);
 - the Report on the “*Protection of minorities in Belgium*” of the Council of Europe Parliamentary Assembly Committee on Legal Affairs and Human Rights (5 September 2002);
 - the Resolution 276 (2008) “*Local democracy in Belgium: non-appointment by the Flemish authorities of three mayors*” of the Council of Europe Congress of Local and Regional Authorities;
 - the Concluding Observations of the UN Committee on the Elimination of Racial Discrimination, *Consideration of Reports Submitted by State Parties under Article 9 of the Convention: Belgium* (7 March 2008)

during the current and upcoming talks on the reform of the State;

- continue making further progress in the implementation of the Council of Europe Parliamentary Assembly Resolution 1469, “*Language problems in access to public health care in the Brussels-Capital region in Belgium*” (7 October 2005);
- avoid administrative harassment and useless overload of administrative work;
- promote linguistic tolerance, courtesy and mutual respect in the Brussels Region and the communes with linguistically mixed populations.

Human Rights Without Frontiers International (HRWF Int’I) is a non-governmental organization with an objective to promote democracy, the rule of law and human rights in a global perspective. HRWF Int’I has branches in Belgium, China, Nepal, Bhutan and the US. and cooperates with associate member organizations in Armenia, Bulgaria, Georgia, Iraq, Japan, Russia, etc.

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