

Halle-Vilvoorde Komitee

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St-Pieters-Leeuw & Grimbergen, February 8th, 2002

To Mrs Lili Nabholz-Haidegger,
European Counsel
Avenue de l'Europe
F67075 Strasbourg

Dear Mrs Nabholz-Haidegger,

Re: language complaints by French-speaking people living in the Dutch-speaking communes surrounding Brussels

We are an association without political ties, concerned with the preservation of the Flemish identity of the communes surrounding Brussels (the administrative district of Halle-Vilvoorde). Several associations and concerned individuals from Halle-Vilvoorde are members of our association¹, which is itself a member of the "Overlegcentrum van Vlaamse Verenigingen" (the Coordination Centre of Flemish Associations), which groups most of the associations of the Flemish Emancipation Movement.

Therefore we consider ourselves to be in a valid position to represent the population of Flemish Brabant, the Dutch-speaking region surrounding Brussels².

We have learned from articles in the press that, based upon a complaint from French-speaking inhabitants of the Province of Flemish-Brabant, you have been charged to issue a report on how Belgium respects the Framework Convention for the Protection of National Minorities, more specifically in the communes surrounding Brussels.

As common citizens we want to inform you about our point-of-view; that of Dutch speakers who are confronted on a daily basis with these problems.

¹ Members : Komitee der Randgemeenten, Sterrebeek 2000, Vlaams Komitee Druivenstreek, Vlaams Genootschap Sint-Pieters-Leeuw, Vlaamse Vriendenkring Grimbergen, Davidsfonds, Taal Aktie Komitee, Marnixring, VNJ-gouw Brabant, Vlaamse Volksbeweging Brabant;

². Note from the translator: the official name for the Flemish language is Dutch. The language spoken in Flanders is indeed Dutch, the same as in the Netherlands, with only small regional differences, comparable tot the difference between Oxford English and American English

1. History³

It is not the intent of this letter to discuss extensively the history of the Flemish emancipation movement. To secure a good understanding of the current situation it is however necessary to outline the main dynamics of the situation.

During the “Ancien Régime” the situation in the regions of Flanders, Brabant and Limburg was not much different from the situation in other parts of Europe: Dutch, which was the people’s language, was also the language of the government of the Lower Authorities (also in the communes of the current Brussels Region), although nobility - which was internationally oriented - knew and used French. After the decline of Latin, French had now become the new lingua franca, especially amongst nobility and diplomats.

In 1792 the Southern Netherlands (then known as the Austrian Netherlands) was occupied by the armies of the French Revolution. After a short re-conquest by the Austrians (from March 18, 1793 to June 26 1794) the Southern Netherlands was officially incorporated into France.

France had already established a strong language-policy and their approach was « la nécessité d’anéantir les patois et d’universaliser l’usage de la langue française » (the necessity to eliminate the dialects and to universalise the use of the French language)

This policy was introduced immediately in the Lower Netherlands and French was implemented as the only language for government and Court. By 1815 this policy had succeeded: the complete government and Court in the Dutch-speaking part of the Netherlands – now usually (and also hereafter in the text) called Flanders - was frenchified. Nobility, the notables and the civil servants only used the French language. Some did not even know the people’s language, because they originated from The Walloon part of Belgium or France.

After the battle of Waterloo, the Southern Netherlands was merged with the North-Netherlands under the governance of King Willem I.

During this period, which would last from 1815 to 1830, Dutch was gradually re-introduced in all parts of the country where Dutch was the people’s mother tongue, thus also in Brussels but not in the Walloon parts of the country.

The Belgian revolution (1830), which was actively supported by France, restored the language-regime that existed under the French annexation. Officially the use of language

³ For this text we used a.o. theses sources: Luykx, Politieke geschiedenis van België, Kluwer rechtswetenschappen, Antwerpen, 1985, blz. 31 e.v.; zie ook A.De Jonghe, De taalpolitiek van Willem I in de Zuidelijke Nederlanden; Nieuwe Encyclopedie van de Vlaamse Beweging, trefwoord Brussel en trefwoord onderwijs; Raf Renard, Talen in Bestuurszaken, Algemene Praktische Rechtsverzameling, Gent, Story Scientia, 1983, blz.8 e.v.; Vlānderen versus de Raad van Europa, artikel in Secessie, nr 5, oktober november-december 2001, uitgave van het Mia Bransinstituut; Paul De Ridder, Brussel, Geschiedenis van een Brabantse stad, Stichting Mens en Cultuur, Gent, 1991;

was free. But this « freedom » meant the freedom to use French in Flanders. The slogan was « la Belgique sera latine ou ne sera pas »- (Belgium will be Latin or will not exist)⁴.

Thereafter a period of unbridled frenchifying followed. In all parts of Flanders, French became the language of administration, court and of education.

Only after long years of struggle, language acts were progressively introduced which contributed to improve the situation of the Dutch language :

- 1878: A first language act established a timid form of voluntary bilingualism in the administration, however only in Flanders and only at the demand of the concerned citizens. In The Walloon part of Belgium bilingualism was out of the question.
- 1898: All acts must be drawn up and proclaimed in Dutch as well as in French.
- 1921: Dutch becomes the official language of the internal administration of the communes of Flanders; French for the Walloon communes. In the Brussels district, which was at that time expanded to 17 communes, communes were free to choose their own language of administration, but all public communication needed to be bilingual⁵.

Because the act of 1921 was, in actual practice, not applied in Flanders and Brussels, a new language act was approved in 1932, which confirmed the principles of the 1921 act and tried to remedy the many omissions. A bilingual regime was introduced in the communes of the Brussels district.

Via education the frenchifying of Flanders was being continued, where Dutch was still the primarily language concerning the education on the Primary Level (in the cities there were also some French-speaking schools) but French was introduced in a strong way, preparing for the Secondary Level, where French was the only language of instruction. At the beginning of the First World War there were almost no more Dutch-speaking Primary Level schools in Brussels, although the majority of the pupils was Dutch-speaking.

In the Middle and Higher Level instruction, the situation was catastrophic. It was not possible, neither in Flanders nor in Brussels, to attend Secondary and Higher Level education in Dutch. In the most advantageous case some subjects were taught in Dutch. During the period 1905-1911 the first fully Dutch-speaking Secondary schools were grounded.

Only in 1932 a language act for the Primary and Secondary education was approved, whereby the principle «the language of the area is the language of education» was introduced. Due to a transition system, a number of exceptions and the continuation of

⁴ This was possible a.o Because the “cijnskiestelsel” (tax-based election system) existed until 1893, whereby only 1 % (in 1830) to 3%(by about 1893) of the population was entitled to vote. Only in 1893 a multiple general voting right was introduced, which became single general voting right only after the Second World War, whereas women only acquired general voting right in 1948. It is therefore no coincidence that the most important language regulating acts were established after the general voting right had been introduced.

⁵ The only commune who choose Dutch as the language of internal government was ~~SS~~Stevens-Woluwe. In 1932 this commune was moved out of the Brussels district.

transmutation classes, it took in fact until after the Second World War before the education system in Flanders was completely taught in Dutch.

In Brussels, the principle of «mother tongue is educational language» applied, but due a lack of control and due to social pressure, Dutch-speaking children massively continued ending up in French-speaking schools, where they were frenchified.

Higher education in Flanders and in Brussels was also exclusively in French. Only in 1930 after decades of struggle, Dutch became the language of education at the University of Ghent. Later on the University of Leuven followed and ultimately all universities switched to Dutch - the language of their region.

The principles of the language regulating acts of 1921 and 1932 (i.e. two monolingual regions, Flanders and The Walloon part of Belgium, and one bilingual region, Brussels-Capital City)⁶ were also introduced in Court through the act on the use of languages in court cases.

In 1962-63 the monolingual regions were, after border corrections, permanently fixed and the language acts were further improved. These language regions were re-confirmed at another time by the ulterior institutional reforms, which transformed Belgium into a quasi-federal country.

All these language regulating acts, which had as purpose to end the frenchifying which was forced upon the Dutch speakers (via education, via the administrations, via the judicial system, via the army, via the employers), had a number of points in common:

- They were only achieved after years of Flemish struggle and against the strong opposition of the French-speaking establishment and of the Walloon part of the country.
- As much as possible they were undermined before they were voted;
- They were executed scantily, with lots of delays and sometimes even not at all.

Since the Second World War, public life in Flanders became again entirely Dutch and the old language border between the French and Dutch-speaking regions remained almost unchanged with one major exception: the ancient Dutch-speaking Brabantian city of Brussels.

2.Brussels

The frenchifying process, urged by authorities and social pressure, was largely a success in Brussels. The frenchifying of the local Dutch-speaking population and of the citizens

⁶ The German language region was left out of consideration here in order not to burden the text, though facilities for French speakers were totally unduly introduced in the German speaking region, whereas no facilities were granted to the German speakers in the province of Luxemburg (where German was the peoples native language– in 1846 some 78,2 % of the population of Aarlen-Arlon indicated German as their first language and in 1930 still more than 80 % of the inhabitants of 17 communes from the district indicated the same). A more obvious example of frenchifying can not be found (see also P Martens, c., – The South Netherlands language border in the parliament, page 122)

who immigrated to Brussels from Flanders was further supported by the immigration of monolingual French-speakers from The Walloon part of Belgium.

At the first official language count in 1846 none of the 19 communes that currently form the Brussels Capital Region, had a French-speaking majority. The largest percentage of French-speakers was counted in Brussels City (38,37 % French-speakers) and in the communes Elsene/Ixelles (44,59 % French-speakers) and St-Joost-ten-Noode (49,36 % French-speakers)⁷. At that time, 12 of the current 19 communes of the Region Brussels Capital counted less than 10 % French-speakers, nine of which counted less than 5% French-speakers.

The pressure from the capital of the Belgian state, ruled in French, became even stronger. Entire Flemish villages surrounding Brussels, such as Ukkel, Anderlecht, Vorst, Etterbeek, Schaarbeek, Oudergem, Watermaal-Bosvoorde, were hauled in one after the other. The administration, education and business management were all in French. Anyone who wanted to progress professionally had to speak French.

In 1921 the city of Brussels was enlarged after the absorption of three Dutch-speaking communes (Haren, Neder-over-Heembeek, Laken). Moreover, the Brussels district was expanded with two Dutch-speaking communes: St-Pieters-Woluwe and St-Stevens-Woluwe (in 1932 this last commune was removed from the Brussels district because it counted less than 30% French-speakers)⁸.

In 1954 three more Dutch-speaking communes (Evere, Ganshoren, St-Agatha-Berchem) were added to the bilingual Brussels district.⁹

3.The 6 communes surrounding Brussels with language facilities for the French-speakers

Only 10 years later, with the definitive fixation of the language border in 1962-1963, most French-speaking inhabitants of Brussels wanted, again, to considerably extend the bilingual area of Brussels.

Let us shortly outline the linguistic evolution of our six Dutch-speaking communes, who have a special language statute for the French-speakers - the so-called "communes with facilities". It concerns the communes of Drogenbos, Kraainem, Linkebeek, Sint-Genesius-Rode, Wemmel and Wezembeek-Opem.

In 1963, when the French-speakers were advocating the annexation of the above communes to Brussels, the communes Dilbeek and Strombeek-Bever were also included

⁷ See a.o. H.Aelvoet, *Honderd vijftientig jaar verfransing in de agglomeratie en het arrondissement Brussel*, uitgeverij Simon Stevin, Brussel, 1957, blz.17.

⁸ the 17 communes of the Brussels agglomeration were in 1921 : Brussels (including Haren, Laken and Neder-over-Heembeek), Anderlecht, Oudergem, Etterbeek, Vorst, Elsene, Sint-Pieters-Jette (Jette), Koekelberg, Sint-Jans-Molenbeek, Sint-Gillis, Sint-Joost-ten Noode, Schaarbeek, Ukkel, Watermaal-Bosvoorde, Sint-Lambrechts-Woluwe, Sint-Pieters-Woluwe en Sint-Stevens-Woluwe. See Luykx, op.cit., blz. 308 voetnoot 24 en blz.338 voetnoot 2.

⁹ It is not an accident that these two expansions of Brussels happened shortly after the two world wars. In fact the people defending the Flemish cause were heavily blamed to have collaborated with the German enemy. (Note of the translator: in fact the collaboration was not stronger in Flanders than in The Walloon part of Belgium).

in the debate. Some proposed to incorporate also three Walloon communes, namely Waterloo, Kasteelbrakel and Terhulpen that have a large number of Dutch-speaking inhabitants.

Arthur Gilson, former Minister of Interior Affairs, declared: “The Walloons have by principle refused any burden of language facilities. They do not want to have this kind of administrative servitude; they do not want to organise themselves to serve Flemish citizens in their own language. This is at least what has been told to me in Braine-le-Chateau, Waterloo and La Hulpe”. Because of that, the three French-speaking communes and in compensation two Dutch-speaking communes were eliminated from the Brussels’ wish list and only the six Dutch-speaking communes surrounding Brussels got the facilities regime imposed upon them.

The official language counts of year 1846, 1910 and 1947, which were frequently manipulated under social pressure towards the French-speaking direction, gave the following percentages of French-speakers¹⁰:

	1846	1910	1947¹¹
Drogenbos	11,14	8,34	43,30
Kraainem	0,00	5,54	46,71
Linkebeek	0,00	6,37	36,36
Sint-Genesius-Rode	5,97	8,34	25,20
Wemmel	1,08	0,52	31,51
Wezembeek-Oppem	1,47	3,73	29,97

Under pressure from the complete Flemish community, the new extension of the Brussels bilingual conglomerate, claimed by the French-speakers, was not accepted. These communes remained part of the Flemish Region¹², although with “facilities” for the French-speaking immigrants. The aim was to gradually adapt them to the language regime of the Region in which they came to live.

Granting language facilities proved to be a major mistake. Because of the facilities regime, French-speakers were attracted in large numbers, supported substantially by French-speaking castellan-mayors. Instead of leading to an increased integration, the facilities lead to more immigration and less adaptation.

According to the French-speakers, which are effectively dominating the municipalities, they would now cover 70 % of the population in Drogenbos, Kraainem, Linkebeek and Wezembeek-Oppem and more than 50 % in St-Genesius-Rode and Wemmel (for the sake of easiness they also include the numerous European and non-European foreigners as French-speakers).

¹⁰ Aelvoet, loc.cit. blz 10.

¹¹ It is generally accepted that the language count of 1947, just after the Second World War and in a period of strong repression of the Flemish who “collaborated with the German”, overestimates the French speakers (Aelvoet, op. cit. page 8.)

¹² Luykx, op.cit. blz.521 e.v.;

Important when judging the current situation is that the sociological dominance of the French language, as compared to Dutch in the communes surrounding Brussels, has largely survived and this has many complex reasons, of which we can enumerate only some here:

- First of all there is an earlier outlined historical context of the dominance of the French language, supported by the Belgian State, which continues to have effect today;
- Most French-speakers are monolingual and refuse to learn and speak Dutch. The Dutch language lessons, which are obligatory in every school in Brussels, seem not to change the situation: at the end of the secondary school the average French-speaking student does not even know enough Dutch that enable them to have a simple shopping conversation. All the more so for French-speakers originating from The Walloon part of Belgium who moved to Brussels and its surroundings (the former obligation to teach Dutch as second language has been abolished in The Walloon part of Belgium);
- The Flemish, on the contrary, are generally completely bilingual and will without any problem switch to French;
- The social status of French as an international language remains high and was even increased with the establishment of a number of international organisations (European Commission, Nato);
- Many French-speakers are very assertive as far as their own language is concerned and consider Dutch as an obstacle, at best a necessary evil.
- The establishment of many international organisations was important in strengthening the expansion of Brussels; the international civil servants, who usually only remain here temporarily, prefer to learn French rather than Dutch.
- During the last 30 years Brussels has received an enormous amount of immigration from Africa and the Maghreb countries, especially from the previous Belgian (French-speaking) colonies and previous French colonies, in particular Morocco and Algeria;
- It also appears that immigrants from non French-speaking countries, who come to live in Brussels, will choose to learn French (the dominant language in Brussels) as their second language.

This situation (monolingualism of the French-speakers and a good knowledge of French by the Dutch speakers) will lead to a situation where any French speaker will be able to communicate in French throughout the Dutch-speaking communes surrounding Brussels, whereas the Dutch speakers will have major difficulties to communicate in Dutch in Brussels, although it is the officially bilingual capital of the country.

The same mechanisms lead to that many thousands of Dutch-speaking inhabitants of Walloon communes do not appeal for language-rights, nor will/can they make use of the language facilities legally granted to them.¹³

The prestige of the Dutch language has improved in the last decade - supported by the excellent economical performance of Flanders. Unfortunately though, most French-speakers who move to the Flemish communes surrounding Brussels, do not integrate

¹³ The Walloon region in addition is undermining the facilities for Dutch speakers, f.e. By not subsidizing the Dutch school in Komen-Comines

themselves, often because they live and work in Brussels and because the Dutch-speaking communes surrounding Brussels are only used by them as “dormitory”¹⁴.

Hence the witticism that the French-speakers in the communes surrounding Brussels are “frenchifying” these communes while sleeping. Because of this, Dutch language communes found themselves with a militant French administration, whilst the complete local social life continued to happen in Dutch.

Moreover many French-speakers only live for a short period of time in the Dutch-speaking communes.

4. The territoriality principle

Since 1921-1932 Belgium has adopted the Territoriality principle as basis for the language legislation¹⁵. When the inhabitants of one language area move into another language area, they have to adapt to that particular language regime. Only in Brussels the French and Dutch languages are legally equal.

Switzerland also resolved the language issue on the territoriality principle with regards to language legislation and the use of languages by authorities.

The new article 70 of the Swiss constitution defines even that “les cantons déterminent leur langues officielles. Afin de préserver l’harmonie entre les communautés linguistiques, ils veillent à la répartition territoriale traditionnelle des langues et prennent en considération les minorités autochtones” (“the cantons define their official languages. In order to preserve the harmony between the linguistic communities, they watch over the traditional territorial repartition of languages and take into consideration the indigenous minorities”)¹⁶.

The cantons thus have the explicit mission to preserve the traditional linguistic territorial repartition (they only need “to take into account” the indigenous linguistic minorities).

In the 14 monolingual German-speaking Cantons and in the 4 monolingual French-speaking, German or respectively French are de jure or de facto the only language for all matters concerning administration, court and education. Language legislation is rather rare in these cantons, because de facto the only used language is the language of the Canton. Only - and not by accident - the new Jura Canton makes an exception to this and determines explicitly in its constitution (art 3) “ le français est la langue nationale et officielle de la République et Canton du Jura” (French is the national and official language of the Republic and of the Canton Jura). The German-speaking minority has no language rights.

¹⁴ This was of course furthered by the accrued mobility and legislation subsidizing the construction of new houses

¹⁵ This decision was largely based on the Walloons refusal of bilingualism in their regions, where tens of thousands of Flemish coal mine and steel workers had moved into

¹⁶ information on the Swiss situation was found on the website “aménagement linguistique dans le monde” of professor Jacques Leclerc, TLFQ, Université Laval, Québec (www.tlfq.ulaval.ca/axl/)

In the monolingual Canton Ticino (61% Italian speakers, 29,6% German-speakers, 9,4% speaking other languages, amongst which French) Italian is the only language for all matters concerning administration and court. The only language of education is Italian with obviously obligatory second, third and fourth languages being taught as of a given age.

Even in the bilingual Cantons (Bern, Freiburg, Wallis) the principle of monolingualism of the different regions or districts within the Canton is maintained: thus the only official language in the Jura Bernois is French (although there is a large minority of immigrated German-speakers) and in the rest of the Canton (including the federal capital Bern) German is the sole official language. The language of education in Bern is also German, with, as only exception, the cantonal French-speaking school, where only children from French or Italian speaking federal, or cantonal state employees and from diplomats or civil servants of international organisations are allowed.

Also in the Canton Freiburg the districts are each governed in their respective language (German or French) and the obligatory language of education is that of the concerned district. The city of Freiburg though is bilingual, but de facto French dominates (as anywhere else where French is in competition with German or Dutch).

In the Canton Graubunden (187 000 inhabitants of which 65% are German-speaking) the use of language and the language legislation are mainly delegated to the communal level. The German-speaking communes are exclusively governed in German, the 38 Italian speaking and the 120 Rheto-Roman communes have a certain degree of bilingualism with priority, or at least a great respect for the local languages. This is however gradually challenged. In the Rheto-roman region, German is in certain communes the only language of education for the first years of the Lower Level education. In about hundred other communes, education of the lower grades of the Lower Level is given in Rheto-roman, thereafter German becomes the language of education.

Thus there are in fact in Switzerland only a few exceptions to the principle of the territorial monolingualism. The bilingual cities Biel/Bienne (about 50.000 inhabitants) and Freiburg (the bilingual part counts about 35.000 inhabitants) where a more or less generalized bilingualism is implemented and also the Rheto-roman and the Italian speaking communes of the Canton Graubunden, where next to the local language (Rheto-roman or Italian) also German is officially in a more or lesser degree in use.

Especially the indigenous Rheto-roman seems to be seriously challenged and is therefore strongly supported by the Confederal Government.

As the Swiss Constitution and practice at the cantonal level learns, there is certainly nothing wrong with the territoriality principle. To the contrary this principle is a guarantee against oppression by dominant language groups.

The citizens are well informed in advance about the language areas and their borders and know that, if they move out of their own language area to another area, they need to adapt themselves and not the other way around.

In its decisions about the Belgian language legislation the European Court for Human Rights¹⁷ has always ruled that the Belgian legislation totally respects the internationally guaranteed fundamental rights and freedoms. Also the Belgian Court of Arbitration has recognised and applied several times the territoriality principle. It is thus not only allowed, but also desirable that in this matter the group interest of the local indigenous population takes priority over the individual interest of the immigrant.

Any other reasoning would lead to that the indigenous population is forced to adapt itself to the language of the newcomer, whereas it is the newcomer who has voluntarily taken the initiative to move to another language area.

Moreover, when it appears in reality that the newcomers do not adapt themselves, this points to either a socio-linguistic dominant position from the immigrants towards the local population and thus to a linguistic colonisation, or to a total lack of integration in the local community. The immigrant only establishes his/her domicile there, but continues for all social functions (professional occupation, school, leisure, radio and television) to live for the largest part in the neighbouring community of his language.

Granting language privileges to such socio-linguistic dominance or such “sleeping” immigrants, would be a major injustice towards the local population. In such cases the authorities to the contrary have the duty to apply the necessary means to encourage the immigrants to integrate into the language area where they voluntarily moved.

Rewarding the non-adaptation by granting language privileges gives a totally wrong signal. This leads over time only to increasing the circle of influence of the dominant language group or of the expanding language region (as the history of the continuously expanding Brussels district and the accelerated frenchifying of the 6 communes with facilities teaches us).

Had Belgium from the start adopted and applied the Swiss language regime - and for Brussels the Bern regime - then Brussels would be a Dutch-speaking town and the French-speaking inhabitants of the Dutch-speaking communes surrounding Brussels would since long have been integrated. Their children would in that case have had to follow their education in the regional language (now the children of immigrants in Flanders can without any problem attend French-speaking schools in Brussels or The Walloon part of Belgium which means that they do not even learn Dutch).

5. The territoriality principle and the Framework Convention for the Protection of National Minorities.

This Convention, which came into effect on February 1, 1998 (hereafter referred to as “the Convention on National Minorities” or “the Convention”) does not define what should be understood by a national minority.

This convention was established to secure the respect of the rights of the indigenous population groups which - because of historical reasons- have ended up in a country

¹⁷ see ECHR, 23 juli 1968, Beglische Taalzaak, Série A, Vol. 6; ECHR, 2 maart 1987, Mathieu Mohin en Clerfayt, Série A, Vol. 113 ; ECHR, 8 september 1997, Clerfayt e.a. t. België, nr. 27.120/95.

where their language is not the national language (this appears clearly from the "rapport explicatif"¹⁸). Especially in Eastern Europe after the fall of the Iron Curtain, a Convention seemed necessary. (We refer to the Balcans, the Hungarian population groups in Romania and Slovakia, the Turkish minority in Bulgaria, the numerous minorities in Russia, Macedonia, etc.)

It is generally known that the Convention has not defined the concept of national minority, because there was no agreement on this amongst the member states¹⁹.

Because of the lack of definition it is up to the undersigning state to determine which are the minorities of its territory.

Anyway it is clear that it is impossible to consider the recently immigrated citizens, who do not want to respect the territoriality principle, as a national minority.

The text of the Convention refers repeatedly to "areas inhabited by persons belonging to national minorities traditionally or in substantial numbers..." It is however clear that the text does not include the recently, be it in large numbers, freely immigrated citizens.

The content of the convention definitions confirms this interpretation because many dispositions are precisely aimed at preventing or forbid the integration or assimilation of the "national minorities" and to the contrary impose a positive discrimination of the "national minorities".

So for example Article 4 Subdivision 3 which clearly defines that the positive discrimination "is not to be considered as an act of discrimination", Article 5 which explicitly forbids any policy towards assimilation, Article 10 concerning the use of language in the relations with the authorities, Article 16 which forbids the states to take measures which are directed to modify the proportions of the population in areas inhabited by national minorities.

Already only from the prohibition to further integration it appears that recently immigrated groups, even when they are numerous, can not be considered according to the Convention as "national minorities". In a more or lesser way all states are indeed operating a policy of integration towards such groups.

According to the earlier mentioned Article 16 states are not allowed to take measures to modify the proportions of the population to the detriment of the national minorities. This implies on the other hand, that "newcomers" which themselves modify the existing population proportions cannot be rewarded.

In no way could one conclude from the Convention that it would apply to groups which move in large numbers to another language area. Neither that such groups could call upon the Convention to modify to their advantage, the of old existing language regime of the region where they moved into.

¹⁸ "rapport explicatif", under nr 5

¹⁹ "rapport explicatif", under nr 12

Otherwise the question would rise as of when such immigrants could appeal to the Convention? When they are 5 % of the population, 10%, 20% or more? Should the calculation be made on the basis of a district, a commune, a region, or a province? How long would they need to live in the area in question? Could a person, who live only since a short period or who spend only a short period in this commune or region also benefit from the protection as “national minority”? Could a French speaker, immigrated from Congo, Canada or Morocco, be part of that “national minority”? Could a commune who does not reach these percentages today, within ten or twenty years suddenly appear to house a “national minority”?

Can the Turks that immigrated to Limburg since about 50 years appeal to the Convention to demand the use of Turkish in their relations with the administration? Or the Italians in the Walloon coal mines areas? Or the Moroccan (Berber) population groups in certain Brussels communes?

The answer is obvious: nobody reasonably expects that the Belgian or Flemish authorities are obliged to use Turkish, Italian or the Berber language with such immigrated groups, even though they are numerously represented in certain regions and are citizens of Belgium.

It is clear that the Convention was not intended for these situations and that non-local language speakers, which move voluntarily to a language area of which the language statute has been defined, clearly and since a long time can not claim the status of “national minority” in order to modify the language legislation of the region to their advantage.

Accepting this point of view would create a new language struggle and lead to challenging the established language borders.

Finally the “rapport explicatif” clearly states that when enumerating the basic characteristics of the identity of a “national minority”, that this definition “ n’implique pas que la simple existence de différences ethniques, culturelles, linguistiques ou religieuses crée nécessairement des minorités nationales” (this does not imply that the simple existence of ethnic, cultural, linguistic or religious differences necessarily creates national minorities)²⁰.

The single fact that many French-speakers move into the Dutch-speaking communes surrounding Brussels can certainly not make them a “national minority”.

6. Threatened minority?

There is another reason why the French-speakers that move to Dutch-speaking communes surrounding Brussels never can be considered as “national minority” in the sense of the Convention. They not only are recent (frequently even only temporary) immigrants, but they do certainly not constitute a group of which the singularity is “threatened”.

²⁰ “rapport explicatif”, under nr 43

The Convention on National Minorities aims clearly at language and culture groups that are threatened to suffer in a certain national context and which are therefore “threatened”.

A socio-linguistic dominant population group, like the French-speaking people moving into the communes surrounding Brussels, can thus never constitute a “national minority”.

The historical context, which was outlined earlier, proves clearly that the dominant and geographically expanding (even imperialistic) language is French. All language acts tended or tend to maintain the Dutch-speaking character of Flanders or to improve the position of the Dutch speakers in Brussels. A part of these language acts was that the bilingual Brussels region was definitively limited to the 19 communes and that the other communes which are bordering Brussels remain part of the Dutch-speaking language area, all be it with accommodations or “facilities” in 6 of these communes.

Still now the French-speaking political parties²¹ do not want to accept what they call the “carcan” (“bolt”) and are striving to expand the bilingual language area, at the expense of Flanders. Their ultimate goal remains the expansion of the bilingual Brussels district (currently the Brussels Capital Region).

Moreover, it has to be pointed out that the party of Mr Georges Clerfayt²² (FDF) is still directed in an expansionistic way and is striving to absorb²³ large parts of Flanders into the Brussels Capital Region.

Any neutral observer can establish that, what some are now pretending to be a minority, have in no-time (in the 6 communes with facilities) effectively grown into a numeric majority through the abusive use of the language facilities.

Finally it is to be mentioned that the facilities in the six Dutch-speaking communes surrounding Brussels and in the other language border communes with facilities on the Flemish side, are always being strictly applied, whereas this is rare or not at all the case in the French-speaking communes with facilities.

²¹ The French inhabitants seem to be less demanding, according to a survey ordered by the Flemish Government. This survey proves that 90 % of the French speakers are not native of that commune and do not live since more than 20 years in that commune; more than 74 % lived in Brussels or The Walloon part of Belgium at the time of their birth (Attitudes van de Franstaligen in de Vlaamse Rand rond Brussel, INRA-rapport, maart-april 2001, blz.14, wonen in de Rand, Historiek).

²² It is worth to mention that Mr. Clerfayt, the fore fighter of the so-called oppressed French speakers is not an indigenous Rode inhabitant, but has immigrated into the commune in the first half of the sixties.

²³ The program of the FDF party as listed on their website indicates this in a “hidden” way by stating that Brussels should be “opened” to “son hinterland, a sa vraie dimension socio-economique”-“to its hinterland; its real socio-economical dimension”.

Other FDF publications also prove this : f.i. an information periodical of the FDF entitled “ initiatives en peripherie bruxelloise” from spring 1988, states “les limites de la Region bruxelloise doivent s’etendre et englober les communes avoisinantes, dont les 6 communes a facilitesCes communes ne sont pas des communes flamandes”- “the borders of the Brussels Region should extend to and include the surrounding communes, of which the 6 communes with language facilities. These communes are not Flemish communes”

The most pregnant example thereof is the years long refusal by the Walloon authorities to subsidise the Dutch-speaking school in Komen-Comines, a commune with facilities for Flemish speakers, whereas Flanders has from the start provided finances to all French-speaking schools located on their territory.

It can be demonstrated with plenty of examples that the Dutch speakers are in reality always forced to adapt themselves to the monolingualism of the French-speakers and not the other way around. Even now the language acts are not respected in Brussels and this to the prejudice of the Dutch language and of the Dutch speakers.

Flagrant examples thereof are: the numerous appointments of monolingual “temporary” civil servants, in functions where bilingualism is legally required, and the situation in the Brussels hospitals where Dutch speakers can not be treated in their language, although the personnel must be bilingual according to Law.

It is turning the world upside down if the Convention, aimed precisely at protecting threatened minorities, would be called upon by the French-speakers to annihilate the language acts in Flanders, and more precisely in the communes surrounding Brussels, which were introduced to protect the (threatened) Dutch-speaking character of these communes against the advancing frenchifying.

In the 6 communes with facilities, where the French-speakers are dominating the communal government and are using the facilities as an instrument of frenchifying, the indigenous Dutch speakers should rather be considered as a minority in the sense of the Convention.

7. The Dutch-speaking minority in Brussels

The French-speakers often refer to the larger guarantees that the Dutch-speaking minority is benefiting from in Brussels, as compared to these of the French-speakers in the Dutch-speaking communes surrounding Brussels.

The situation of the French-speakers in the communes surrounding Brussels is in no way comparable to that of the Dutch speakers in Brussels:

- The Dutch speakers in Brussels form the indigenous population and the indigenous language.
- The large majority of the French-speakers, which have moved into the Dutch-speaking communes surrounding Brussels, only moved to Flanders after the language border had been established and were thus fully aware of the language status of the commune to which they moved. Nevertheless they want de facto to impose their language to the indigenous population, but they reject bilingualism for themselves.
- Brussels is the capital of the country and Dutch is the language of 60 % of the inhabitants of Belgium. It is thus only normal that the capital of the country treats the 2 language groups equally (for a number of matters/issues these 2 groups necessarily have to address themselves to the capital city), certainly now that the minority language in Brussels is the indigenous language. The French-speakers that establish themselves in the Dutch-speaking communes surrounding Brussels do this out of their free will and frequently without any connection to the local community.

- Last but not least: the rights of the Dutch speakers in Brussels are the counterparts for the rights, which were granted to the French-speakers in the Belgian governmental system.

At the Belgian government level, a minority of 4 million French-speakers have obtained total decision equality to the 6 million Dutch speakers: parity in the government, in the highest judicial courts and in the highest ranks of the Executive Powers and a “de facto” right of veto to all acts and revisions of the constitution. As far as number of mandates and weight of the decisions to which these rights can be applied, are concerned, the rights granted to the French-speakers outweigh far the rights of the Dutch speakers in Brussels.

8. Conclusion

The Belgian language regime is based upon a number of principles that have grown over the years. It is impossible to remove one element out of the total, without taking into consideration all other elements. Doing so would jeopardise the whole Belgian state structure.

In the Belgian system, there is a protection of the French-speakers on the national level, with as counterpart the protection of the Dutch speakers in Brussels. There is the final establishment of the language border and the limitation of the Brussels Capital Region, with an ultimate concession to the French-speakers facilities in the 6 communes surrounding Brussels. There are on both sides of the language border a limited number of communes with facilities for citizens from the other language group.

In fact the additional language rights that are now being claimed by the French-speakers are a unilateral breach of the base-principles of the Belgian structure and about the equality of all Belgians before the law.

The French-speakers consider it as an evidence that tens of thousands of Dutch speakers who move to the French-speaking area or live there traditionally, are integrating and adapting themselves to the community where they live. The French-speakers and the Walloons always refuse any form of bilingualism in their area. However they claim diverging language rights for themselves in the Dutch-speaking language area.

It is moreover well known that the language acts are flagrantly violated in The Walloon part of Belgium and Brussels and this to the detriment of the Dutch speakers: the example of the Brussels’ hospitals and of illegal appointments of monolingual French-speakers in Brussels, was mentioned earlier in this document.

The Communauté Francophone (Francophone Regional Government) continues to refuse to subsidise the Dutch-speaking school in Komen-Comines (a commune at the Walloon side of the language border with facilities for the Dutch speakers).

The basic principle of equality of all individuals before the law thus requires that the French-speakers, who move to Dutch-speaking territory, also accept the language statute of the commune.

Why should a French speaker who establishes her/himself in a Dutch-speaking commune have to be granted privileged language rights, whilst a Dutch speaker moving into a French-speaking commune should not be granted the same rights?

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* *

We dare to hope that this letter has allowed you to get a better insight to the complex historical, legal, factual and political context in which the complaint of the French-speaking immigrants needs to be situated.

We hope to have clearly explained to you that they can in no way be taken into consideration as “national minority”; nor can they claim in any way to be granted additional language rights in the Dutch-speaking communes surrounding Brussels (amongst which the 6 communes with facilities).

We remain at your entire disposal for any additional information you might want to receive and are certainly also willing to come and meet with you.

We assume that you will not object to the fact that we will make this letter available as a “open letter” to all potential interested parties, about two weeks after you have received it.

Yours Sincerely

On behalf of the Halle-Vilvoorde Komitee

Johan Laeremans

Secretary

Luc Deconinck

President