

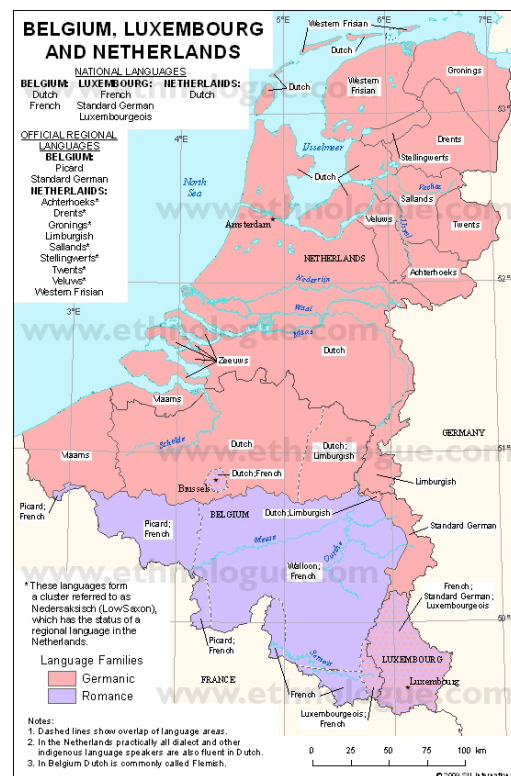
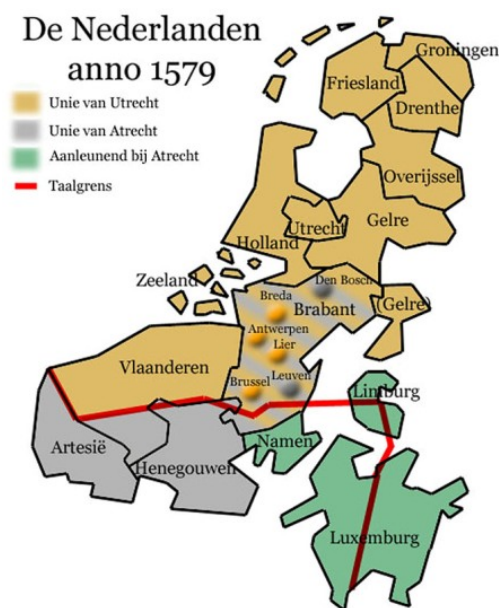
# Language Policies – why do they matter - a Flemish perspective

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## “Flanders”, “Belgium”, Dutch speaking territory

Historically, meaning in the Middle Ages, Flanders was a county comprising territories officially belonging in part under the French crown and in part under the German empire, but in fact largely independent. Part of it is now in Northern France, a small part in the Kingdom of the Netherlands, most of it in Belgium. Apart from some cities that are now in France, it speaks since immemorial times (i.e. the early Middle Ages) a form of Dutch (the language of Geoffrey Chaucer in the Canterbury Tales is by the way in many respects easier to understand for a Fleming than for an Englishman).



Other provinces of what is now Belgium that are historically and today Dutch speaking are Brabant, comprising also Antwerp, and Loon, now called Limburg. However, already in the Late Middle Ages, the name Flanders was used in other languages to indicate all the Dutch-speaking provinces.

Flanders is today the name of, so say it simply, one of the 3 or 4 states of the Belgian federation, with 6,41 million inhabitants (1 January 2014, of whom 6,01 are Belgian citizens) and a rather large autonomy. In 2011, of the official inhabitants, 96 % is Dutch speaking, but due to mass migration they may have diminished a bit since. Flanders corresponds to the part of Belgium that is officially unilingual Dutch speaking. It comprises most of the territories of Belgium that are historically Dutch speaking, apart from Brussels; thus the Belgian parts of the "old" county of Flanders, most of the

Belgian parts of the old Duchy of Brabant and the old county of Loon (now the province of (West-)Limburg).

Apart from Flanders and Brussels, Belgium consists of a French speaking part, Wallonia, with 3.50 million inhabitants (1 January 2014, of whom 3,30 million Belgian citizens) and a small German-speaking region of about 75,000 inhabitants.

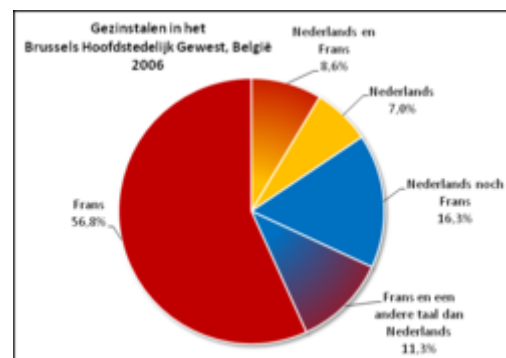


Brussels is historically a pure Dutch-speaking city but now a separate district or state with a large majority speaking French and increasingly a multitude of other languages given that it is the capital of the European Union and has a very high proportion of non-European immigrants

Languages spoken at home in Brussels 2006

- 57 % French
- 9 % Dutch and French
- 7 % Dutch
- 11 % French and foreign language
- 16 % foreign language

In 2012, 5,4 % Dutch only households plus 14,1 % Dutch and another language. French only households were only 33,6 % anymore. Foreign language households have increased to more than 30 %.

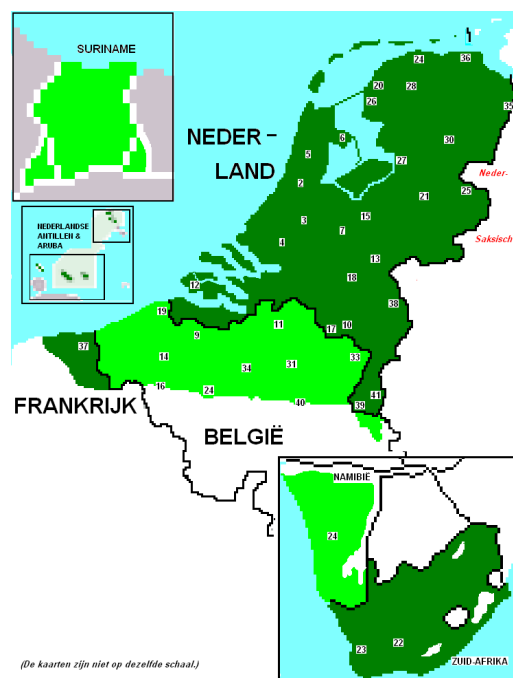


School language: 82 % French 17 % Dutch<sup>1</sup>.

<sup>1</sup> <http://www.briobrusssel.be/ned/webpage.asp?WebpageId=1115>.

## Dutch language

Dutch is evidently not only spoken in actual Flanders with about 6 million speakers, but most of all in the Northern part of the Netherlands, actually the Kingdom of the Netherlands with more than 16 million, further half a million in Suriname (in South America) and small minorities elsewhere.



Like some Anglophones will pretend that the language of Québec is not French in order to belittle it, Francophones in Belgium pretend that the language of Flanders isn't Dutch in order to belittle it. In fact, the accents are different in the 3 countries, but the difference between Dutch in the Netherlands and Flanders is not bigger

than between German in Germany and Austria. Closely related is Afrikaans in South Africa and Namibia with about 6 million. With more than 23 million Dutch native speakers, it is according to the most recent lists between no. 42 and 54 according to the number of native speakers.

If we do not only count the number of native speakers, but also try to assess the inherent importance of the language, it is around no. 10. In Wikipedia, it is the third language after English in number of articles<sup>2</sup>; as to the content and use of the whole internet, it is now on place 12 in 2015<sup>3</sup>. And according to the “Calvet” study - a French study of 2008 revised later on - on the weight and prospects of languages calculated on the basis of a whole series of factors, it came 6<sup>th</sup> (and still 7<sup>th</sup> in 2015)<sup>4</sup>. In the Unesco database of translations, Dutch is the 6th target language for translations (books translated into Dutch) and the 11th language of origin<sup>5</sup>.

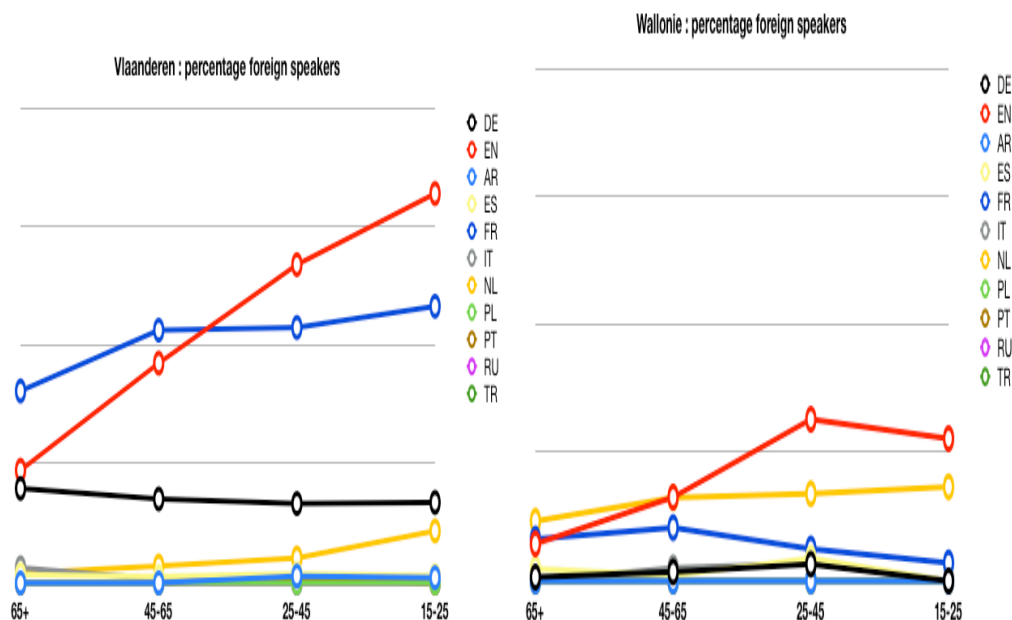
<sup>2</sup> Sep. 6, 2013: 4,321,426 articles in English, 1,695,324 in Dutch, 1,627,490 in German; Dutch the 12<sup>th</sup> language as to the number of users.

<sup>3</sup> [https://en.wikipedia.org/wiki/Languages\\_used\\_on\\_the\\_Internet](https://en.wikipedia.org/wiki/Languages_used_on_the_Internet)

<sup>4</sup> Louis-Jean CALVET, *Poids des langues et perspectives, essai d'application au français, à l'espagnol et au portugais*, <http://ressources-cla.univ-fcomte.fr/gerflint/BresilSPECIAL1/calvet.pdf>. For updates, see <http://wikilf.culture.fr/barometre2012/>. In 2010, it was ranked 5th and in 2012 and 2013, 7th.

<sup>5</sup> See [http://portal.unesco.org/culture/en/ev.php-URL\\_ID=7810&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/culture/en/ev.php-URL_ID=7810&URL_DO=DO_TOPIC&URL_SECTION=201.html), consulted Oct. 2011 and Sept. 2013; there were 19,234 books translated from Dutch according to this database on Sep 6, 2013).

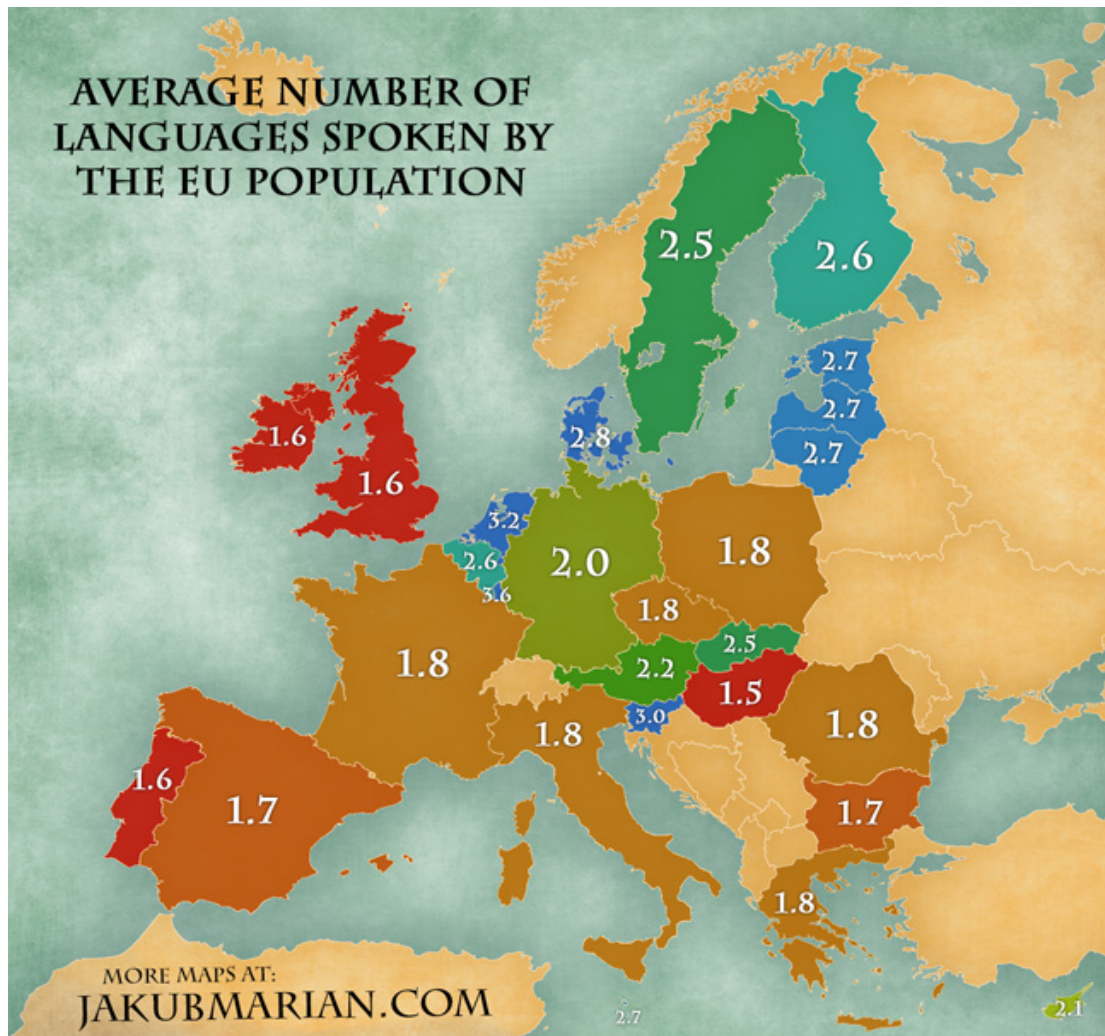
Dutch thus has intrinsically a high level and potential, but nevertheless a low status as a foreign language. This is largely due to the fact that it is geographically squeezed between 3 much more powerful languages: English, French and German. A high proportion of the population in Flanders know one, two or all 3 of these languages and possibly other ones. About half of the Flemish speak at least 3 languages; in the UK 2/3 of the population speaks nothing but English<sup>6, 7</sup>.



As to Belgium, European reports do not distinguish between Flanders and the rest of Belgium and are therefore not very helpful for our topic. Nevertheless, some results are illustrated by this map:

<sup>6</sup> The EU published in 2012 a Eurobarometer report, *Europeans and their languages*, @ [http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_386\\_en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_386_en.pdf). As to Belgium, it does not distinguish between Flanders and the rest of Belgium and is therefore not very helpful for our topic.

<sup>7</sup> As to the situation in France, there is an interesting report on the political aspects of teaching foreign languages by Fr. GRIN, *L'enseignement des langues étrangères comme politique publique*, September 2005, published by the Haut Conseil de l'Évaluation de l'école, available @ <http://www.ladocumentationfrancaise.fr/var/storage/rapports-publics/054000678/0000.pdf>.



The results in Flanders are to a large extent the product of education in foreign languages at school:

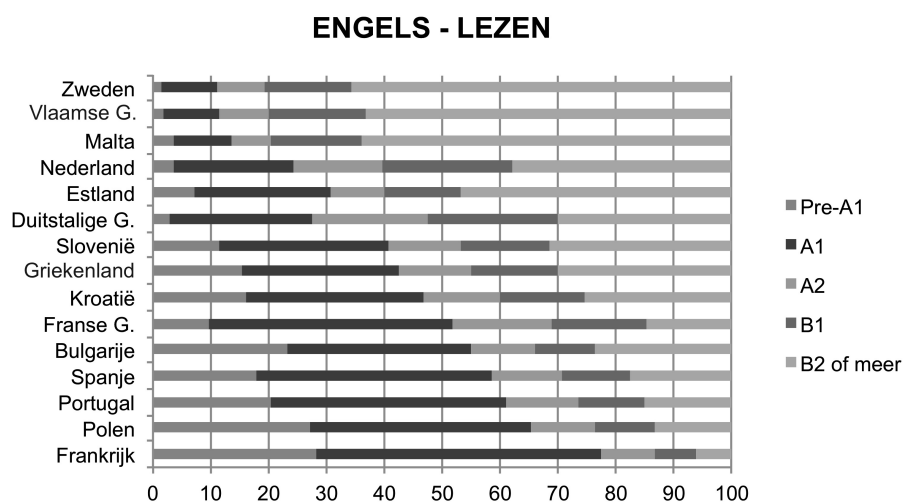
**Tabel 2: Aantallen lessen in vreemde, moderne talen die door leerlingen in het Vlaamse secundaire onderwijs zijn gevolgd per jaar en per taal, 2002-2006**

jaar	n *	Frans	%	Engels	%	Duits	%	Spaans	%	Italiaans	%
'02-'03	755404	384118	50,85	288062	38,13	80261	10,62	2954	0,39	9	0,01
'03-'04	770251	390259	50,67	294001	38,17	83135	10,79	2856	0,37	0	0
'04-'05	776042	392855	50,62	298225	38,43	81852	10,55	3110	0,4	0	0
'05-'06	783556	395880	50,52	301354	38,46	82902	10,58	3420	0,44	0	0

\*Totaal aantal lesjaren die in de genoemde talen gevolgd zijn. Individuele leerlingen kunnen er meerdere volgen. (bronnen: [www.ond.vlaanderen.be/onderwijsstatistieken/2002-2003/jb/jb-1hdst7.pdf](http://www.ond.vlaanderen.be/onderwijsstatistieken/2002-2003/jb/jb-1hdst7.pdf); [www.ond.vlaanderen.be/onderwijsstatistieken/2003-2004/jb/1hdst7.pdf](http://www.ond.vlaanderen.be/onderwijsstatistieken/2003-2004/jb/1hdst7.pdf); [www.ond.vlaanderen.be/onderwijsstatistieken/2004-2005/jb/jb-1hdst7.pdf](http://www.ond.vlaanderen.be/onderwijsstatistieken/2004-2005/jb/jb-1hdst7.pdf); [www.ond.vlaanderen.be/onderwijsstatistieken/2005-2006/jb0506/jb0506-1\\_hdst7.indd.pdf](http://www.ond.vlaanderen.be/onderwijsstatistieken/2005-2006/jb0506/jb0506-1_hdst7.indd.pdf))



As to reading English, the most recent European Survey on Language Competences gives us the following result at schools<sup>8</sup>:



And so ..... there is virtually no pressure on our neighbours to learn our language as foreign language. Evidently, Dutch is not in danger as such. But it may be in danger of losing some of its functions, as a scientific language e.g. And therefore, as Robert Lane Greene<sup>9</sup> wrote: “*French is healthy, English is dominant, it is most other languages that have cause for concern*”. Even Dutch.

Contrary to French and maybe some other languages, there has never been a “language export policy”, and certainly not a missionary policy of promoting our language as a never tried to export our language as a “blessing” for the rest of the world, as a vector for civilisation for mankind, as the French did. We never pretended that our language was “the” language of human rights, we just believe we have a language with a very rich past and a very rich present - the historic Dictionary “*Woordenboek der Nederlandse taal*” contains about 430.000 entries of Dutch words and is thus the biggest printed dictionary in the world<sup>10</sup> - but we seem to prefer to keep these treasures for ourselves. Just like the French, we do believe that our language is the best suited for legal purposes because of its precision and clarity, but contrary to them<sup>11</sup> we never tell that to the rest of

<sup>8</sup> “Vlaamse vreemdetalenkennis in Europees perspectief”, [http://www.ond.vlaanderen.be/obpwo/links/eslc/Brochure\\_ESLC.pdf](http://www.ond.vlaanderen.be/obpwo/links/eslc/Brochure_ESLC.pdf); The English version *First European Survey on Language Competences* at [http://ec.europa.eu/languages/policy/strategic-framework/documents/language-survey-final-report\\_en.pdf](http://ec.europa.eu/languages/policy/strategic-framework/documents/language-survey-final-report_en.pdf) (summary at [http://ec.europa.eu/languages/library/studies/executive-summary-eslc\\_en.pdf](http://ec.europa.eu/languages/library/studies/executive-summary-eslc_en.pdf)) does not contain this figure because the figures show the results for the second and third language, whereby English is in Flanders officially the third and not the second language.

<sup>9</sup> R.L. GREENE, *You are what you speak. Grammar Grouches, Language Laws and the Politics of Identity* (New York: Delacorte press 2011), p. 257

<sup>10</sup> [http://en.wikipedia.org/wiki/Woordenboek\\_der\\_Nederlandsche\\_Taal](http://en.wikipedia.org/wiki/Woordenboek_der_Nederlandsche_Taal); the WNT is on line available @ <http://gtb.inl.nl/?owner=WNT>. The last printed edition of the Oxford English Dictionary comprised 291.500 entries; the online version will, when completed, comprise about 600.000 entries of English words. Also, Dutch is probably the language whose grammar is the best described in scientific terms. See i.a. the *Syntax of Dutch*, by H. BROEKHUIS and M. DEN DIKKEN, <https://www.meertens.knaw.nl/cms/en/publications/143971-syntax-of-dutch>; 2 volumes are online in Open Access.

<sup>11</sup> See R.L. GREENE, p. 124; <http://itre.cis.upenn.edu/~myl/language-log/archives/004199.html>;

the world. Nevertheless, in an article on the website of science magazine on the best languages to learn to speak, the author concluded that “*a language like Dutch—spoken by 27 million people—can be a disproportionately large conduit, compared with a language like Arabic, which has a whopping 530 million native and second-language speakers. This is because the Dutch are very multilingual and very online*”<sup>12</sup>.

### Language Regulation s.s.

There is not much regulation of the language as such (as distinguished from the use of languages), nothing comparable to what you find in France. There is no policy of banishing foreign words; there is on the other hand an official spelling. The jurisdiction over the language as such has been transferred to the Dutch Language Union (*Nederlandse Taalunie*)<sup>13</sup> created by a 1980 Treaty<sup>14</sup> and having jurisdiction in the Flemish Community, the Netherlands and Suriname, with its own Parliamentary Assembly and Council of Ministers. But there is nothing like the *Académie Française*. We have Academies for language and literature, as a meeting place between academics and authors. But the centre of gravity is found in the Universities, just as in the Anglo-American world.

The main reason to have some international regulation of the Dutch language in a “Language Union” is to avoid that the Dutch language would fall apart into 3 or more languages. For a language of 23 million speakers, this makes sense. Just imagine how many trees we would have to fell to print only the thousands and thousands of pages of EU legislation in 2 Dutch languages instead of one. And by the way, I’m sure the position of Afrikaans in South Africa would have been less threatened if it had maintained itself as only a regional variation of Dutch.

### Language and politics - history

As an effect of the Wars of Religion in the 16th and early 17th century, Flanders remained occupied by Spain and lost the most dynamic part of its population through a huge brain drain to Holland. The Northern Netherlands became an independent and successful republic - or rather Confederation of republics (United provinces), based on the Union of Utrecht (1579) that inspired so much the American “Articles of Confederation” of 1777. The South was since then governed by foreign rulers, and on a central level it was mainly governed in French since the 17th century, esp. the 18th century.

The North flourished and if the Anglo-Dutch war would have gone otherwise in 1664, people would all speak Dutch with each other in Manhattan.

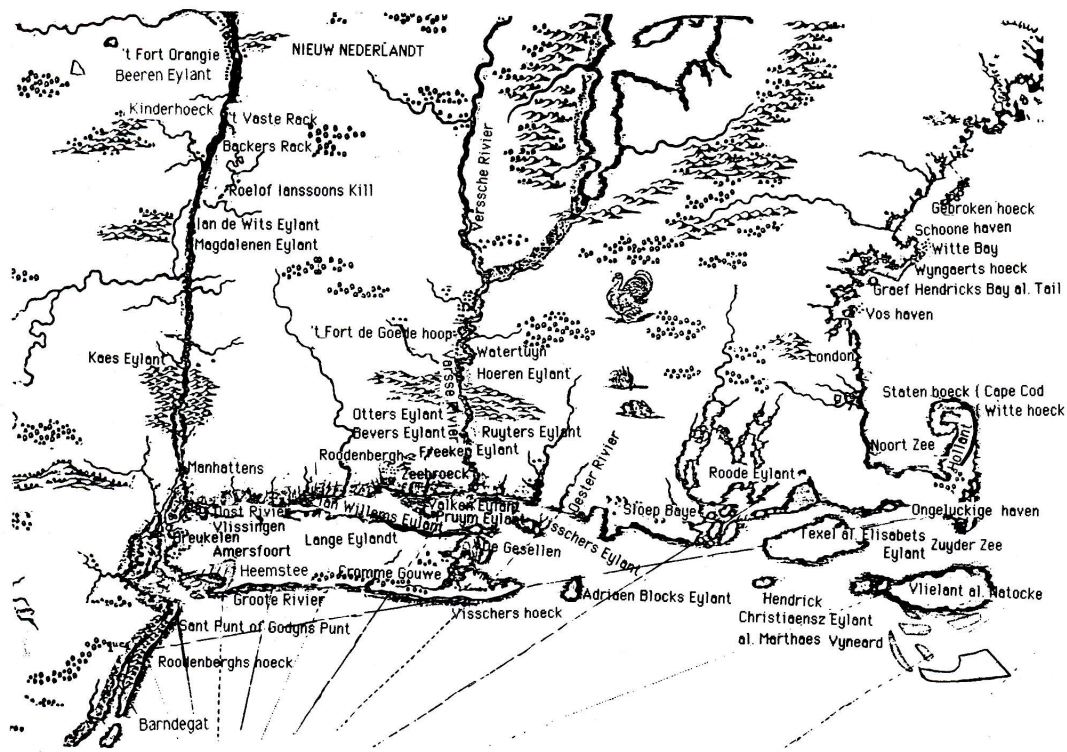
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<http://www.euractiv.com/culture/group-pushes-bolster-french-language-legal-supremacy/article-161623>; press release of the campaign in 2007 @ <http://www.eppgroup.eu/press/showpr.asp?PRControlDocTypeID=1&PRControlID=5703&PRContentID=10145&PRContentLG=fr>

<sup>12</sup> M. ERARD, “Want to influence the world? Map reveals the best languages to speak”, <http://news.sciencemag.org/social-sciences/2014/12/want-influence-world-map-reveals-best-languages-speak>.

<sup>13</sup> <http://taalunie.org/>

<sup>14</sup> <http://taalunie.org/verdrag-inzake-nederlandse-taalunie>.



Naar een kaart van 'Nieuw-Nederland' door Nic. Joh. Visscher uit 1655.

When the French invaded and annexed what is now Belgium in 1795, French became the only official language of government on central as well as local level and the occupier organised a systematic frenchification of society. The process created also a French-speaking upper-class in Flanders itself, consisting especially of those who wanted to collaborate with the French and in this way distinguish themselves from the ordinary people.

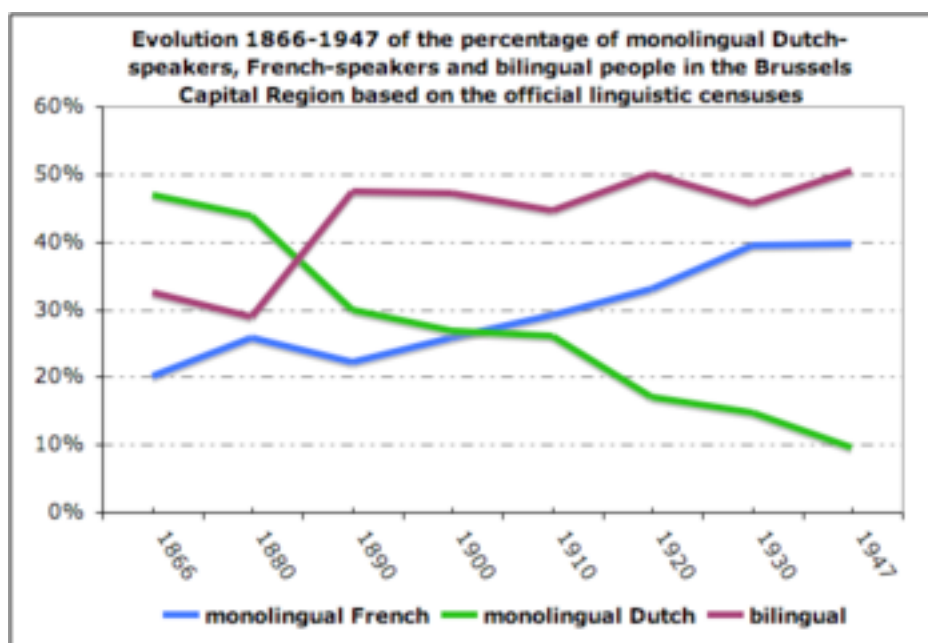
When Napoleon was defeated and Belgium reunited with the rest of the Netherlands in 1814, the Dutch king tried to make Dutch the only official language in Flanders and developed for the first time a relatively modern school system, but met with strong resistance of most of the frenchified upper class. For different reasons, economic, religious and linguistic, the Union failed and fell apart again in 1830-1831.

The new state of Belgium was from the first day organised as a French speaking nation only, even if local government could continue in Dutch in many villages. In the Dutch speaking provinces, now called Flanders, the central administration, the administration of justice, the education above primary school (and mostly even in primary school), etc. was in French only. The Constitution proclaimed that the use of languages was free; but in practice that meant only that everybody had the right to understand no other language than French and no one had the right to be heard in any other language than French. As to the administration of justice, this was officially decided by the Supreme Court on May 12, 1873<sup>15</sup>, forbidding advocates to plead in Dutch as the judges were according to this constitutional freedom not obliged to understand the language of the land in Flanders, whereas lawyers were officially required to know French (as one could only study law in French at Belgian universities).

<sup>15</sup> *Pasicrisie belge* 1872, I, 1979, also at <https://www.law.kuleuven.be/lib/plone/tijdschriften/cassatie/1873/1873.pdf>.



As in many other countries, the dominant language group tried to repress the autochthonous language especially through education. In most schools, speaking Dutch or a Dutch dialect was severely punished and the speaker ridiculed as primitive and backward – although they were speaking a language which has produced world literature since the high middle ages. For my grandparents it was still forbidden to speak Dutch at school, prohibition sanctioned by “signs of shame” to be passed on<sup>16</sup>. In some schools, you even had to rinse your mouth if you had spoken an non-French word. But contrary to other nations in France, we survived – although not very well in Brussels.



As everywhere in Europe, the romantic 19<sup>th</sup> Century saw together with the pressure for democracy, this is more say for the people themselves, a pressure for restoration of the language of the people themselves<sup>17</sup>. Gradually, but slowly, in part with the extension of voting rights, Dutch gained ground again in the public sphere (Since 1893 all male adults had the right to vote). The fact that Dutch was the language of the independent kingdom of the Netherlands, and that only very few Flemish tried to create a Flemish national language different from Dutch, may have helped a lot.

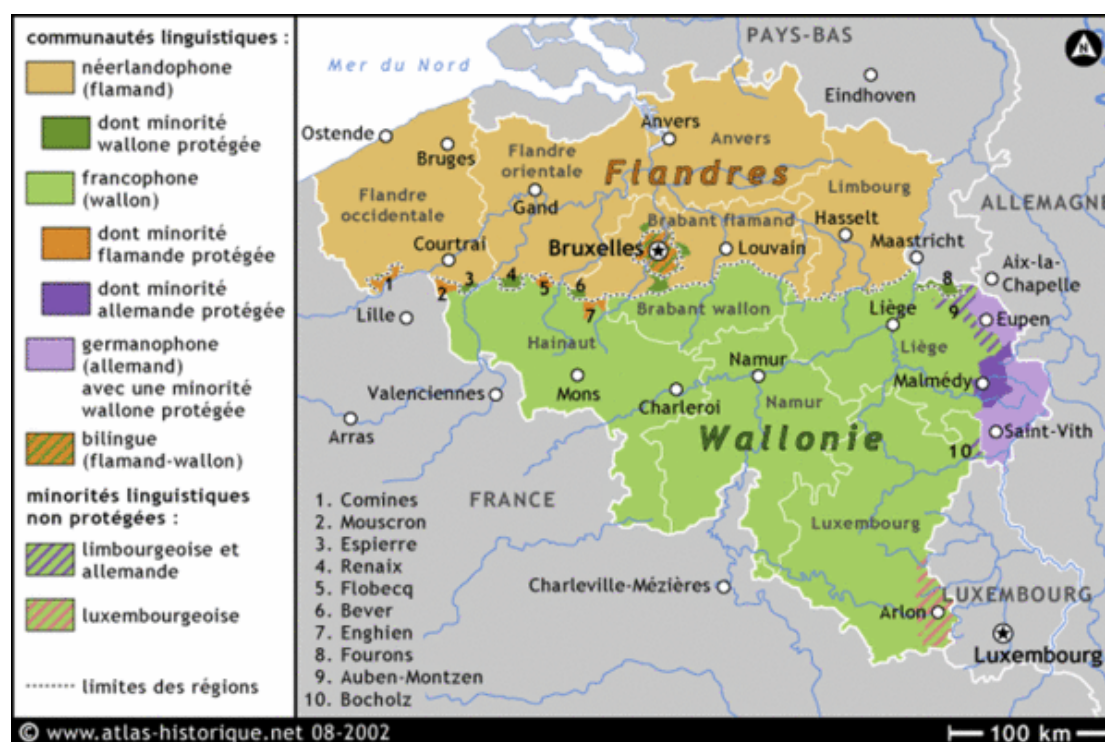
Since 1898 French and Dutch versions of the legislation are officially equal, but it is only in 1967 that there was an official version even of the Constitution. It took 100 years, from 1830 to 1930, before we could study in Dutch at the University. In 1906 the rector of the main University in Flanders (Louvain), at the same time archbishop of Belgium,

<sup>16</sup> See for the same policy in Bretagne, see R.L. GREENE, p. 246.

<sup>17</sup> Comp. Also M. WALZER, *Thick and thin. Moral argument at home and abroad* (Notre Dame: University of Notre Dame Press 1994), p. 65: “Multi-nationalism is a function of pre-democratic or anti-democratic politics. But bring the “people” into political life and they will arrive, marching in tribal ranks and orders, carrying with them their own languages, historical memories, customs, beliefs, and commitments - their own moral maximalism. And once they have been summoned, once they have arrived, it isn’t possible to do them justice within the old political order”.

fiercely opposed higher education in Dutch as it would “condemn the Flemish race to a condition of inferiority in the global competition”<sup>18</sup>.

The first decades of the 20<sup>th</sup> century were also decisive in another respect, namely the gradual introduction of the territoriality principle. Foreigners who don't know our history often ask the question: why cannot the entire country be bilingual? But that was a solution that was unconditionally rejected by Wallonia. There had been a large migration from poor regions in Flanders to the Walloon mines and industry, and Wallonia totally rejected the idea of making the entire country bilingual. Flanders insisted on equality and reciprocity; which meant that French could not have another status in Flanders than Dutch in Wallonia. Compare the idea of “*Un Québec aussi français que l'Ontario est anglais*” in Canada. Wallonia then openly opted in the 1930's (especially 1931) for the so-called territoriality principle: 2 unilingual regions with a bilingual capital, and a small German-speaking region. The matter was settled in 1963 by fixing the linguistic border (after transferring a few more cities to the French speaking territory). In some localities at the border, inhabitants have a right to have all official documents in translation.



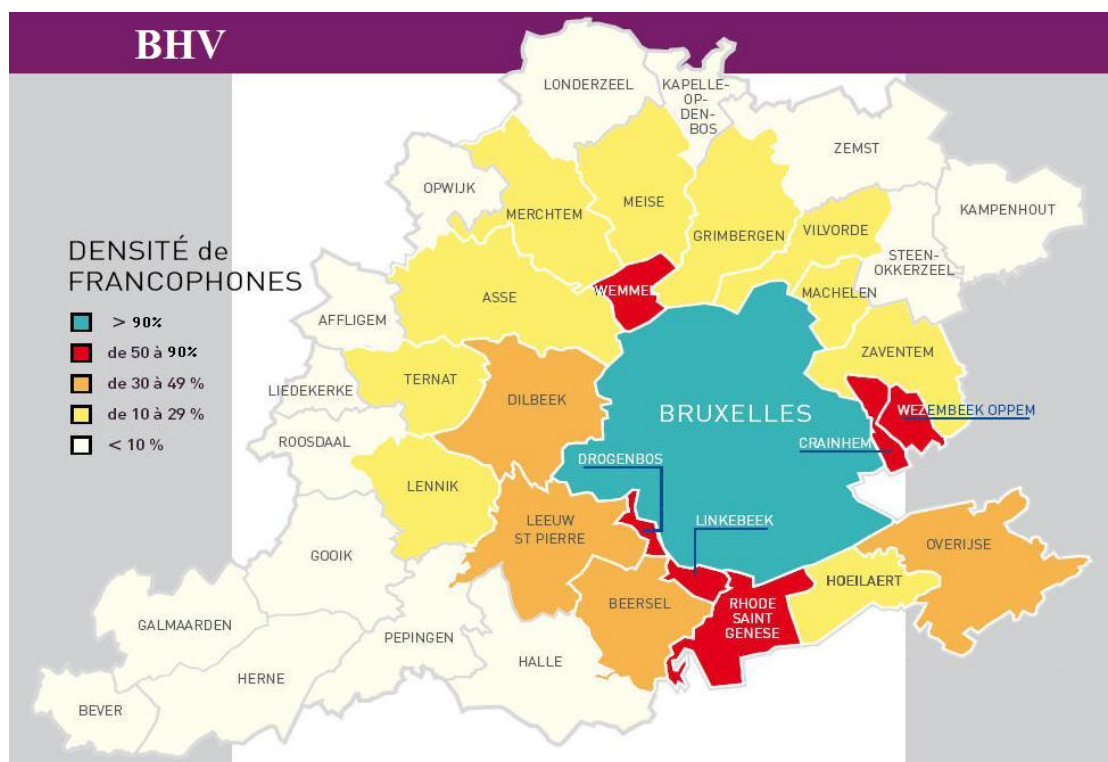
Real devolution, installing regional parliaments and governments and transferring powers to them, started in 1970 and made the country a federal country with the constitutional reforms of 1980 and 1992.

<sup>18</sup> Cited i.a. by G. GEERTS in “Language Legislation in Belgium and the balance of Power in Walloon-Flemish relationships”, in R. Van Hout & U. Knops, *Language Attitudes in the Dutch Language Area* (Berlin/New York: De Gruyter 2011), also @ <http://www.reference-global.com/doi/abs/10.1515/9783110857856.25>.



However, the francophone parties have never given up the idea that Flanders and only Flanders should be bilingual, if not, that the border between the 2 territories should continue to shift to the north to the detriment of the Dutch speaking territory. This expansionist view is still the official policy of francophone parties in Belgium.

In order to support it, they<sup>19</sup> continuously publish maps with alleged numbers of French speaking inhabitants in Flemish localities in order to claim “border corrections” or at least special minority rights.



If I'm correct, this refusal of reciprocity is also the basic attitude of Castilian-Spanish speakers in Spain towards the Basques and Catalans: Catalonia and the Basque country should be bilingual, but the Castilian territories evidently not.

The principle of territoriality

Frankly speaking, territoriality, this means having linguistic regions, all of them unilingual except the historically mixed capital of Brussels, was and is the only way to have a peaceful coexistence between the 2 nations or communities in Belgium. A good neighbour is one that does not continuously try to move the fence. And territoriality here means that the use of languages for certain activities, especially the public administration, is regulated (either officially or simply by social power). In a modern society, law is to a large extent territorial and not personal: it is the law of the land and not ethnic or tribal

<sup>19</sup> These maps could be found until recently i.a. @ <http://www.francophonedebruxelles.com> (in 2015 no longer online).

law. A uniform law for all does evidently not exclude that the law may leave ample room for individual choices and collective identities in the private sphere. In some circumstances, collective rights for minorities, and thus the application of the personality principle, may be justified – especially where an autochthonous nation has become a minority in its own land, as the Flemish in Brussels.

This does not mean that other principles or solutions are necessarily wrong. Every case is different. No case can be judged without some knowledge of its history. The American political philosopher Michael Walzer has analysed various model of tolerance between linguistic or ethnic groups in his book “On Toleration”<sup>20</sup>, territorial and non-territorial. The situation in the United States is very different from that in Belgium, which in its turn differs considerably from that in the United Kingdom or Spain. In Flanders, Catalonia and the Basque country, we are dealing with the native language ‘defending’ itself; in some other cases several languages may be equally native.

And as to Belgium, I must add that the antagonism between Flanders and Wallonia today relates to much more than language only. Very simply put: Wallonia is strongly socialist and Flanders very much centre right oriented, more communitarian than liberal. Flanders tries to get rid of a southern European way of governing and introduce more northern European methods. And it no longer accepts to transfer a high proportion of its wealth to the south, which shows no respect on a linguistic level and continues to claim privileges for French speakers. Both are welfare states with a very high level of social security, but in the Flemish philosophy such rights and benefits also imply duties on the side of the citizens, including a duty to learn the language; we believe that an unemployed person who refuses to learn the language (which evidently implies he or she obtains sufficient opportunities to do so) can be blamed; for the francophone politicians this is a scandalous idea.

#### Law on the use of languages today

According to the Constitution, the use of language can be regulated by statute (federal or state law) for the public administration, including the administration of justice, education in schools that seek subsidies or official recognition, labour relations and those documents of enterprises that according to the law have to be published. In Brussels, federal law regulates the use of languages, as it is historically a Dutch city with now a French-speaking majority (but also dwindling); both communities are in a sense constitutive for Brussels.

In Flanders<sup>21</sup>, the language of public administration, including justice, and public broadcasting, is Dutch. In some villages near Brussels, the inhabitants are however entitled to ask for a translation in French. In the administration of justice, defendants may under certain conditions require the case to be sent to a court in the French-speaking territory. Evidently, in criminal affairs, anyone is entitled to an interpreter and translation in a language he or she understands.

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<sup>20</sup> M. WALZER, *On Toleration* (New Haven: Yale University Press 1997).

<sup>21</sup> Booklets shortly explaining the actual situation and/or history in English to foreigners can be found i.a. @ <http://www.livingintranslation.be/> (“Living in translation. Ten questions from expats living in the Vlaamse Rand”) and @ <http://binnenland.vlaanderen.be/sites/default/files/brochure-derand-EN-voorsite.pdf> (“Language and territoriality in Flanders in a historical and international context”).



Schools in Flanders can only be recognised and subsidised if the education is in Dutch – but as said the learning of foreign languages is an obligatory part of the curriculum (and the parents may within certain limits freely choose the foreign languages to be studied by their children); there are some private schools in other languages, but basically only for expats. In Brussels, schools seeking for subsidies or recognition can join either the Dutch speaking or the French speaking community. As Dutch schools are on average better, they attract clearly more children than the percentage of Dutch-speakers.

For Universities, the system is basically the same; however, Flemish universities may provide training in any other language – in practice this evidently means English, provided that they offer the program also in Dutch (with an maximum of 35 % of the courses per University in English); for postgraduate education, even that is not required.

For certain social benefits such as public housing - but not for basic social security rights -, applicants must promise to make at least efforts to learn the language of the land<sup>22</sup>.

In labour relations, documents must be at least in Dutch, but may now be made up additionally in any other language (as a result of a decision of the European Court of Justice<sup>23</sup>). The same is to some extent true for information to consumers (product labelling). But there is basically no regulation of other communications by business or private parties, by private broadcasting or other media. In Québec, the “Charter of the French language”<sup>24</sup> goes much further by imposing French for all standard and consumer contracts, corporate names, trademarks, some forms of advertising, etc. Local authorities in Flanders sometimes went further by imposing Dutch on markets or labelling, but such decisions have always been annulled by the Flemish government.

The federal administration in Brussels and the Brussels regional administration must be bilingual (Dutch-French); both language version of legislation and other texts have equal value. Persons in Brussels have no subnationality, and will be confronted with the regulation from the Dutch or French community depending on each institution they use for so-called “personal matters” (school, hospital, etc.). There has been a short while (1963-1971) a coercive personality principle as it exists in Québec in a specific case, namely by obliging parents registered as belonging to one linguistic group to send their children to a school in the same language, but that was abolished in 1971 (“liberté du

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<sup>22</sup> Housing Code as amended by the Flemish Decree of 15 December 2006; according to the Constitutional Court, judgment of 10 July 2008, <http://www.const-court.be/public/n/2008/2008-101n.pdf>, not contrary to the Constitution except if also applied in the villages with language facilities for inhabitants opting for French.

<sup>23</sup> CJEU 16 April 2013, *Anton Las/PSA Antwerp nv*, <http://curia.europa.eu/juris/documents.jsf?num=C-202/11>. The Court decided that “the objective of promoting and encouraging the use of Dutch, which is one of the official languages of the Kingdom of Belgium, constitutes a legitimate interest which, in principle, justifies a restriction on the obligations imposed by Article 45 TFEU”, but that by imposing the contract to be exclusively in Dutch and not permitting an additional version of the contract in another language, “that legislation such as that at issue in the main proceedings goes beyond what is strictly necessary to attain the objectives referred to in paragraph 24 of this judgment and cannot therefore be regarded as proportionate”.

<sup>24</sup> In an English version at [http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/C11/C11\\_A.html](http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/C11/C11_A.html).



père de famille”), on demand of French-speaking associations<sup>25</sup>, but in the longer run (since the 1980’s) to the profit of the Dutch schools in Brussels.

### Actual problems

Flanders is confronted with large-scale immigration never seen in the past. Simplifying, there are 3 categories. First “rich” expats who can afford it not to learn the language of the land and remain separate from the people. This is the case with most anglophones and many eurocrats. Further “poor” migrants who adapt themselves more or less successfully and are disfavoured when they don’t learn the language. But there is also a category of Francophones with very vociferous representatives continuously poking and making trouble. They pretend that they simply have the right to speak French and be served in French wherever they come, which means having the right not to speak or understand any other language. I guess that’s also the philosophy of Castilian speakers in Catalunya. These Francophones in Belgium go even further: they pretend that a native French speaker may only be judged by a Francophone judge, by someone from its own kin (namely someone whose mother tongue or law degree is French, not just someone fluent in French). They have developed in this way a whole rhetoric of human rights, decrying the principle of a language of the land (territoriality principle) – although that is firmly practiced in France – as a fascist principle that violates human rights. Flemish react by calling the opposite principle of personality a tribal principle.

To paraphrase R.L. Green, we now have just like in Catalonia, “an ironic reversal of the old roles: Spanish-speakers claiming intolerance by the Catalans”<sup>26</sup>, namely French-speakers claiming intolerance by the Flemish because they insist that Dutch is the language of Flanders just like French the language of Wallonia, i.e. because they insist on reciprocity.

It is my personal opinion as well as the basic philosophy of the Flemish establishment that individual multilingualism, the ability to speak different languages, must be stimulated and rewarded. A Flemish child who went to a good high school has learned French for 8 years, English for 5 years and German or Spanish for 2 or 3 years. True, after 5 years they know better English than French after 8 years<sup>27</sup>.

But some people abuse the wonderful idea of multilingualism in order to invoke the right not to learn any language, and more specifically, the right not to learn the language of the land.

Insisting on the necessity for everyone to learn the law of the land where one lives may indeed give the opportunity to autochthonous people who don’t move to remain shut up in their own community, but not insisting on the necessity for everyone to learn the law of the land where one lives is not a policy of multilingualism and mutual understanding,

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<sup>25</sup> They filed a complaint with the European Commission on Human Rights; the ECtHR, in its decision of 23 July 1968, “*case relating to certain aspects of the laws on the use of languages in education in Belgium*”, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-62083>, considered this specific rule by a majority of 8/7 contrary to the ECHR; all the other claims of the applicants against the linguistic legislation were unanimously rejected. The law was then adapted in 1971.

<sup>26</sup> GREENE, p. 156.

<sup>27</sup> See the *First European Survey on Language Competences* at [http://ec.europa.eu/languages/policy/strategic-framework/documents/language-survey-final-report\\_en.pdf](http://ec.europa.eu/languages/policy/strategic-framework/documents/language-survey-final-report_en.pdf) (summary at [http://ec.europa.eu/languages/library/studies/executive-summary-eslc\\_en.pdf](http://ec.europa.eu/languages/library/studies/executive-summary-eslc_en.pdf)).

but a reward for stubborn unilingualism, often – at least in Belgium - at the same time leading to further repression of smaller languages by bigger ones.

### Fundamental rights?

The position of Québec in relation to the more powerful English-speaking neighbours is very much comparable to that of Flanders in relation to the more powerful French speaking neighbours. The Flemish and the Quebecois are both “fragile majorities”<sup>28</sup> in their own land and basically invoke the territoriality principle. But in other respects, the rhetoric is clearly different. In a debate in New York, it was for me amazing and amusing at the same time to hear that my colleague from Québec was speaking in terms of fundamental rights. It is not clear to me whether he merely advocated the right of anyone in Quebec to speak French and being served in French in Québec, or whether that right should also exist in the rest of Canada, in which case it evidently should also exist for Anglophones in Québec.

I would anyway think that speaking of a human right to use one’s language can only make sense in those instances where this right exists for everyone irrespective of its language. This means potentially more than 5000 languages. No country can be required to serve citizens in 5000 languages. Such a human right exists only in very few cases, such as the right to an interpreter of a defendant in criminal investigations or proceedings. That is the reason why the Flemish have never argued that they have a human right to speak Dutch and be served in Dutch wherever they are.

The dominant philosophy in Flanders is rather different: it does not start from individual rights, but from the basic principles: equality before the law and reciprocity as the foundation of living together peacefully. In the Belgian context, reciprocity simply means that French speakers cannot have in Flanders other privileges than Dutch speakers in the French speaking part of Belgium. The territoriality principle is the easiest way to realise this<sup>29</sup>. Further, the Flemish policy is based on the ideal of shared citizenship, which cannot be achieved without knowledge of the law of the land as the common language of the public sphere. Recent immigrants from Africa, Asia or Latin America learn Dutch in a reasonably short period, so there is no reason why the same cannot be asked from immigrants from French speaking Belgium.

In this perspective, it is rarely a question of human rights, but the more a question of other values. There may be a human right for a defendant, at least in criminal cases, to speak its own language and be translated and obtain translation; there may a fundamental freedom to speak the language one chooses in most private relationships; but there cannot be a universal individual human right to require to be served always in the language one chooses, irrespective of the language of the land. There is also no human right not to understand the language of the land.

### The Framework National Minorities Convention

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<sup>28</sup> The expression is used as title of a book by the Université de Montréal professor Mary Mc ANDREW, *Les majorités fragiles et l'éducation* (Montréal: Presses de l'université de Montréal 2010).

<sup>29</sup> It must be added that an important French speaking philosopher from Brussels such as Philippe van Parijs also advocates the territoriality principle as a matter of “linguistic justice”: “it is necessary to secure equality of dignity between those peoples whose identities are closely associated to a language” (in P. DE GRAUWE & Ph. VAN PARIJS, *The linguistic territoriality principle: right violation or parity of esteem ?*, @ <http://www.rethinkingbelgium.eu/rebel-initiative-files/ebooks/ebook-11/Lead-Piece.pdf>). The argument is further developed in his recent book *Linguistic Justice for Europe and the World* (Oxford: Oxford University Press 2011).

The context that I have sketched also explains why Flanders refuses to ratify the Council of Europe Framework Convention on the protection of national minorities<sup>30</sup>, whereas it has no problems with other instruments such as e.g. the 2005 Unesco Convention on the Protection and Promotion of the Diversity of Cultural Expressions<sup>31</sup> or the (non-governmental) Barcelona Universal Declaration on Linguistic Rights 1996<sup>32</sup>.

The Framework Convention on the other hand has fundamental flaws that make it unsuitable for the Belgian situation. Belgium has developed a much stronger protection of minorities by granting each of the 'national minorities' an autonomous region with far reaching competences, thus guaranteeing them a territory where they can develop and be at home. That on the other hand precisely *requires* that they refrain from claiming minority rights in the other territories. Another reason is that international organisations are naturally much better 'informed' by sources from bigger languages and thus naturally biased towards claims from French-speaking pressure groups compared to those from persons whose language they are unable to read.

#### A highly political note at the end

For most European nations without a state, the twin development of democracy and national awakening has meanwhile led to a state of their own. The fact that in a debate on language legislation, I did sit together with representatives from Catalonia, the Basque Country, Québec and Wales, mainly signifies that these nations, contrary to others, did not yet succeed in obtaining their own state. The mere fact that you in such a panel are not sitting with colleagues from let's say Norway, Ireland, Slovakia, Croatia, Hungary, Finland or one of the many other countries having linguistic legislation protecting to some extent their national language tells already a lot: what is discredited as intolerant in the policy of these nations without a state is considered basically evident for nations with a state. Or maybe: nations with a state do no longer need the same degree of language legislation.

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<sup>30</sup> <http://conventions.coe.int/treaty/en/Treaties/Html/157.htm>

<sup>31</sup> [http://portal.unesco.org/en/ev.php-URL\\_ID=31038&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=31038&URL_DO=DO_TOPIC&URL_SECTION=201.html).

<sup>32</sup> <http://www.unesco.org/cpp/uk/declarations/linguistic.pdf>.