



# THE GERMAN-SPEAKING COMMUNITY AND ITS PARLIAMENT

# IMPRESSUM

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# THE PARLIAMENT OF THE GERMAN-SPEAKING COMMUNITY

The Parliament of the German-speaking Community is the legislative power of this Community in Belgium. The German-speaking Community is officially recognized by Article 2 of the Belgian Constitution. Its legal status is defined, inter alia, by Articles 38, 115, 116, 121, 130, 139 and 176 of the Constitution.

Constitutionally the German-speaking Community is a legislative institution in matters specific to the Community (Article 130 of the Constitution), as well as to regional matters that have been transferred to the Community under Article 139 of the Constitution. These are:

- cultural matters,
- people-related matters, i.e. family, health and social affairs,
- inter-community and international cooperation
- education and training
- monument and landscape protection and excavations
- employment policy

- supervision and financing of municipalities.

The Parliament of the German-speaking Community exercises its legislative powers by decree ("Dekret").

Even if the German-speaking Community makes up only a small minority of the Belgian population (0.7%), its Parliament is on an almost equal footing with the Parliament of the French-speaking Community and the Flemish Parliament. It can be compared with the Länder parliaments in federal states like Germany or Austria, even if these Länder's powers are more significant.

The Parliament of the German-speaking Community was officially launched on 30 January 1984, under its former name of the "Council of the German-speaking Community". This was the successor institution to the Council of the German Cultural Community, an initial decision-making forum,



PARLAMENT



▶  
LIEFERANTEN  
& PARKPLATZ

◀  
SCHACHCLUB



*The Plenary hall in the new building*

in which the desire for autonomy of the German language area was debated and the first decisions in cultural matters were made.

This leaflet aims to provide the reader with a basic knowledge of the autonomy of the German-speaking Com-

munity and its Parliament. Obviously we first need to give some details as to the size, structure and history of the German language area. We will also attempt to explain how the German-speaking Community is incorporated into the structures of the Belgian federal state.

# THE GERMAN-SPEAKING COMMUNITY

The German-speaking Community of Belgium is located in the eastern part of the country. It shares borders with Germany, the Netherlands and Luxembourg. The German-speaking Community counts around 77.000 inhabitants. Most are German-speaking Belgians, but this number also includes Walloon, Flemish and foreign citizens.

The German-speaking Community is officially recognized by Article 2 of the Constitution. Articles 115, 121 and 130 of the Constitution give it approximately the same legal status as the French and Flemish Communities; i.e. it has more or less the same degree of autonomy and powers, and the institutions for expressing its individuality are qualitatively equal.

The administrative, educational and judicial language in the German-speaking area is German. French-speakers are, however, granted special rights. This is the reason why decisions concerning the language used in adminis-

trative matters are made by the federal state and may not be taken independently by the German-speaking Community.

The territory of the German-speaking Community is identical with the German language region recognized in article 4 of the Constitution. This area's size is 854 km<sup>2</sup> and it covers the municipalities of Amel, Büllingen, Burg-Reuland, Bütgenbach, Eupen, Kelmis, Lontzen, Raeren and St. Vith.

The German-speaking Community consists in fact of two differently structured sub-areas: the smaller, but more densely populated area around Eupen in the north, and the Belgian Eifel in the south. These two areas are separated by the High Fens (in German: Hohes Venn), a moorland area extending partly over the municipality of Weismes (French language region).

Several industrial companies of super-regional importance are located in and around Eupen.



## **Born**

The area lies close to major international traffic routes. The city of Eupen (18,000 inhabitants), an old cloth-making city with a long historical tradition, is the seat of the Parliament of the German-speaking Community, its Government and the BRF ("Belgian Radio and TV Centre of the German-speaking Community").

The surrounding municipalities are more rural, though zinc ore was mined industrially for centuries in Kelmis, which was in the 19th century the largest zinc mining area in Europe.

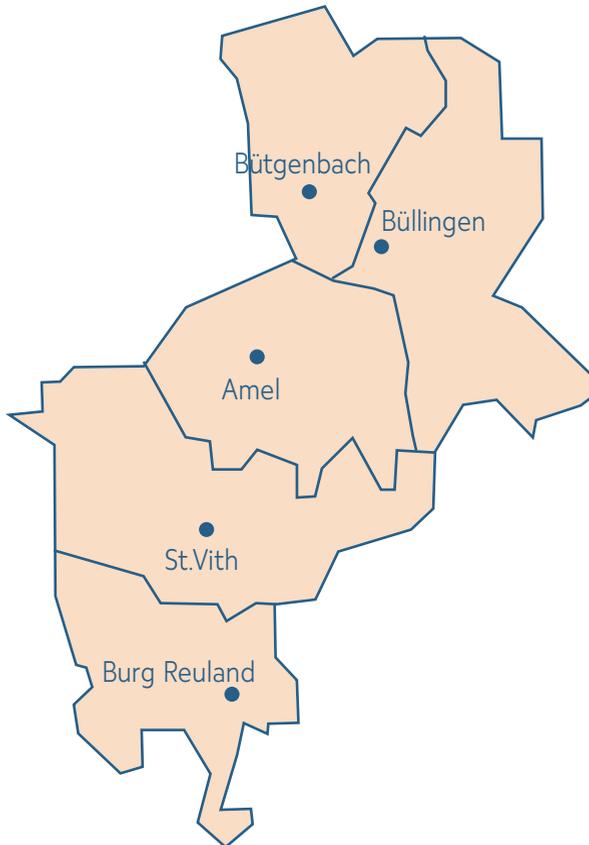
The Belgian Eifel consists of extensive woodland and grazing. Agriculture is no longer an important source of income contrary to earlier years. Nowa-

days, tourism is developing into a major economic factor in this attractive, but structurally weak region.

St. Vith is the centre of the southern municipalities, especially when it comes to schools and shops. This small city was completely destroyed during World War II but was later rebuilt.

With its lake and the Worriken tourist centre, Bütgenbach has developed in recent years into a major vacation and water sports centre for visitors coming from everywhere.

The German-speaking Community has an extraordinary rich cultural life and boasts a high level of artistic creativity.



# HISTORICAL MILESTONES

◀ Until **1794** 1794 the northern area (Eupen region) belonged mainly to the Duchy of Limburg, governed in personal union with Brabant since the battle of Worringen (1288). The southern part (Belgian Eifel) belonged mostly to the Duchy of Luxembourg, except for Manderfeld-Schönberg, which was part of the Electorate of Trier. German dialects were spoken in both the northern and southern parts: Lower Franconian, Rhinish Franconian and Mosel Franconian.

◀ **1794-1795:** The French revolutionaries conquered the Austrian Low Countries (including Limburg and Luxembourg), the Prince-Bishopric of Liège and the Abbey of Stavelot-Malmedy. The Eupen area and the Eifel were placed in the department of Ourthe, with the exception of Manderfeld-Schönberg, which now belonged to the Saar department.

◀ **1815:** With the defeat of Napoleon the map of Europe was redrawn at the Congress of Vienna. Eupen and its area,



the Eifel and part of the former abbey of Stavelot-Malmedy were included in the Rhineland, now Prussian (from 1830 Prussian province of the Rhine), as were the districts of Eupen and Malmedy.

Neutral-Moresnet (Kelmis) remained a curious exception, being placed under dual Prussian-Dutch (after 1830 Prussian-Belgian) government, owing to its rich zinc deposits.

◀ **1914-1918:** During the First World War the inhabitants of Eupen and Malmedy fought for the German Reich. 766 persons were reported as dead or missing in the district of Eupen and 1082 persons in the district of Malmedy.

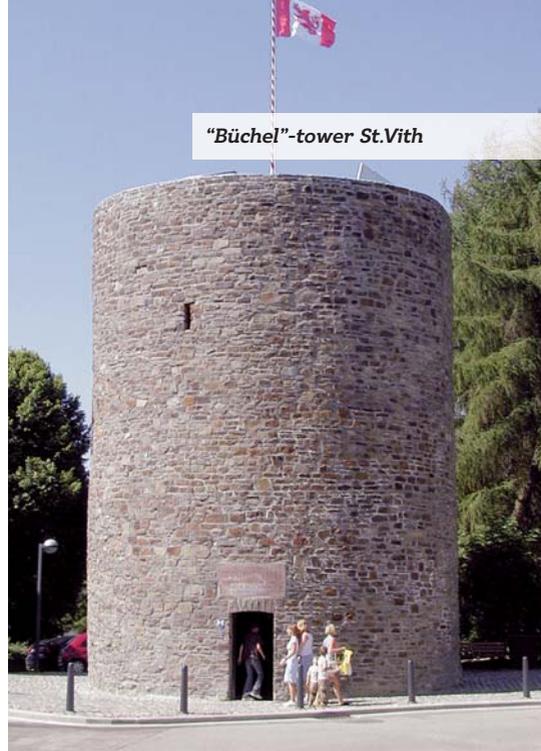
◀ **1919-1920:** Under the Treaty of Versailles, Neutral-Moresnet and - after a disputed referendum - the districts of Eupen and Malmedy were transferred to Belgium.

◀ Between **1920-1925** 1925 the former German districts were subject to the authoritarian transitional regime of Lieutenant-General Baltia and divided into the three judicial cantons of Eupen, Malmedy and St. Vith. A strong revisionistic movement disputed the validity the Versailles treaty, which was felt to have been forcibly imposed.

◀ **October 1925:** In the Locarno Treaties Germany renounced any forceful change of its western border. Attempts to revise the border by negotiation were not excluded.

◀ **1. January 1926:** The Constitution and the Belgian laws come into force in the "new Belgian" territories.

◀ **1925-1926** Secret negotiations between Belgium and Germany for a re-



turn of Eupen-Malmedy to Germany in exchange for 200 million gold marks. Negotiations fail because of the energetic objection of France.

◀ **1927** Founding of the "Grenz-Echo" newspaper as a "pro-Belgian" counterpart to the local "pro-German" press. The Grenz-Echo is today Belgium's only German-language daily.

◀ **1933:** The National Socialists under Adolf Hitler come to power in Germany. The socialists around Marc Sommerhausen abandon their demands for revision from 1933 onwards. The revisionistic movement in Eupen-Malmedy is drawn into the wake of the Nazi propaganda machine, and is organized from 1936 in the effectively Nazi-controlled "Heimattreue Front". Democratic powers warn against the

Nazi ideology. Deep rifts appear between the pro-Belgian and pro-German parts of the population.

◀ **10. May 1940:** German troops invade neutral Belgium.

◀ **18. May 1940:** By decree of the Führer, Eupen-Malmedy and other old Belgian border areas are incorporated into the German Reich. Large parts of the population adapt to the Nazi regime, others join the resistance; the majority of the young men are conscripted, others go into hiding. 3,200 out of the 8,700 men conscripted into the Wehrmacht die at the front, go missing or die in prison camps.

◀ **End 1944:** St. Vith and numerous Eifel villages are destroyed during the Battle of the Bulge.

◀ **8. May 1945:** Armistice. The ensuing denazification is considered as exaggeratedly hard and unjustified by the population, as Belgium had not reacted appropriately to Germany's unilateral annexation of the area.

Questions of war reparations and in particular the "involuntary soldier question" dominate post-war local politics for decades. The latter question was resolved only in 1989.

◀ **1956:** In the Belgian-German "September Treaties", the Federal Republic of Germany stresses the invalidity in international law of the 1940 annexation of Eupen-Malmedy. They agree upon a border correction, a Belgian-German cultural agreement and compensation payments. (The cultural agreement was signed in 1958). This marks the start of a period of Belgian-German reconciliation and cooperation.

The German-speaking population also benefits from the relaxation of tensions between the former wartime enemies. The process of European unification also contributes to a normalization of relations between the two states. Belgian objections to recognition of linguistic and cultural rights and institutional independence for the German-speaking Community die down.

# INSTITUTIONAL DEVELOPMENT MILESTONES

◀ **1962-1963:** The laws on language use in administrative matters, coordinated by the Royal Decree of 18 July 1966, divide Belgium into four linguistic areas. The introduction of the territorial principle becomes a cornerstone for the subsequent federalization of the state. Article 5 of the law lists the 25 municipalities (since 1976 nine large municipalities) making up the German language area.

## **1968-1971: First major reform of state**

- The division of Belgium into four language areas is anchored in the Constitution.
- Three cultural communities (German, French and Dutch) are created.
- Three cultural councils are set up, though the Council of the German Cultural Community receives only limited powers in cultural matters.

- Three regions are created: the Walloon, Flemish and Brussels regions.

◀ **23. October 1973:** The first session of the Council of the German Cultural Community takes place.

◀ **10. March 1974:** The first direct elections to the Council of the German Cultural Community are held.

## **1980-1983: Second major reform of state**

- The Constitution is amended: The German-speaking Community, the Flemish Community and the French Community replace the German Cultural Community, the Dutch Cultural Community and the French Cultural Community.
- A new article in the Constitution on the German-speaking Community (then Article 59ter) gives the Com-

munity powers of decree in cultural and people-related matters and in inter-community and international relations.

- Alongside the Council there is now also an Executive (government) of the German-speaking Community, elected by the Council.
- ◀ **31. December 1983:** The law on Institutional Reforms for the German-speaking Community is signed by the King.
- ◀ **30. January 1984:** The newly created Council of the German-speaking Community is instituted and the first community government is elected.

## 1988-1990: Third major reform of state

Competence for education is transferred to the Communities. The article of the Constitution concerning the German-speaking Community is amended on 20 June 1989. With the passing of the corresponding implementing law on 18 July 1990 the financial allocations from the Federal State to the Community are tripled.

- ◀ **23. October 1991:** The text of the Constitution in German language becomes official and legally binding alongside the French and Dutch texts.



*Johann Weynand and Willy Schyns, founding fathers of the autonomy*

## 1993-1994: Fourth major reform of state

In article 1 of the Constitution, Belgium is defined as a "Federal State, consisting of the Communities and the Regions". The Belgian parliamentary system with two equal chambers is replaced by a differentiated system, in which the Chamber of Deputies (lower house) concentrates on the usual parliamentary tasks (passing of legislation and the budget, control of the federal government), with the senate functioning primarily as a think tank and a place of meeting for the different constituent parts of the Belgian state.

The Walloons and Flemings decide in direct elections about the composition of their respective parliaments, the Walloon Regional Council and the

Flemish Council, a right that Brussels inhabitants already had for their Regional Council since 1989, and the country's German-speakers for the Council of the German Cultural Community/ Council of the German-speaking Community since 1974.

In addition the community and regional councils, with the exception of the Brussels Regional Council and the Council of the German-speaking Community, receive a certain degree of self-determination or "constitutive autonomy". The province of Brabant is split into a Flemish and a Walloon part, so that Belgium now consists of ten provinces.

The **Law of 16 July 1993** extends the powers of the German-speaking Community to basic legislation concerning

the public social welfare centres. The financing system of the German-speaking Community is also adapted.

The German language area forms its own **electoral district for the European elections** and has sent its own representative to the European Parliament since 1994.

Since the 1995 elections, the Parliament of the German-speaking Community has sent one member to the reformed 71 member Belgian Senate.

◀ **1. January 1994:** Exercise of regional powers for protection of monuments and landscapes (excluding excavations) is transferred from the Walloon Region to the German-speaking Community.

◀ **20. May 1997:** Article 130 of the Constitution is extended with a 5th item, which states that the Council of the German-speaking Community will settle language use in education by decree. In other words this power is transferred from the federal state to the German-speaking Community.

◀ **1. January 2000:** Exercise of regional powers in employment policy and excavations is transferred from the Walloon Region to the German-speaking Community.

## 2001: Fifth major reform of state

With this reform of state the municipalities receive greater financial resources from the Federal State (so-called "refinancing"). The regions are granted greater tax autonomy, enabling them to independently lower or raise certain taxes.



Government building in Eupen

Agriculture, high sea fishing and foreign trade are transferred, with partial exceptions, from the federal state to the regions. In addition the regions become responsible for the organization of municipalities and provinces. For example they can now decide independently whether or not mayors should be directly elected.

One intention of the reform is to transfer development cooperation from 1 January 2004 to the regions and communities in the matters they are competent for (until now except the German-speaking Community).

Like the other communities the German-speaking Community can now also develop its own rules for controlling election expenditures, government communication and complementary party financing.

The government of the German-speaking Community can from now on consist of three to five members, with at least one woman or one man.

◀ Following an amendment to the Constitution on **9. July 2004**, the former regional and community councils are now officially referred to as "parliaments".

◀ Since **1. January 2005** the German-speaking Community exercises a further key regional power: the supervision and financing of municipalities.

## 2014: Sixth major reform of state

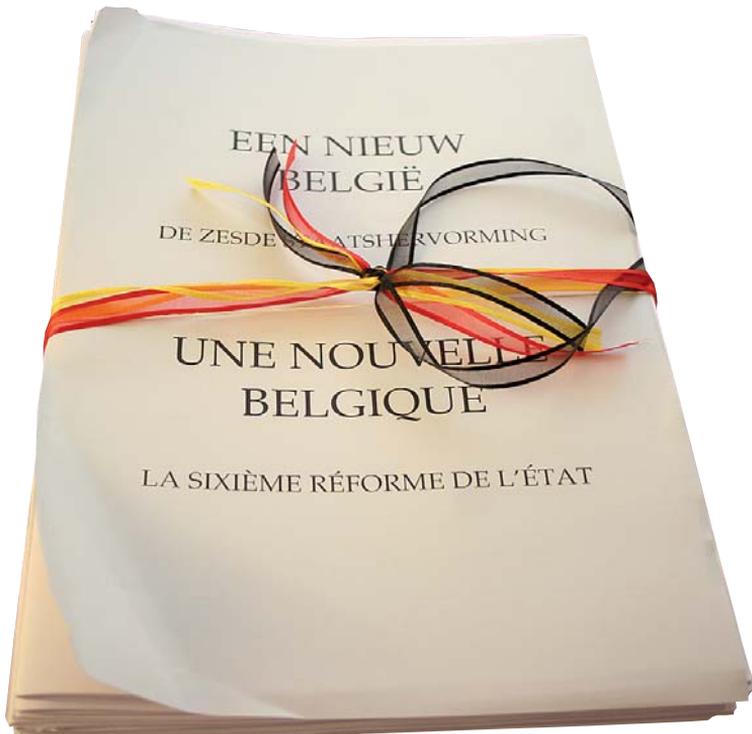
The sixth reform of the Belgian State has been recently voted in the federal parliament. The institutional agreement on the sixth State reform, entitled 'A more efficient federal State and more autonomous entities', provides for substantial State reform that will take place over several stages.

The agreement has in fact an important duality. On the one hand, it



strengthens the regions, but on the other hand the federal state should stay strong enough to pay its debts and finance social security. Some responsibilities were entirely transferred to the regions, while others are more fragmented. The transfer of family allowances, elderly care and work are the most noticeable.

The German-speaking community also received a component it had been coveting for a long time, namely the granting of constitutive autonomy, which implies the possibility to control the mode of operation of its own institutions (the Parliament and the Government).



# THE GERMAN-SPEAKING COMMUNITY WITHIN THE BELGIAN STATE STRUCTURE

To enable readers to understand the position of the German-speaking Community within the Belgian state system, some explanations of the most commonly-used concepts of Belgian constitutional law will be provided, namely language areas, communities and regions. The understanding of these structures is rendered more difficult by the fact that the communities, regions and language areas are not geographically identical.

## **Federal State and subordinated authorities**

Many key powers previously exercised by the central state have been transferred to the communities and regions since the federalization of Belgium in the early 1970s. A series of powers have also been transferred to the European Union in the process of the European unification.

The Federal State continues to retain responsibility for the central organisation of the judicial system, financial policy, internal security, foreign policy, defence and social security. The legislative power of the Federal State is now basically exercised by the Chamber of Deputies and the King only – in particular cases the Senate might be involved (see Art.74-78 of the Constitution). The Senate acquired a new function through the last reform of the Constitution: reforming the Constitution, international relations, relations between the Federal State on one hand and the communities and regions on the other, as well as the right of investigation. In addition, the Senate has simultaneously become a sort of think tank when it comes to the development of the country. The executive power is exercised by the King and his ministers.

Since the fourth reform of state the Federal State has been divided into **10 provinces** and **589 municipalities**. The

## The language areas and the Communities

*The territory of the German-speaking Community corresponds with the German language area;*

*the French Community is competent for the French language area and the French-speaking institutions in Brussels;*

*the Flemish Community is competent for the Dutch language area and the Flemish institutions in Brussels.*



Brussels-Capital administrative area has a special status; in this case, the provincial powers are not exercised by the usual provincial bodies, but have been transferred to several bodies (Brussels Regional Parliament, Community Commissions etc.).

The provinces and municipalities have without exception powers covering everything of provincial or municipality interest. However, unlike the Communities and Regions, they are subordinated authorities, under the supervision of superordinated bodies.

- the French language area (Wallonia),
- the Dutch-speaking language area (Flanders) and
- the bilingual Brussels-Capital area.

The language of each language area is usually used in administrative, educational and court matters. In Brussels French and Dutch are administratively equal. In municipalities with protected language minorities, special rights ("facilities") are introduced for these

## The German language region in Belgium:

- consists of nine (aggregated) municipalities;
- has its own autonomous legal entity for the exercise of community powers: the German-speaking community;
- is part of the Walloon Region for regional matters. The bodies of the German-speaking Community nonetheless exercise certain regional powers by way of application of Article 139 of the Constitution;
- is part of the Province of Liège for provincial matters.

## Language areas

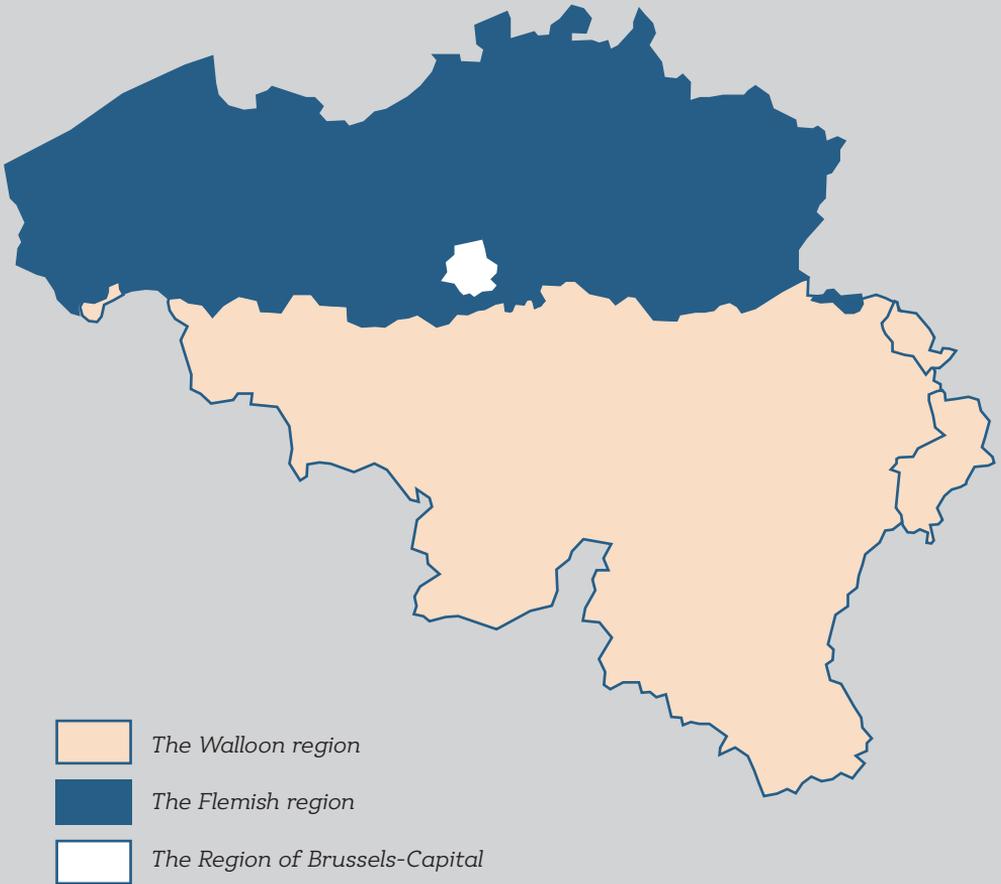
Article 4 of the Constitution divides Belgium into four language areas:

- the German language area (the nine municipalities of Amel, Büllingen, Burg-Reuland, Bütgenbach, Eupen, Kelmis, Lontzen, Raeren and St.Vith),



*Representation office, Rue Jordaens 34, Brussels*

## **The Regions:**



*The German-speaking municipalities are part of the Walloon region.*

minorities; in the nine municipalities of the German language area special rights exist for French-speakers.

## Communities

Article 2 of the Constitution states that Belgium consists of three communities:

- the German-speaking Community,
- the Flemish Community and
- the French Community.

The powers of Belgium's three Communities are more or less identical (cultural matters, people-related matters, education, inter-community and international cooperation).

The powers of the German-speaking Community are exercised by the Parliament and by the Government of the German-speaking Community, those of the French Community by the Parliament and by the Government of the French-speaking Community. For financial reasons, however, the French Community (Fédération Wallonie-Bruxelles) has transferred the exercise of part of its powers to the Walloon Region.

The powers of the Flemish Community are exercised by the Flemish Parliament and the Flemish Government, which also exercise the powers of the Flemish Region. Whilst the Flemish Parliament and the Parliament of the German-speaking Community are directly elected, the Parliament of the French Community consists of the elected representatives of the Walloon Regional Parliament and a portion of the French-speaking members of the Brussels Regional Parliament.

Particularly complex is the exercise of community powers in the bilingual Brussels Region, where a French Community Commission, a Flemish Community Commission and a Joint Community Commission each exercise their respective powers.

## Regions

Alongside the Communities there is another layer of independent legal entities which exercise major powers. These are the regions (Article 3 of the Constitution):

- the Walloon Region
- the Flemish Region and
- the Brussels Region

The powers of the regions are fundamentally different from those of the communities, covering

- urban and rural planning
- environment and water policy,
- restructuring of rural areas and nature preservation,
- housing,
- agricultural policy,
- parts of economic policy and foreign trade,
- parts of energy policy,
- organization and supervision of subordinated authorities (municipalities and provinces),
- employment policy,
- public works and traffic and
- powers of taxation.

The powers of the Walloon Region and the Brussels-Capital Region are each exercised by a regional parliament and a regional government. The powers of

the Flemish Region are exercised, together with those of the Flemish Community, by the Flemish Parliament and the Flemish Government.

# THE PARLIAMENT OF THE GERMAN-SPEAKING COMMUNITY – A LEGISLATIVE BODY

## Functions of Parliament

The Parliament of the German-speaking Community exercises all the traditional functions of a parliament:

- **formation of a government:**  
The Parliament of the German-speaking Community elects the government of the German-speaking Community.
- **election of a senator:**  
The Parliament of the German-speaking Community sends one of its members to the Belgian Senate.
- **designation of representatives:**  
The Parliament designates representatives into inner-Belgian (control commission for the use of language, Culture pact committee) and international organisations (Benelux, Greater Region).
- **control of government and administration:**  
The Parliament of the German-speaking Community exercises its controlling function mainly by means of oral questions and interpellations (questions to the government) from its members during committee and plenary sessions. Members of parliament may also pose written questions, which are then published in an official document along with the replies of the competent ministers.
- **issuing decrees and budget:**  
Decrees of the Parliament of the German-speaking Community have force of law in the German language area. The annual community budget and annual accounts are also approved by decree.
- **discussion of all politically relevant questions:**  
All matters of topical or fundamental importance for the German-speaking

king Community may be brought up in the Parliament of the German-speaking Community, even if Parliament lacks direct decision-making powers.

- **expression of public opinions and interests:**

Differences of opinion are the basis of every democratic discussion and decision-making process. The different political trends in the German-speaking Community are expressed by the different parties represented in Parliament. Moreover, direct dialog with the citizens is also being strongly encouraged. In addition all the citizens are entitled to express

themselves in the form of a petition to the Parliament of the German-speaking Community.

- **controlling elections results and government communications** as well as establishing rules for **complementary party financing**.

## Composition of Parliament

The Parliament of the German-speaking Community consists of 25 directly-elected members, elected every five

*Plenary session in the Parliament*



years at the same time as the European elections. Eligible to vote and eligible to be elected are all Belgian citizens aged 18 and over, residing in the German language area and in full possession of their political rights.

Members of the European Parliament, directly elected federal deputies, members of the Walloon Regional Parliament and provincial councillors, who live in the German-speaking area and have sworn their oath to the Constitution in the German language, attend the sessions of the Parliament of the German-speaking Community ex officio on an advisory basis, i.e. without any right of initiative and voting rights.

## Organization of Parliament

The Parliament of the German-speaking Community adopts its decrees, positions and opinions during the

plenary sessions. These decisions are prepared in the parliamentary committees, to which each party sends its representatives.

Parliamentary work is planned and organized in the bureau, which is chaired by the President of Parliament. The President also chairs the plenary sessions and represents the Parliament to the outside world. Parliamentary work





**Parliament library**

is undertaken according to the internal rules of procedure which the Parliament of the German-speaking Community has adopted for itself.

In order to better exercise their duties, members may join together in political groups. To be recognized as such a political group must have at least three elected members of Parliament. The Parliament of the German-speaking Community provides all political groups with an office infrastructure and staff funding.

The Parliament of the German-speaking Community has a staff of around 35 persons, who carry out a wide range of tasks under the leadership of the Secretary-General: preparation and post-working of plenary, bureau and committee sessions, recording, printing and sending out of parliamentary documents and minutes of plenary sessions (detailed reports), archiving

of law and decree texts, taking care of visitors, public relations work, management of a specialized library, etc.



# COMPETENCES

The Parliament of the German-speaking Community is authorized to establish the community's areas of competence by decree.

The German-speaking Community is responsible essentially for community matters, which break down into cultu-

ral matters, people-related matters and educational matters.

These competences are listed in Article 130 of the Constitution and in the Law of 31 December 1983 on institutional reforms for the German-speaking Community. This law has been amen-



*Sports- and recreation center St.Vith*



*Media-center Eupen*

ded several times. Here is a list of the most important competences.

## Cultural matters

- protection and defense of the language,
- promoting the training of researchers,
- fine arts (literature, music, theatre, ballet, film etc.)
- cultural heritage, museums and other scientific-cultural institutions,
- libraries, discotheques and similar services,
- radio and television as well as the support for the written press,
- the content-related and technical-related aspects of the audiovisual and auditive media
- youth policy,
- the constant advanced training and the cultural activities,

- physical education, sport and outdoor-life,
- leisure activities,
- preschool education at the nursery school,
- further education,
- art education,
- intellectual, moral and social education,
- the support of social-climbing,
- vocational retraining and training,
- a dual training system, in which a practical training at a workplace is combined with an education at a training institution.

## People-related matters

This covers family, social and health matters, caring for the elderly and the integration of foreigners.

These matters are sub-divided into two areas:

## 1. health policy matters:

- care policy inside and outside of care institutions, including the funding of construction, renovation and maintenance works of the hospitals as well as the subsidy for heavy medical equipment,
- mental health care taking place in other institutions than hospitals,
- nursing services in retirement homes, including individual geriatrics services,
- nursing services in individual and specialized rehabilitation and treatment services,
- long term care,
- the organization of primary care and the support the professions in the primary care sector,
- the work permit and contingent of health care professions,
- health education as well as the activities and services in the field of preventive medicine.



## 2. the assistance to individuals:

- family policy including all forms of help and assistance for families and children,
- payment of family allowances (child benefits, baby bonus and adoption bonus),
- social assistance policy including the key legislation referring to public welfare centers,
- admission and integration policy for immigrants,
- the disability policy including professional training, retraining and advanced training of disabled people as well as mobility aids,
- senior citizen policy,
- youth protection, including social and judicial protection as well as measures for young offenders,
- social help for prisoners regarding their social rehabilitation,
- the organization, the working method and the tasks of the houses of justice (a place where victims can go for counselling and for support) and the office in charge of the execution and follow-up of e-monitoring,
- primary legal assistance,
- the checking of films with regard to the access to the cinemas of under-aged children.

## Education

Under the fundamental principles enshrined in Article 24 of the Constitution, the German-speaking Community is responsible for education at



every level: kindergartens, primary schools, secondary schools, special schools, further and higher education establishments, universities. This competence is extensive and includes teachers' salaries, study grants, school buildings and boarding schools, lesson content, school transport, length of holidays, etc.

Since the amendment of Article 130 of the Constitution on 20 May 1997 the German-speaking Community has also been responsible for language use in education.

Article 24 of the Constitution states that everyone has a fundamental right to education. Parents are also free to choose whether to send their children to community, municipal or independent schools. The Constitution requires the communities to organize a neutral educational system, i.e. one that takes into account the philosophical, ideological or religious views of parents and pupils. It also states that all pupils and students, parents, members

of staff and education establishments are equal before the law or decree.

Alongside these constitutional principles the federal state power's residual powers are limited to establishing the compulsory education length, the minimum conditions for awarding a school diploma and teachers' pensions.

## **Inter-community and international cooperation**

The Parliament of the German-speaking Community governs by decree intercommunity and international cooperation in all the competences entrusted to the Community, this also includes the approval of international treaties and contracts.

Bilateral agreements with other states and regions are usually negotiated by the Government and approved by the Parliament. Due to Belgium's specific federal organization, the Parliament of

the German-speaking Community ratifies general international agreements which affect the competences of the German-speaking Community (EU accession of eastern European states, EU constitutional treaty etc.).

The German-speaking Community has its own representation in the Committee of the Regions. The Parliament of the German-speaking Community is also represented in the inter-parliamentary assembly Benelux and dispatches representatives in the interregional council of Parliament members of the Greater Region – composed of Lorraine, Luxemburg, Rhineland-Palatinate, Saarland, Wallonia, Belgium's French Community and Belgium's German-speaking Community – and in the Euregio (Meuse-Rhine) Council.



The Parliament is also a member of the CALRE, the Conference of European Regional Legislative Assemblies.

## Regional matters

The nine municipalities of the German language area are a part of the Walloon Region. Therefore, the German-speaking Community has no autonomy in regional matters. Even so, Article 139 of the Constitution provides for the German-speaking Community to exercise all or part of the powers of the Walloon Region in the German-speaking area, by mutual agreement between the German-speaking Community and the Walloon Region.

The transmission of regional competences from Wallonia to the German-speaking community has been approved by decree five times until now. This is the reason why the Parliament is also responsible for the following competences:

1. the protection of monuments and landscapes (since 1994) and excavations (1999)
2. the employment policy (1999)
3. the control of the church councils as well as the institutions who manage the worldly goods of the officially recognized religions, the regulation of burials and burial places, the general funding of the municipalities, the funding of the municipalities' subsidized works, church councils and institutions who manage the worldly goods of the officially recognized cults as well as the



administrative supervision of the municipalities, police zones and the intra-municipal of the German-speaking area as well as the organization of elections in municipal and intramunicipal institutions (2004, 2009 und 2014)

4. Tourism (through reassignment after the 6th Reform of the state in 2014)

## Opinions on the legislation of the Federal State

Unlike the Parliament of the French Community and the Flemish Parliament, the Parliament of the German-speaking Community may not adopt any decree concerning language use in administrative matters and in social relations between employers and employees. This legislation remains the reserve of the

Federal State, because the special rights of the protected French-speaking minority places the municipalities in the German-speaking area among those which enjoy special status (municipalities with language facilities). Even so the federal legislator must obtain the opinion of the Parliament of the German-speaking Community in order to perform any changes.

The same applies to changes in the legislation on institutional reforms for the German-speaking Community and on elections to the Parliament of the German-speaking Community.

# THE GOVERNMENT: EXECUTIVE POWER

The Parliament elects the Government of the German-speaking Community. It is composed of three to five members, who are not necessarily required to be members of Parliament.

The Government performs the typical executive powers. More precisely the following:

- it implements the decrees of the Parliament by issuing rulings,
- it takes the initiative by submitting draft decrees to Parliament,
- it proposes uses for budget funds,
- it drafts and coordinates the Community's policy.

The Government also has specific powers:

- it can carry out expropriations in the public interest;
- it can conclude international treaties, which must be approved by Parliament;

- it represents the Community in judicial and extra-judicial matters.

The Government and each of its members is responsible in front of Parliament. All members swear their official oath on the Constitution in front of the Parliament's President.

At any time, the Parliament can adopt a motion of no-confidence against the Government or one or more of its members. However, such a motion is only permissible, if one or more successors, as the case may be, are proposed.

The adoption of a motion of no-confidence by a majority in Parliament leads to the resignation of the Government or individual members and the appointment of a new government or individual members.

The Government can call for a vote of confidence at any time. Should it lose such a vote, it is deemed to resign by operation of law.

The Government has its own administration, the Ministry of the German-speaking Community, for the execution of its tasks.

# THE COMMUNITY'S FINANCES

At the end of every year the Parliament of the German-speaking Community establishes by decree the income and expenditure budget for the following year. By doing so, it empowers the Government to incur expenditures under different headings or "allocations". The Parliament of the German-speaking Community may adapt its budget during the budget year.

## The income budget

The income budget represents the resources that are available to the German-speaking Community during a budget year.

The income budget of the German-speaking Community can consist of:

1. Allocations from the federal budget: this is a legally established lump sum ("Dotation") composed of allocated shares from the tax income (income tax and VAT) as well as other federal incomes added for new competences, which are legally established through allocation lists. A contribution of these funds is taken from the German-speaking Community for the financial rehabilitation of the public finances;
2. allocations from the Walloon Region, in connection with the transfer of regional competences;
3. own non-tax income (interest on reserves, donations, inheritances, etc.);
4. loans;
5. own taxes: in principle Article 170 § 2 of the Constitution permits the German-speaking Community to raise taxes. In practice this right is limited to areas which are not taxed by another institution;



6. project-related subsidies: The German-speaking Community can receive grants and subsidies from other entities (e.g. the European Community, the Walloon Region) for certain projects, like job-creating measures, cross-border tourism infrastructures, etc.

## The expenditure budget

The expenditure budget represents the expenditures that the Parliament of the German-speaking Community allows the Government to undertake in the individual areas of competence.

Thanks to the financial resources coming from the individual expenditure budget, the German-speaking Community finances or promotes the various initiatives taken either by itself or by entities founded, recognized and/or commissioned by the German-spea-

king Community. The expenditure budget can be viewed not only as an abstract set of figures but as reflecting the political will of the parliamentary majority and the government, which is borne by this majority. This expression of will is visible in the main financial areas of the budget planning. This political freedom is, however, circum-

scribed by the obligatory expenditures that the Community is required to incur regardless of the parliamentary majority, e.g. teachers' and clerks' salaries, functional grants established by decree.

## Treasury

Since 1st January 1992 the German-speaking Community has its own Treasury, entrusted with the management of the community's finances.

## The State Audit

The State Audit controls all budget expenditures by the government. It is an auxiliary body for the legislative powers. Its task is not to control the

political opportunity of this or that expenditure, but to establish whether the Community's decrees and the budget legislation are correctly applied and to ensure that individual budget lines are not exceeded.

*The Belgian Court of Auditors, Brussels*



# COOPERATION AND CONFLICT SETTLEMENT

The gradual transfer of powers to the communities and regions is intended to strengthen the autonomy of Belgium's constituent legal entities.

Given that it is not always possible to clearly demarcate the individual areas of competence of the federal state, the communities and regions, the Constitution makes provision for certain forms of cooperation and of conflict settlement.

## Cooperation

The concluding of cooperation agreements allows individual entities to exercise their powers in the most appropriate form and to avoid any conflicts. For particularly sensitive areas (e.g. traffic and communications networks) the legislator even makes such

agreements mandatory. It is generally the governments that take the initiative in negotiating and signing agreements, with the councils granting their approval where appropriate.

## Conflict settlement

Conflicts arise when a particular entity (federal state, community, region) exceeds the powers allotted to it in the Constitution and in the implementing legislation (conflict of competences) or alternatively threatens the interests of another entity (conflict of interests). The legislator has provided several mechanisms in order to prevent or resolve such conflicts.

Conflicts of competences are of legal nature and are solved legally. Conflicts of interests have a political nature and are solved through dialogue.

## **The prevention of conflicts of competence: the Council of State and the Conciliation Committee**

The “legislation” department of the Council of State issues reasoned opinions on pre-drafts of laws and decrees and drafts of Royal, Ministerial or Government rulings. When requested it can also issue opinions on proposed laws and decrees. If the Council of State believes that a pre-draft exceeds the competences of the state, the community and the region, the text is put before a consultative committee consisting of members of the federal government and of the governments of the regions and the communities. If this committee shares the opinion that competences have been exceeded, it suggests that the concerned government takes measures to prevent such exceeding of competences, for instance by revising the pre-draft.

The same goes when a ruling is failed to be deposited, because such neglect can be harmful to other corporations as well.

## **Resolution of conflicts of competence: the Constitutional Court**

If an already passed law or decree contains an exceeding of competence, the Constitutional Court (previously Court of Arbitration) can be called in. This court can revoke laws and decrees in full or in part where competences are found to have been exceeded.

## **Prevention and resolution of conflicts of interest between legislative assemblies**

Conflicts of interest between the state, the communities and regions can arise even where these bodies remain strictly within their competences. A legislative assembly (Chamber of Deputies, Senate,



regional or community Parliament) can be of the opinion that it is severely disadvantaged by a draft or proposed decree or law tabled in another assembly. In this case it may, by a three-quarters majority, apply for the deliberations to be halted and for consultation to take place. If no agreement can be reached, it is up to the Senate or the Consultation Committee to find a solution.

## **Prevention and resolution of conflicts of interest between governments**

If a draft ruling is tabled by a government (or if a government fails to table an ruling), the government of another body may also consider itself disadvantaged. The Minister-Presidents of the governments are empowered to





call in the consultation committee set up to prevent and resolve conflicts. This committee is made up of repre-

sentatives of the governments. This committee must then come up with a mutually acceptable solution.

# AUTONOMY AND THE FUTURE OUTLOOK

Since 1970 Belgium has gone through the difficult process of converting itself into a federal state. The German-speaking Community is an autonomous component of the new Federal State of Belgium. It is now in a position to autonomously take care of its linguistic and cultural interests and to take political decisions linked to its citizens in major areas of life.

It has established its relations with the Flemish and the French Communities in a series of treaties, which serve as a basis for lively exchange at cultural, sport and administrative levels.

Cross-border and European cooperation is another key area of political work that the German-speaking Community undertakes autonomously. In June 1992 it was included as an equal partner in the Maas-Rhine Euregio region and sends its representatives to the Euregio Council. It also participates

in the work of the Saar-Lor-Lux Euregio region.

The German-speaking Community is the smallest self-governing autonomous entity in the European Union, and seeks to present itself appropriately to the outside world.

The sixth state reform includes wide-reaching changes, which will shift many powers from the federal government to the regions and communities – also to the German-speaking Community. Major concerns of broad political circles in the German-speaking Community include the transfer of additional regional and provincial powers as well as having guaranteed representation in the federal Parliament. These topics will be feature largely in parliamentary debates in the coming months and years.

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