



## OSCE Human Dimension Implementation Meeting

Warsaw, 30 September 2009

Working Session 5: Tolerance and Non-discrimination

## *NATIONAL MINORITIES IN BELGIUM*

Human Rights Without Frontiers International  
Avenue Winston Churchill 11/33  
1180 Brussels, Belgium  
Tel: +32-2-3456145 - Fax: +32 2 3437491  
Email: [international.secretariat.brussels@hrwf.net](mailto:international.secretariat.brussels@hrwf.net)  
Website: <http://www.hrwf.net>

## **Belgium, national minorities and the Council of Europe**

Belgium has signed, but has not ratified, the Framework Convention for the Protection of National Minorities on 31 July 2001. Moreover, Belgium has issued a declaration accompanying its signature, stating that “The Kingdom of Belgium declares that the notion of national minority will be defined by the inter-ministerial conference of foreign policy”.<sup>1</sup>

The **Venice Commission**, a mechanism of the Council of Europe, has issued an opinion regarding the existence of linguistic minorities in Belgium. The Venice Commission has found that at the state level only the German-speaking community is to be considered a national minority as French-speakers are in a position of co-dominance and therefore do not constitute a minority within the meaning of the framework convention, despite being numerically inferior to Dutch-speakers. However, the Venice Commission furthermore concluded that “at the regional level, [...] French-speakers in the Dutch-language region and in the German-language region may be considered as a minority in the sense of the framework convention, as may Dutch-speakers and German-speakers in the French-language region”.<sup>2</sup>

The opinion of the Venice Commission has been endorsed by the **Parliamentary Assembly of the Council of Europe (PACE)** in its Resolution 1301.

**The question is “What steps has Belgium taken since then and does it plan to take in order to define the notion of national minority as promised in 2001?”**

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

During the 2006 local elections, in a number of municipalities with facilities in the Flemish region around Brussels, voting letters were sent to the French-speaking inhabitants in French and to the Dutch-speaking inhabitants in Dutch. According to the interpretation of the federal linguistic legislation<sup>3</sup> by the Flemish regional government, this procedure should have exclusively taken place in Dutch, the sole official

---

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

<sup>2</sup> European Commission for Democracy through Law, CDL-AD(2002) 1, *Opinion on possible groups of persons to which the Framework Convention for the Protection of National Minorities could be applied in Belgium*, 12 March 2002, paras 43 and 45. See [http://www.venice.coe.int/docs/2002/CDL\(2002\)021rev-e.pdf](http://www.venice.coe.int/docs/2002/CDL(2002)021rev-e.pdf)

<sup>3</sup> In the communes with facilities of the Walloon Region, the inhabitants indicate once for all the language in which they want to receive their administrative documents (voting letters, taxes, etc.) while in the communes with facilities of the Flemish Region, the French-speakers automatically receive administrative documents in Dutch and have to ask every time for the same documents in French. In Comines-Warneton/ Komen-Warneton (Walloon Region), there were 378 Dutch-speaking household heads out of a population of 17,669 inhabitants and only elected French-speaking councillors as of 1 January 2008. The Dutch-speakers of these communes could however receive their ID cards in Dutch and any other administrative document in their native language without any problem. The practice is the same in Mouscron/Moeskroen, a commune of 52,826 inhabitants, including 1,264 registered Dutch-speakers. The policy of these two communes is to avoid administrative harassment and a useless overload of administrative work.

language of the region. As a reaction to this infraction on language regulation, the Minister of Interior of the Flemish Regional Government refused to appoint the mayors of these municipalities.

In May 2008 **the Congress of Local and Regional Authorities of the Council of Europe** sent a fact-finding mission to Belgium to examine in close detail the non-appointment by the Flemish authorities of three mayors, for alleged violation of language legislation as interpreted by the Flemish regional government. In their report, the experts were critical of the manner in which the Flemish government handled the situation.<sup>4</sup>

The experts started out by criticising the fact that the case had dragged on without a definite solution since January 2007, resulting in the absence of elected mayors in the three municipalities in question for well over a whole year. The report found that this constituted a disruption of the proper management of public affairs in these municipalities, since the reasonable timeframe within which the electorate could have expected a solution to the problem had been exceeded.<sup>5</sup>

More importantly, the rapporteurs questioned the validity of the Flemish government's interpretation of language legislation in the sense that the mayor, his deputies and the members of the municipal council of all municipalities situated in the unilingual Flemish Region can only use Dutch in their deliberations. They particularly considered troublesome the prohibition of the use of French during meetings of the municipal council in the so-called "municipalities with language facilities," as the majority of their population is French-speaking.<sup>6</sup>

The report even went as far as stating that this situation "may be interpreted as a violation of the Preamble to the European Charter of Local Self-Government".<sup>7</sup> The report furthermore stated that even if the Flemish government's allegations were well-founded from a legal viewpoint, the measures taken (*i.e.* the refusal to appoint mayors who have received a clear majority in the popular vote) were disproportionate in light of article 8.3 of the European Charter of Local Self-Government.<sup>8</sup>

On 2 December 2008, the **Chamber of Local Authorities of the Council of Europe Congress of Local and Regional Authorities**, meeting in Strasbourg, under the chairmanship of Dubravka Suica, Mayor of Dubrovnik (Croatia)<sup>9</sup>, adopted a resolution<sup>10</sup> and a recommendation<sup>11</sup> on the

---

<sup>4</sup> Bureau of the Chamber of Local Authorities of the Congress of Local and Regional Authorities of the Council of Europe, CPL/BUR(14)2, *Information report on the fact-finding visit to Belgium concerning the non-appointment by the Flemish authorities of three mayors*, 21 May 2008.

<sup>5</sup> *Ibid.*, para. 12.

<sup>6</sup> *Ibid.*, para. 17.

<sup>7</sup> *Ibid.*, para. 18.

<sup>8</sup> *Ibid.*, para. 23.

<sup>9</sup> See "The Congress opens a monitoring procedure on local democracy in Belgium":

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

<sup>10</sup> Local Democracy in Belgium: Non-appointment by the Flemish authorities of three mayors. See [https://wcd.coe.int/ViewDoc.jsp?Ref=RES276\(2008\)&Language=lanEnglish&Ver=original&Site=Congress&BackColorInternet=e0cee1&BackColorIntranet=e0cee1&BackColorLogged=FFC679](https://wcd.coe.int/ViewDoc.jsp?Ref=RES276(2008)&Language=lanEnglish&Ver=original&Site=Congress&BackColorInternet=e0cee1&BackColorIntranet=e0cee1&BackColorLogged=FFC679) (accessed 7 December 2008)

<sup>11</sup> See full text of Recommendation 258 (2008):

situation of local democracy in Belgium, opening a monitoring procedure on local democracy in this country.

The Congress recommended that the Belgian authorities:

- a.* encourage the Flemish Minister of the Interior to appoint without further delay the three mayors whose lists were elected so as to put an end to the disruption in the management of public affairs;
- b.* review the language laws, and in particular the way in which they are applied in municipalities with so-called special language arrangements, to allow the use of both French and Dutch by municipal councillors and by the mayor and aldermen at the meetings of the municipal council;
- c.* encourage the adoption of the system of election of mayors by the municipal council or by the citizens, which would reduce the regional authorities' control of the municipalities and ensure compliance with the relevant provisions of Recommendation 131 (2003) of the Congress;
- d.* reconsider the reservations they lodged with regard to Article 3 paragraph 2, Article 8 paragraph 2 and Article 9 paragraphs 2, 6 and 7 and thereby comply with all the provisions set out in the European Charter of Local Self-Government.

**The question is therefore: When will Belgium make sure that the three duly elected mayors are appointed?**

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

### **The OSCE Commissioner on National Minorities**

- visit Belgium, meets all the parties involved in a number of linguistic issues, draft a report and make recommendations

### **Belgium**

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

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

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

