Belgium: portrait of a peculiar federal State

Prof. Christian BEHRENDT
and Prof. Frédéric BOUHON

Moscow State Institute of International Relations
20th September 2019
## Russia and Belgium

<table>
<thead>
<tr>
<th></th>
<th>Russia</th>
<th>Belgium</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Area</strong></td>
<td>17.098.246 km²</td>
<td>30.688 km² (ratio : 557)</td>
</tr>
<tr>
<td><strong>Population</strong></td>
<td>146.793.000 inhab.</td>
<td>11.300.000 inhab. (ratio : 13)</td>
</tr>
<tr>
<td><strong>Density</strong></td>
<td>8.4 inhab. / km²</td>
<td>368.22 inhab./ km² (ratio : 44)</td>
</tr>
<tr>
<td><strong>Federal state</strong></td>
<td>Federal state</td>
<td>Federal state</td>
</tr>
</tbody>
</table>
Main features of the Belgian State

- Written Constitution (since 1831)
- Hereditary Constitutional Monarchy (art. 85 Const.)
- Federal State (art. 1 Const.)
- Separation of powers (art. 37 to 40 Const.)
- Parliamentary regime (art. 101 Const.)
- Liberal State / Bill of Rights (art. 8 to 32 Const.)
- Rule of Law (art. 105, 142, 159 Const.)
- Representative democracy (art. 42 Const. ; art. 61 to 65)
- Decentralized State (art. 41 and 162 Const.)
The birth of the Kingdom of Belgium

- September 1830: the Belgian Revolution
The birth of the Kingdom of Belgium

- September 1830: the Belgian Revolution
- The nine Catholic provinces of southern Belgium secede from the Netherlands
- 4th of October 1830: the independence of the new State is officially declared
- 3rd of November 1830: election of the National Congress: first legislation and preparation of the Constitution
The Constitution

- enacted on the 7\textsuperscript{th} February 1831
- Revised many times, especially since 1970 (development of federal system)
- Contains the principles of the institutional system for both federal authorities and federated bodies
Hereditary Constitutional Monarchy

Article 85:
The constitutional powers of the King are hereditary through the direct, natural and legitimate descent from H.M. Leopold, George, Christian, Frederick of Saxe-Coburg, by order of primogeniture.
Hereditary Constitutional Monarchy

Article 106:

No act of the King can take effect without the countersignature of a minister, who, in doing so, assumes responsibility for it.
Federal system

Centrifugal federalism:
- 1830 – 1970: Unitary State (decentralisation)
- 1970: start of the federalisation process
- 1993: the federal nature of the State is enshrined in the Constitution
- Today: very large autonomy for the Regions and Communities
Federal system

Three peculiarities of the Belgian federal system:

1) Two kinds of federated entities that overlap
2) Asymmetry of the federated entities
3) Treaty making power shared between federal authority and federated entities
Two kinds of federated entities that overlap

Competence of two Communities on Brussels territory

Competences:
- Culture
- Media
- Education
- Hospitals
- Caring system
- ...
Two kinds of federated entities that overlap

Competences:
- Roads
- Public transport
- Energy
- Economy
- Agriculture
- Employment
- …
Two kinds of federated entities that overlap

Jurisdiction of the federal authority: anything that is not the responsibility of the communities or regions.

- Justice
- National defence
- Police
- Social security
- Nuclear energy
- ...

[Belgian flag]
Important features:

- **Exclusivity** of competences

- **Equipollence** of federal laws and federate laws

« Bundesrecht bricht Landesrecht » (art. 31 German BL)
« Federal law shall take precedence over Land law »
Two kinds of federated entities that overlap

**Important features:**

- Exclusivity of competences
- Equipollence of federal laws and federate laws

« Bundesrecht bricht Landesrecht » (art. 31 German BL)
« Federal law shall take precedence over Land law »
Possibility for a federated entity to transfer the exercise of (some of) its competences to an other federated entity which has jurisdiction on the same territory.

In practice:
Article 137: Flemish Region → Flemish Community
Article 138: French Community → Walloon Region & French speaking authority in Brussels Region
Article 139: Walloon Region → German-speaking Community
Shared treaty making power
Article 167 of the Constitution

§1. The King shall direct international relations, without prejudice to the competence of the communities and regions to regulate international cooperation, including the conclusion of treaties, in matters within their competence by or under the Constitution.
Article 167 of the Constitution

§1. The King shall direct international relations, without prejudice to the competence of the communities and regions to regulate international cooperation, including the conclusion of treaties, in matters within their competence by or under the Constitution.
Article 167 of the Constitution

§1. The King shall direct international relations, without prejudice to the competence of the communities and regions to regulate international cooperation, including the conclusion of treaties, in matters within their competence by or under the Constitution.
Article 167 of the Constitution

§1. The King shall direct international relations, without prejudice to the competence of the communities and regions to regulate international cooperation, including the conclusion of treaties, in matters within their competence by or under the Constitution.
Article 167 of the Constitution

§1. The King shall direct international relations, without prejudice to the competence of the communities and regions to regulate international cooperation, including the conclusion of treaties, in matters within their competence by or under the Constitution.
What does it mean in practice?
What does it mean in practice?

RULE N°1: Exclusivity of the exercise of competences

RULE N°2: In foro interno, in foro externo

Exclusive treaties
- Signing,
- Assent by the relevant legislative body,
- Ratification by the relevant executive body

Mixed treaties
- Signing,
- Assent by each relevant legislative body,
- Ratification by the King
Mixed treaties
Federal legislative power

Bi-cameral system

Senate

Chamber of Representatives
Parliamentary control of the Government

1) The right to require the presence of members of the Government
2) The right to ask questions and to get answers
3) The right of inquiry
4) The right to vote a motion of defiance
Thank you for your attention