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Droit, Science Politique
& Criminologie

Quentin PIRONNET

INTRODUCTION TO BELGIAN LAW:
PUBLIC LAW

Legal material

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Course for exchange students

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THE BELGIAN CONSTITUTION
COORDINATED ON 17 FEBRUARY 1994

(Source : May 2014¹ Legal Department of the Belgian House of Representatives D / 2014 / 4686 / 08)

TITLE I

On federal Belgium, its components and its territory

Article 1

Belgium is a federal State composed of Communities and Regions.

Article 2

Belgium comprises three Communities: the Flemish Community, the French Community and the German-speaking Community.

Article 3

Belgium comprises three Regions: the Flemish Region, the Walloon Region and the Brussels Region.

Article 4

Belgium comprises four linguistic regions: the Dutch-speaking region, the French-speaking region, the bilingual region of Brussels-Capital and the German-speaking region.

Each municipality of the Kingdom forms part of one of these linguistic regions.

The boundaries of the four linguistic regions can only be changed or corrected by a law passed by a majority of the votes cast in each linguistic group in each House, on condition that a majority of the members of each group is present and provided that the total number of votes in favour that are cast in the two linguistic groups is equal to at least two thirds of the votes cast.

Article 5

The Flemish Region comprises the following provinces: Antwerp, Flemish Brabant, West Flanders, East Flanders and Limburg. The Walloon Region comprises the following provinces: Walloon Brabant, Hainaut, Liege, Luxembourg and Namur.

A law can exclude certain territories, of which it establishes the boundaries, from division into provinces, bring them directly under the federal executive power and subject them to a specific

statute. This law must be passed by a majority as described in Article 4, last paragraph.

Article 6

Provincial subdivisions can only be established by virtue of a law.

Article 7

The boundaries of the State, the provinces and the municipalities can only be changed or corrected by virtue of a law.

TITLE IBIS

On general political objectives of federal Belgium, the communities and the regions

Article 7bis

In the exercise of their respective competences, the Federal State, the Communities and the Regions pursue the objectives of sustainable development in its social, economic and environmental aspects, taking into account the solidarity between the generations.

TITLE II

On Belgians and their rights

Article 8

The status as a Belgian citizen is acquired, kept and lost according to rules established by civil law.

The Constitution and the other laws concerning political rights, establish, apart from this status, the necessary conditions for the exercising of these rights.

In a departure from the second paragraph, the law can, in accordance with Belgium's international and supranational obligations, establish a right to vote for citizens of the European Union who are not Belgian citizens.

The right to vote referred to in the preceding paragraph can be extended by a law to Belgian residents who are not citizens of a Member State of the European Union, under the conditions and in accordance with the terms specified in such a law.

Transitional provision

The law referred to in the fourth paragraph cannot be passed before 1 January 2001.

¹ The update has been done by the author.

Article 9

Naturalisation is granted by the federal legislative power.

Article 10

No class distinctions exist in the State.

Belgians are equal before the law; they alone are eligible for civil and military service, but for the exceptions that can be created by a law for particular cases.

Equality between women and men is guaranteed.

Article 11

Enjoyment of the rights and freedoms recognised for Belgians must be provided without discrimination. To this end, laws and federate laws guarantee among others the rights and freedoms of ideological and philosophical minorities.

Article 11bis

The law, federate law or rule referred to in Article 134 guarantees that women and men may equally exercise their rights and freedoms, and in particular promotes their equal access to elective and public mandates.

The Council of Ministers and the Governments of the Communities and the Regions include both women and men.

The law, federate law or rule referred to in Article 134 provides for women and men to sit on the permanent deputations of the provincial councils, the colleges of the burgomasters and aldermen, the councils and permanent committees of the public centres for social welfare and on the executives of any other inter-provincial, supra-municipal, inter-municipal or intra-municipal territorial body.

The preceding paragraph does not apply when the law, federate law or rule referred to in Article 134 provides for the direct election of the members of the permanent deputations of the provincial councils, of aldermen, of the members of the councils and permanent committees of the social welfare centres or of the members of the executives of any other inter-provincial, supra-municipal, inter-municipal or intra-municipal territorial body.

Article 12

The freedom of the individual is guaranteed.

No one can be prosecuted except in the cases provided for by the law, and in the form prescribed by the law.

Except in the case of a flagrant offence, no one can be arrested except on the strength of a

reasoned judge's order, which must be served at the latest within forty-eight hours from the deprivation of liberty and which may only result in provisional detention.

Article 13

No one can be separated, against his will, from the judge that the law has assigned to him.

Article 14

No punishment can be introduced or administered except by virtue of the law.

Article 14bis

Capital punishment is abolished.

Article 15

One's home is inviolable; no house search may take place except in the cases provided for by the law and in the form prescribed by the law.

Article 16

No one can be deprived of his property except in the case of expropriation for a public purpose, in the cases and manner established by the law and in return for fair compensation paid beforehand.

Article 17

Assets may not be confiscated as a means of punishment.

Article 18

Civil death is abolished; it cannot be reintroduced.

Article 19

Freedom of worship, its public practice and freedom to demonstrate one's opinions on all matters are guaranteed, but offences committed when this freedom is used may be punished.

Article 20

No one can be obliged to contribute in any way whatsoever to the acts and ceremonies of a religion or to observe its days of rest.

Article 21

The State does not have the right to intervene either in the appointment or in the installation of ministers of any religion whatsoever or to forbid these ministers from corresponding with their superiors, from publishing the acts of these superiors, but, in this latter case, normal responsibilities as regards the press and publishing apply.

A civil wedding should always precede the blessing of the marriage, apart from the exceptions to be established by the law if needed.

Article 22

Everyone has the right to the respect of his private and family life, except in the cases and conditions determined by the law.

The laws, federate laws and rules referred to in Article 134 guarantee the protection of this right.

Article 22bis

Each child is entitled to have his or her moral, physical, mental and sexual integrity respected.

Each child has the right to express his or her views in all matters affecting him or her, the views of the child being given due weight in accordance with his or her age and maturity.

Each child has the right to benefit from measures and facilities which promote his or her development.

In all decisions concerning children, the interest of the child is a primary consideration. The law, federate law or rule referred to in Article 134 ensures these rights of the child.

Article 22ter

Every person with a disability has the right to full inclusion in society, including the right to reasonable accommodation.

The law, federate law or rule referred to in Article 134 shall ensure the protection of this right.

Article 23

Everyone has the right to lead a life in keeping with human dignity.

To this end, the laws, federate laws and rules referred to in Article 134 guarantee economic, social and cultural rights, taking into account corresponding obligations, and determine the conditions for exercising them.

These rights include among others:

1° the right to employment and to the free choice of an occupation within the context of a general employment policy, aimed among others at ensuring a level of employment that is as stable and high as possible, the right to fair terms of employment and to fair remuneration, as well as the right to information, consultation and collective negotiation;

2° the right to social security, to health care and to social, medical and legal aid;

3° the right to decent accommodation;

4° the right to the protection of a healthy environment;

5° the right to cultural and social fulfilment;

6° the right to family allowances.

Article 24

§1. Education is free; any preventive measure is forbidden; the punishment of offences is regulated only by the law or federate law.

The community offers free choice to parents.

The community organises non-denominational education. This implies in particular the respect of the philosophical, ideological or religious beliefs of parents and pupils.

Schools run by the public authorities offer, until the end of compulsory education, the choice between the teaching of one of the recognised religions and non-denominational ethics teaching.

§2. If a community, in its capacity as an organising authority, wishes to delegate powers to one or several autonomous bodies, it can only do so by federate law adopted by a two-thirds majority of the votes cast.

§3. Everyone has the right to education with the respect of fundamental rights and freedoms. Access to education is free until the end of compulsory education.

All pupils of school age have the right to moral or religious education at the community's expense.

§4. All pupils or students, parents, teaching staff or institutions are equal before the law or federate law. The law and federate law take into account objective differences, in particular the characteristics of each organising authority that warrant appropriate treatment.

§5. The organisation, the recognition and the subsidising of education by the community are regulated by the law or federate law.

Article 25

The press is free; censorship can never be introduced; no security can be demanded from authors, publishers or printers.

When the author is known and resident in Belgium, neither the publisher, the printer nor the distributor can be prosecuted.

Article 26

Belgians have the right to gather peaceably and without arms, in accordance with the laws that can regulate the exercise of this right, without submitting it to prior authorisation.

This provision does not apply to open air meetings, which are entirely subject to police regulations.

Article 27

Belgians have the right to enter into association or partnership; this right cannot be subject to any preventive measure.

Article 28

Everyone has the right to address petitions signed by one or more persons to the public authorities.

Constituted bodies are alone entitled to address petitions under a collective name.

Article 29

The confidentiality of letters is inviolable.

The law determines which officials may violate the confidentiality of letters entrusted to the postal service.

Article 30

The use of languages spoken in Belgium is optional; only the law can rule on this matter, and only for acts of the public authorities and for judicial affairs.

Article 31

No authorisation is necessary prior to taking legal action against civil servants for offences resulting from their administration, except with regard to what has been ruled on concerning ministers and members of the Community and Regional Governments.

Article 32

Everyone has the right to consult any administrative document and to obtain a copy, except in the cases and conditions stipulated by the laws, federate laws or rules referred to in Article 134.

TITLE III
On powers

Article 33

All powers emanate from the Nation.

These powers are exercised in the manner laid down by the Constitution.

Article 34

The exercising of specific powers can be assigned by a treaty or by a law to institutions of public international law.

Article 35

The federal authority only has competences in the matters that are formally assigned to it by the

Constitution and the laws passed by virtue of the Constitution itself.

The Communities and the Regions, each in its own field of concern, have competences for the other matters, under the conditions and in the terms stipulated by the law. This law must be adopted by a majority as described in Article 4, last paragraph.

Transitional provision

The law referred to in the second paragraph determines the date on which this article comes into force. This date cannot precede the date of the entry into force of the new article to be inserted in Title III of the Constitution, which determines the competences exclusive to the federal authority.

Article 36

The federal legislative power is exercised jointly by the King, the House of Representatives and the Senate.

Article 37

The federal executive power, as regulated by the Constitution, belongs to the King.

Article 38

Each Community has those powers which are recognised by the Constitution or by the laws passed by virtue of the Constitution.

Article 39

The law assigns to the regional bodies that it creates and that are composed of elected representatives the power to manage the matters that it determines, with the exception of those referred to in Articles 30 and 127 to 129, within the scope and according to the manner laid down by a law. This law must be passed by a majority as described in Article 4, last paragraph.

Article 39bis

Except for matters relating to finances or budget or matters that are regulated by a majority of two thirds of the votes cast, matters attributed exclusively to regional bodies can be the subject of a referendum in the Region concerned.

The rule referred to in Article 134 determines the procedures and arrangements for the referendum, and is adopted by a majority of two thirds of the votes cast, under the condition that the majority of the members of the Parliament concerned is present. A law passed by a majority as described in Article 4, last paragraph lays down additional

majority requirements with respect to the Brussels-Capital Region.

Article 39ter

The law, federate law or rule referred to in Article 134 that regulates the elections for the House of Representatives or a Community or Regional Parliament, and that is promulgated less than one year before the date on which the legislative term is to come to an end, comes into force no sooner than one year after it has been promulgated.

Transitional provision

This article comes into force on the day when the first elections for the European Parliament take place after it has been published in the Belgian Official Gazette.

Article 40

Judiciary power is exercised by the courts.
Court decisions are executed in the name of the King.

Article 41

Interests which are exclusively of a municipal or provincial nature are ruled on by municipal or provincial councils, according to the principles laid down by the Constitution. However, the rule referred to in Article 134 can abolish the provincial institutions in implementation of a law passed by a majority as described in Article 4, last paragraph. In such a case, the rule referred to in Article 134 can replace them by supra-municipal collectivities, the councils of which rule the exclusively supra-municipal interests in accordance with the principles established by the Constitution. The rule referred to in Article 134 must be adopted by a majority of two thirds of the votes cast, under the condition that the majority of the members of the Parliament concerned is present.

The rule referred to in Article 134 defines the competences, working rules and mode of election of intra-municipal territorial bodies that are authorised to regulate matters of municipal interest.

These intra-municipal territorial bodies are created in municipalities with more than 100,000 inhabitants following the initiative of the municipal council. Their members are directly elected. In implementation of a law adopted by a majority as described in Article 4, last paragraph, the federate law or rule referred to in Article 134 regulates the other conditions and the way in which such intra-municipal territorial bodies may be created.

This federate law and the rule referred to in Article 134 can only be adopted by a majority of two thirds of the votes cast, under the condition that the majority of the members of the Parliament concerned is present.

Matters of municipal, supra-municipal or provincial interest can be the subject of a referendum in the municipality, supra-municipal collectivity or province concerned. The rule referred to in Article 134 regulates the procedures and arrangements for the referendum.

CHAPTER I

On the federal houses

Article 42

The members of the two Houses represent the Nation, and not only those who elected them.

Article 43

§1. For cases determined by the Constitution, the elected members of the House of Representatives are divided into a Dutch linguistic group and a French linguistic group, in the manner determined by the law.

§2. For cases determined by the Constitution, senators, except the senator appointed by the Parliament of the German-speaking Community, are divided into a Dutch linguistic group and a French linguistic group.

The senators referred to in Article 67, §1, 1° and 6° make up the Dutch linguistic group of the Senate. The senators referred to in Article 67, §1, 2° to 4° and 7° make up the French linguistic group of the Senate.

Transitional provision

This article comes into force on the day when elections take place with a view to the complete renewal of the Community and Regional Parliaments in 2014.

The following provisions apply until that day:

“§1. For cases determined by the Constitution, the elected members of each House are divided into a Dutch linguistic group and a French linguistic group, in the manner determined by the law.

§2. The senators referred to in Article 67, §1, 1°, 3° and 6° make up the Dutch linguistic group of the Senate. The senators referred to in Article 67, §1, 2°, 4° and 7° make up the French linguistic group of the Senate.”

Article 44

The Houses meet by right each year on the second Tuesday of October, unless they have been convened prior to this by the King.

The Houses must meet for at least forty days each year. The Senate is a non-permanent body.

The King pronounces the closing of the session.

The King has the right to convene the Houses to an extraordinary meeting.

Transitional provision

The second sentence of the second paragraph comes into force on the day when elections take place with a view to the complete renewal of the Community and Regional Parliaments in 2014.

Article 45

The King can adjourn the Houses. However, the adjournment cannot be for longer than one month, nor can it be repeated in the same session without the consent of the Houses.

Article 46

The King has the right to dissolve the House of Representatives only if the latter, with the absolute majority of its members:

1° either rejects a motion of confidence in the Federal Government and does not propose to the King, within three days of the day of the rejection of the motion, the appointment of a successor to the prime minister;

2° or adopts a motion of no confidence with regard to the Federal Government and does not simultaneously propose to the King the appointment of a successor to the prime minister.

The motions of confidence and no confidence can only be voted on forty-eight hours after the tabling of the motion.

Moreover, the King may, in the event of the resignation of the Federal Government, dissolve the House of Representatives after having received its agreement expressed by the absolute majority of its members.

The act of dissolution convenes the electorate within forty days and the House of Representatives within two months.

In case both Houses are dissolved in accordance with Article 195, the Houses are convened within three months.

In case of early dissolution, the new federal parliamentary term may not extend beyond the day when the first election of the European Parliament following this dissolution is held.

Transitional provision

After the 2014 election of the European Parliament, a law, passed by a majority as described in Article 4, last paragraph, fixes the date when the sixth paragraph comes into force. This date is that on which Article 65, third paragraph and Article 118, § 2, fourth sub-paragraph come into force.

The fourth and fifth paragraphs come into force on the day when elections take place with a view to the complete renewal of the Community and Regional Parliaments in 2014. Until this date, the following provisions are applicable in lieu of the fourth and fifth paragraphs:

“The dissolution of the House of Representatives entails the dissolution of the Senate.

The act of dissolution convenes the electorate within forty days and the Houses within two months.

The dissolution of the House of Representatives leading to parliamentary elections at federal level that take place the same day as the 2014 election of the Community and Regional Parliaments entails the dissolution of the Senate. The electorate for the House of Representatives is convened within forty days. The Houses are convened within three months.”.

Article 47

The sittings of the Houses are public.

Nevertheless, each House can meet in camera at the request of its president or of ten members.

It decides afterwards, by absolute majority, whether the sitting must be continued in public on the same subject.

Article 48

Each House verifies the credentials of its members and judges any dispute that can be raised on this matter.

Article 49

One cannot be a member of both Houses at the same time.

Article 50

Any member of either House appointed by the King as minister and who accepts this appointment ceases to sit in Parliament and takes up his mandate again when the King has terminated his office as minister. The law determines the rules for his replacement in the House concerned.

Article 51

Any member of either House appointed by the Federal Government to any salaried position other than that of minister and who accepts the appointment immediately ceases to sit in Parliament and only takes his seat again after having been re-elected.

Article 52

Each session, each House appoints its president, its vice-presidents, and forms its bureau.

Article 53

All resolutions are passed by an absolute majority of the votes cast, except for what is established by the rules of procedure of the Houses with regard to elections and nominations.

If the vote is tied, the proposal submitted for discussion is rejected.

Neither of the two Houses can pass a resolution unless a majority of its members is present.

Article 54

Except for budgets and laws requiring a special majority, a reasoned motion signed by at least three-quarters of the members of one of the linguistic groups and tabled following the depositing of the report and prior to the final vote in a public sitting can declare that the provisions that it designates of a Government bill or private member's bill can gravely damage relations between the Communities.

In this case, Parliamentary procedure is suspended and the motion is referred to the Council of Ministers, which within thirty days gives its reasoned opinion on the motion and invites the House involved to pronounce on this opinion or on the Government bill or private member's bill that, if need be, has been amended.

This procedure can be applied only once by the members of a linguistic group with regard to the same Government bill or private member's bill.

Article 55

Votes are cast by sitting and standing or by call-over; on the laws as a whole is always voted by call-over. The election and nomination of candidates are carried out by secret ballot.

Article 56

The House of Representatives has the right to hold an enquiry.

At the request of fifteen of its members, the House of Representatives, a Community or Regional Parliament or the King, the Senate can decide by

absolute majority of the votes cast, with at least a third of the votes cast in each linguistic group, that an information report will be drafted concerning an issue that also has repercussions on the competences of the Communities or Regions. The report is approved by absolute majority of the votes cast, with at least a third of the votes cast in each linguistic group. 18

Transitional provision

This article comes into force on the day when elections take place with a view to the complete renewal of the Community and Regional Parliaments in 2014. Until this day, the following provision applies:

“Each House has the right to hold an enquiry.”

Article 57

It is forbidden to present petitions to the Houses in person.

The House of Representatives has the right to send to ministers petitions that are addressed to it. The ministers are obliged to give explanations on the content of these petitions whenever the House so requires.

Transitional provision

The second paragraph comes into force on the day when elections take place with a view to the complete renewal of the Community and Regional Parliaments in 2014. Until this day, the following provision applies in lieu of the second paragraph:

“Each House has the right to send to ministers petitions that are addressed to it. The ministers are obliged to explain the content of these petitions whenever the House so requires.”

Article 58

No member of either House can be prosecuted or be the subject of any investigation with regard to opinions expressed and votes cast by him in the exercise of his duties.

Article 59

Except in the case of a flagrant offence, no member of either House may, during a session and in criminal matters, be directly referred or summoned before a court or be arrested, except with the authorisation of the House of which he is a member.

Except in the case of a flagrant offence, coercive measures requiring the intervention of a judge cannot, during a session and in criminal matters, be instituted against a member of either House, except by the first President of the appeal court at

the request of the competent judge. This decision is to be communicated to the President of the House concerned.

All searches or seizures executed by virtue of the preceding paragraph can be performed only in the presence of the President of the House concerned or a member appointed by him.

During the session, only the officers of the public prosecutor's office and competent officers may institute criminal proceedings against a member of either House.

The member concerned of either House may at any stage of the judicial enquiry request during a session and in criminal matters that the House of which he is a member suspend proceedings. To grant this request, the House concerned must decide by a majority of two thirds of the votes cast.

Detention of a member of either House or his prosecution before a court is suspended during the session if the House of which he is a member so requests.

Article 60

Each House determines, in its rules of procedure, the way in which it exercises its duties.

SECTION I

On the house of representatives

Article 61

The members of the House of Representatives are elected directly by citizens who are at least eighteen years of age and who do not fall within the categories of exclusion stipulated by the law.

Each elector has the right to only one vote.

Article 62

The composition of the electoral colleges is regulated by the law.

Elections take place in accordance with the system of proportional representation that the law determines.

Voting is obligatory and secret. It takes place in the municipality, except in the cases determined by the law.

Article 63

§1. The House of Representatives is composed of one hundred and fifty members.

§2. The number of seats in each electoral district corresponds to the result of dividing the number of inhabitants of the electoral district by the federal divisor, which is obtained by dividing the number of the population of the Kingdom by one hundred and fifty.

The remaining seats are assigned to the electoral districts with the greatest surplus of population not yet represented.

§ 3. The distribution of the members of the House of Representatives among the electoral districts is determined by the King in proportion to the population.

The number of inhabitants in each electoral district is established every ten years by a census or by any other means defined by the law. The King publishes the results within six months.

Within three months of this publication, the King determines the number of seats to be assigned to each electoral district.

The new distribution is applied as of the following general election.

§ 4. The law determines the electoral districts; it also determines the conditions required to be an elector as well as the way in which elections are conducted.

However, the law determines special rules with a view to protecting the legitimate interests of French and Dutch-speaking people in the former province of Brabant.

The provisions which establish these special rules may only be amended by a law passed by a majority as described in Article 4, last paragraph.

Article 64

To be eligible, one must:

1° be Belgian;

2° enjoy civil and political rights;

3° have reached the age of eighteen;

4° be resident in Belgium.

No other condition of eligibility can be required.

Transitional provision

The first paragraph, 3° comes into force on the day when elections take place with a view to the complete renewal of the Community and Regional Parliaments in 2014. Until this day, and without prejudice to Article 64, 1°, 2° and 4°, one must have reached the age of twenty-one.

Article 65

The members of the House of Representatives are elected for five years.

The House is re-elected as a whole every five years.

Elections for the House take place on the same day as elections for the European Parliament.

Transitional provision

After elections for the European Parliament have been held in 2014, a law passed by a majority as

described in Article 4, last paragraph sets the date on which the third paragraph comes into force. This date is that on which Article 46, sixth paragraph and Article 118, § 2, fourth sub-paragraph come into force.

Parliamentary elections at federal level will in any case take place on the same day as the first elections for the European Parliament following the publication of this revision in the Belgian Official Gazette.

Article 66

Each member of the House of Representatives has an annual indemnity of twelve thousand francs.

Within the national borders, the members of the House of Representatives have the right to free travel on all means of transport operated or conceded by the public authorities.

The President of the House of Representatives can be granted an annual indemnity to be charged to the allowance that covers the expenses of this assembly.

The House determines the amount that can be deducted from the indemnity to form a contribution to retirement and pension funds that it considers necessary to set up.

SECTION II On the senate

Article 67

§ 1. The Senate is composed of sixty senators, of whom:

1° twenty-nine senators appointed by the Flemish Parliament from among its members or from among the members of the Dutch linguistic group of the Parliament of the Brussels-Capital Region;

2° ten senators appointed from among its members by the Parliament of the French Community;

3° eight senators appointed from among its members by the Parliament of the Walloon Region;

4° two senators appointed from among its members by the French linguistic group of the Parliament of the Brussels-Capital Region;

5° one senator appointed from among its members by the Parliament of the German-speaking Community;

6° six senators appointed by the senators referred to in 1°;

7° four senators appointed by the senators referred to in 2° to 4°.

§2. At least one of the senators referred to in § 1, 1° is to be legally resident in the bilingual region of Brussels-Capital on the day of his election.

Three of the senators referred to in § 1, 2° are member of the French linguistic group of the Parliament of the Brussels-Capital Region. As a departure from § 1, 2°, one of these three senators must not be a member of the Parliament of the French Community.

§3. The Senate is composed of no more than two-thirds of senators of the same gender.

§4. When a list mentioned in Article 68, § 2 is not represented by senators respectively referred to in § 1,1° or in § 1,2°,3° or 4°, the senators referred to in § 1,6° or in § 1, 7° may be appointed by the Members of the House of Representatives who have been elected on the aforesaid list.

Transitional provision

This article comes into force on the day when elections take place with a view to the complete renewal of the Community and Regional Parliaments in 2014. Until this day, the following provisions apply:

“§1. Without prejudice to Article 72, the Senate is composed of seventy-one senators, of whom:

1° twenty-five senators elected in accordance with Article 61 by the Dutch electoral college;

2° fifteen senators elected in accordance with Article 61 by the French electoral college;

3° ten senators appointed from among its members by the Parliament of the Flemish Community, called the Flemish Parliament;

4° ten senators appointed from among its members by the Parliament of the French Community;

5° one senator appointed from among its members by the Parliament of the German-speaking Community;

6° six senators appointed by the senators referred to in 1° and 3°;

7° four senators appointed by the senators referred to in 2° and 4°.

When their Parliament is re-elected as a whole and this re-election does not coincide with the renewal of the Senate, the senators referred to in the first paragraph, 3° to 5° who no longer have a seat in their Parliament retain the mandate of senator until the opening of the first session following the re-election of their Parliament.

§2. At least one of the senators referred to in § 1, 1°, 3° and 6° is to be legally resident in the bilingual region of Brussels-Capital on the day of his election.

At least six of the senators referred to in § 1, 2°, 4° and 7° are to be legally resident in the bilingual region of Brussels-Capital on the day of their

election. If at least four of the senators referred to in § 1, 2° are not legally resident in the bilingual region of Brussels-Capital on the day of their election, at least two of the senators referred to in § 1, 4° must be legally resident in the bilingual region of Brussels-Capital on the day of their election.

Article 68

§1. The Senate seats referred to in Article 67, § 1, 1° are distributed among the lists according to the system of proportional representation determined by the law, in the way laid down by the law, on the basis of the addition of the vote counts of the lists obtained in the different electoral districts at the election for the Flemish Parliament.

The lists of which the vote counts are added up in pursuance of the first sub- paragraph only qualify for being allocated Senate seats referred to in Article 67, §1, 1° provided that they have obtained at least one seat in the Flemish Parliament.

The Senate seats referred to in Article 67, § 1, 2° to 4° are distributed among the lists according to the system of proportional representation determined by the law, in the way laid down by the law, on the basis of the addition of the vote counts of the lists obtained in the different electoral districts at the election for the Parliament of the Walloon Region and the vote counts of the lists for the French linguistic group obtained at the election for the Parliament of the Brussels-Capital Region.

The lists of which the vote counts are added up in pursuance of the third sub- paragraph only qualify for being allocated Senate seats referred to in Article 67, § 1, 2° to 4° provided that they have obtained at least one seat respectively in the Parliament of the French Community, in the Walloon Parliament and in the French linguistic group of the Parliament of the Brussels-Capital Region.

The law determines the rules for the appointment of the senators referred to in Article 67, § 1, 1° to 4°, with the exception of the detailed rules which, in pursuance of a law passed by a majority as described in Article 4, last paragraph, are laid down by the Community Parliaments, each for itself, by federate law. This federate law must be passed by a two-thirds majority of the votes cast, on condition that the majority of the members of the Parliament concerned is present.

The senator referred to in Article 67, § 1, 5° is appointed by the Parliament of the German-speaking Community by absolute majority of the votes cast.

§2. The Senate seats referred to in Article 67, §1, 6° to 7° are distributed among the lists according

to the system of proportional representation determined by the law, in the way laid down by the law, on the basis of the addition of the vote counts of the lists obtained at the election for the House of Representatives. The aforesaid system of proportional representation is the system which is described in Article 63, § 2 of the Constitution. A law passed by a majority as described in Article 4, last paragraph determines the electoral districts of which the votes are taken into consideration for distributing the seats of the senators referred to in Article 67, § 1, 6° and 7° who belong respectively to the Dutch and the French linguistic group.

A list may only be taken into consideration for distributing the seats of a single linguistic group.

The law determines the rules for the appointment of the senators referred to in Article 67, § 1, 6° to 7°.

Transitional provision

This article comes into force on the day when elections take place with a view to the complete renewal of the Community and Regional Parliaments in 2014, with the exception of § 2, first sub-paragraph, last sentence. Until this day, the following provisions apply:

“§ 1. The total number of senators referred to in Article 67, § 1, 1°, 2°, 3°, 4°, 6° and 7° is divided, according to the system of proportional representation that the law determines, among each linguistic group on the basis of the vote count of the lists obtained at the election of the senators referred to in Article 67, §1, 1° and 2°.

For the appointment of the senators referred to in Article 67, §1, 3° and 4°, only those lists are taken into consideration on which at least one senator referred to in Article 67, §1, 1° and 2° is elected and provided that a sufficient number of members elected on this list sit, according to the case, in the Parliament of the Flemish Community or the Parliament of the French Community.

For the appointment of the senators referred to in Article 67, § 1, 6° and 7°, only those lists are taken into consideration on which at least one senator referred to in Article 67, § 1, 1° and 2° is elected.

§ 2. For the election of the senators referred to in Article 67, § 1, 1° and 2°, voting is obligatory and secret. Voting takes place in the municipality, except in the cases that the law determines.

§ 3. For the election of senators referred to in Article 67, § 1, 1° and 2°, the law determines the electoral districts and the composition of the electoral colleges; it also determines the conditions which must be met in order to be an elector, as well as the way in which elections are conducted.

The law determines the rules for the appointment of the senators referred to in Article 67, § 1, 3° to 5°, with the exception of the detailed rules which, in pursuance of a law passed by a majority as described in Article 4, last paragraph, are laid down by the Community Parliaments, each for itself, by federate law. This federate law must be adopted by a two-thirds majority of the votes cast, on condition that the majority of the members of the Parliament concerned is present.

The senator referred to in Article 67, §1, 5° is appointed by the Parliament of the German-speaking Community by absolute majority of the votes cast.

The law determines the rules for the appointment of the senators referred to in Article 67, § 1, 6° and 7°.”.

Article 69

In order to be appointed as a senator, one must:

- 1° be Belgian;
- 2° enjoy civil and political rights;
- 3° have reached the age of eighteen;
- 4° be resident in Belgium.

Transitional provision

This article comes into force on the day when elections take place with a view to the complete renewal of the Community and Regional Parliaments in 2014. Until this day, the following provisions apply:

“In order to be elected or appointed as a senator, one must: 1° be Belgian;

- 2° enjoy civil and political rights;*
- 3° have reached the age of twenty-one;*
- 4° be resident in Belgium.”.*

Article 70

The mandate of the senators referred to in Article 67, § 1, 1° to 5° runs from the day when they take the oath in the Senate and ends, after the complete renewal of the Parliament that has appointed them, on the day when the first session of the latter is opened.

The mandate of the senators referred to in Article 67, § 1, 6° and 7° runs from the day when they take the oath in the Senate and ends on the day when the first session of the House of Representatives following its complete renewal is opened.

Transitional provision

This article comes into force on the day when elections take place with a view to the complete renewal of the Community and Regional

Parliaments in 2014. Until this day, the following provisions apply:

“The senators referred to in Article 67, § 1, 1° and 2° are elected for four years. The senators referred to in Article 67, § 1, 6° and 7° are appointed for four years.

The Senate is in any case renewed as a whole when the elections for the Community and Regional Parliaments are held in 2014.”.

Article 71

Senators do not receive a salary.

They do, however, have the right to be compensated for expenses.

The compensation granted to the senators referred to in Article 67, § 1, 1° to 4° is fixed by the Community or Regional Parliament that appoints them. It is charged to this Parliament.

The compensation granted to the senator referred to in Article 67, § 1, 5° is the same as the compensation granted to the senators referred to in Article 67, § 1, 3° and is charged to the Parliament of the German-speaking Community.

The compensation granted to the senators referred to in Article 67, § 1, 6° and 7° is charged to the Senate’s allowance.

Within the national borders, the members of the Senate have the right to free travel on all means of transport operated or conceded by the public authorities.

Transitional provision

The insertion of the third to fifth paragraphs of this article becomes effective on the day when elections take place with a view to the complete renewal of the Community and Regional Parliaments in 2014.

Until this day, senators are entitled to a compensation of four thousand francs a year.

Article 72

[Repealed]

Article 73

Any assembly of the Senate that is held when the House of Representatives is not in session is null and void.

CHAPTER II

On federal legislative power

Article 74

As a departure from Article 36, federal legislative power is jointly exercised by the King and the House of Representatives for other matters than those described in Articles 77 and 78.

Transitional provision

This article comes into force on the day when elections take place with a view to the complete renewal of the Community and Regional Parliaments in 2014. Until this day, the following provisions apply:

“As a departure from Article 36, federal legislative power is jointly exercised by the King and by the House of Representatives for:

- 1° the granting of naturalisation;*
- 2° laws relating to the civil and criminal liability of the King’s ministers;*
- 3° State budgets and accounts, without prejudice to Article 174, first paragraph, second sentence;*
- 4° the setting of army quotas.”.*

Article 75

Each branch of the federal legislative power has the right to propose legislation. However, the Senate can only exercise this right with respect to the matters described in Article 77.

With respect to the matters described in Article 78, draft bills submitted to the Houses on the King’s initiative are tabled with the House of Representatives and then sent to the Senate.

Transitional provision

This article comes into force on the day when elections take place with a view to the complete renewal of the Community and Regional Parliaments. Until this day, the following provisions apply:

“Each branch of the federal legislative power has the right to propose legislation.

Except for those matters described in Article 77, draft bills submitted to the Houses following the king’s initiative are tabled with the House of Representatives and are then sent to the Senate.

Draft bills relating to the approval of treaties submitted to the Houses following the King’s initiative are tabled with the Senate and then sent to the House of Representatives.”.

Article 76

A draft bill may be adopted by a House only after having been voted on article by article.

The Houses have the right to amend and to split the articles and amendments proposed.

The Rules of Procedure of the House of Representatives provide for a second reading procedure.

Transitional provision

The third paragraph comes into force on the day when elections take place with a view to the complete renewal of the Community and Regional Parliaments in 2014.

Article 77

The House of Representatives and the Senate are equally competent with respect to:

1° declaring that there are reasons to revise such constitutional provision as they determine, and with respect to revising and co-ordinating the Constitution;

2° matters that must be settled by both legislative Houses by virtue of the Constitution;

3° the laws to be passed by a majority as described in Article 4, last paragraph;

4° the laws relating to the institutions and financing of the German-speaking Community;

5° the laws relating to the financing of political parties and the control of electoral expenditure;

6° the laws relating to the organisation of the Senate and the senator’s status.

A law passed by a majority as described in Article 4, last paragraph may designate other matters for which the House of Representatives and the Senate are equally competent.

Transitional provision

This article comes into force on the day when elections take place with a view to the complete renewal of the Community and Regional Parliaments in 2014. Until this day, the following provisions apply:

“The House of Representatives and the Senate are equally competent with respect to:

1° declaring that there are reasons to revise such constitutional provision as they determine, and with respect to such constitutional revision;

2° matters that must be settled by both legislative Houses by virtue of the Constitution;

3° the laws described in Articles 5, 39, 43, 50, 68, 71, 77, 82, 115, 117, 118, 121, 123, 127 to 131, 135 to 137, 140 to 143, 145, 146, 163, 165, 166, 167, § 1, third sub-paragraph, § 4 and § 5, 169, 170, § 2, second sub-paragraph, § 3, second and third sub-paragraphs, § 4, second sub-paragraph, and 175 to 177, as well as the laws enacted in order to execute the above-mentioned laws and articles;

4° the laws to be adopted by a majority as described in Article 4, last paragraph, as well as the laws enacted in order to execute such laws;

5° the laws referred to in Article 34;

6° the laws approving treaties;

7° the laws adopted in accordance with Article 169, to guarantee that international or supranational commitments are observed;

8° the laws relating to the Council of State;

9° the organisation of the courts;

10° the laws approving cooperation agreements between the State, the Communities and the Regions.

A law adopted by a majority as described in Article 4, last paragraph may designate other laws for which the House of Representatives and the Senate are equally competent.”.

Article 78

§1. With the reservation of what is provided for in Article 77, draft bills adopted by the House of Representatives with respect to the following matters are sent to the Senate:

1° the laws enacted in order to execute laws to be passed by a majority as described in Article 4, last paragraph;

2° the laws described in Articles 5, 39, 115, 117, 118, 121, 123, 127 to 129, 131, 135 to 137, 141 to 143, 163, 165, 166, 167, § 1, third sub-paragraph, 169, 170, § 2, second sub-paragraph, § 3, second and third sub-paragraphs, and § 4, second sub-paragraph, 175 and 177, as well as the laws enacted in order to execute the above-mentioned laws, with the exception of the legislation on the organisation of automated voting;

3° the laws passed in accordance with Article 169, to guarantee that international and supranational commitments are observed;

4° the laws relating to the Council of State and the federal administrative courts.

A law passed by a majority as described in Article 4, last paragraph may designate other matters that the Senate can examine according to the procedure as described in this article.

§2. The Senate examines the draft bill at the request of the majority of its members, including at least a third of the members of each linguistic group. This request is made within fifteen days from the receipt of the bill.

The Senate may, within no more than thirty days:

- decide that there is no ground to amend the bill;
- adopt the bill after having amended it.

If the Senate does not pronounce on the bill within the time allotted, or if it has informed the House of Representatives of its decision not to amend, the bill is sent by the House of Representatives to the King.

If the bill has been amended, the Senate sends it to the House of Representatives, which makes a final decision by either passing or amending it.

Transitional provision

This article comes into force on the day when elections take place with a view to the complete renewal of the Community and Regional Parliaments in 2014. Until this day, the following provisions apply:

“In other matters than those described in Articles 74 and 77, draft bills adopted by the House of Representatives are sent to the Senate.

At the request of at least fifteen senators, the Senate examines the draft bills. This request is made within fifteen days of the draft bill being received.

The Senate may, within no more than sixty days:

- decide not to amend the draft bill;
- adopt the bill after having amended it.

If the Senate does not pronounce on the bill within the time allotted, or if the Senate has informed the House of Representatives of its decision not to amend, the bill is sent by the House of Representatives to the King.

If the bill has been amended, the Senate sends it to the House of Representatives, which makes a final decision by either adopting or rejecting all or some of the amendments adopted by the Senate.”.

Article 79

Article 80

Article 81

[Repealed] [Repealed] [Repealed]

Article 82

A Parliamentary consultation committee composed equally of members of the House of Representatives and of the Senate settles conflicts of competence that arise between the two Houses and may, by mutual agreement, extend the examination deadline set in Article 78 at any time.

If no majority exists in the two groups composing the committee, the latter makes its decision by a majority of two thirds of its members.

A law determines the composition and functioning of the committee, as well as the way of calculating the time limits set in Article 78.

Transitional provision

This article comes into force on the day when elections take place with a view to the complete renewal of the Community and Regional Parliaments. Until this day, the following provisions apply:

“A Parliamentary consultation committee composed equally of members of the House of Representatives and of the Senate settles conflicts

of competence that arise between the two Houses and may, by mutual agreement, extend the examination dead- lines set in Articles 78 to 81 at any time.

In no majority exists in the two groups composing the committee, the latter makes its decision by a majority of two thirds of its members.

A law determines the composition and functioning of the committee, as well as the way of calculating the time limits set in Articles 78 to 81.”

Article 83

Each private member’s bill and each Government bill mentions whether it concerns a matter described in Article 74, Article 77 or Article 78.

Article 84

Only the law can give an authoritative interpretation of laws.

CHAPTER III

On the King and the federal government

SECTION I

On the King

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.

The descendant mentioned in the first paragraph who marries without the King’s consent or, in his absence, without the consent of those exercising the King’s powers in cases provided for by the Constitution shall be deprived of his right to the crown.

Nonetheless, this right may be restored by the King or, in his absence, by those exercising the powers of the King in cases provided for by the Constitution, but only with the assent of both Houses.

Article 86

For lack of a descendant of H.M. Leopold, George, Christian, Frederick of Saxe- Coburg, the King may appoint his successor, with the assent of the Houses, in the manner described in Article 87.

In the absence of an appointment made in the manner described above, the throne is considered vacant.

Article 87

The King may not at the same time act as head of another State without the consent of both Houses.

Neither House may deliberate on this matter unless two thirds of its members are present, and the resolution is only adopted if it attracts at least two thirds of the votes.

Article 88

The King’s person is inviolable; his ministers are accountable.

Article 89

The law determines the civil list for the duration of each reign.

Article 90

Upon the death of the King, the Houses meet without being convened at the latest on the tenth day after his death. If the Houses have been dissolved previously, and if the act of dissolution convenes them to meet later than the tenth day following the King’s death, the members of the former Houses take up their seats again until the meeting of those who will replace them.

From the death of the King until the oath is sworn by his successor to the throne or by the Regent, the King’s constitutional powers are exercised, in the name of the Belgian people, by the ministers meeting in council, and under their responsibility.

Article 91

The King attains his majority upon his eighteenth birthday.

The King only accedes to the throne after having sworn the following oath before the united Houses:

“I swear to observe the Constitution and the laws of the Belgian people, to preserve the country’s national independence and its territorial integrity”.

Article 92

If upon the death of the King, his successor is a minor, the two Houses meet as a single assembly to appoint a Regent and a Guardian.

Article 93

If the King finds himself unable to reign, the ministers, having had this inability stated, immediately convene the Houses. The Regent and Guardian are appointed by the joint Houses.

Article 94

Only one person may be Regent.

The Regent takes up office only after having sworn the oath as prescribed in Article 91.

Article 95

If the throne is vacant, the Houses, deliberating as one assembly, provisionally appoint a Regent, until the convening of the fully renewed Houses; this meeting must take place within two months. The new Houses, deliberating as one assembly, fill the vacancy.

SECTION II

On the federal government

Article 96

The King appoints and dismisses his ministers. The Federal Government offers its resignation to the King if the House of Representatives, by an absolute majority of its members, adopts a motion of no-confidence proposing a successor to the prime minister for appointment by the King or proposes a successor to the prime minister for appointment by the King within three days of the rejection of a motion of confidence. The King appoints the proposed successor as prime minister, who takes office when the new Federal Government is sworn in.

Article 97

Only Belgians may be ministers.

Article 98

No member of the royal family may be a minister.

Article 99

The Council of Ministers is composed of no more than fifteen members.

With the possible exception of the prime minister, the Council of Ministers is composed of an equal number of Dutch-speaking members and French-speaking members.

Article 100

Ministers have access to both Houses and must be heard whenever they so request.

The House of Representatives may require the presence of ministers. The Senate may require their presence for the matters mentioned in Article 77 or 78. For other matters, it may request their presence.

Transitional provision

The second sentence of the second paragraph comes into force on the day when elections take place with a view to the complete renewal of the

Community and Regional Parliaments in 2014. Until this day, the following provision applies, without prejudice to the first paragraph and the first and last sentences of the second paragraph:

“The Senate may require their presence for discussion of a Government bill or private member’s bill as mentioned in Article 77 or a Government bill as mentioned in Article 78 or for the exercise of its right of inquiry as mentioned in Article 56.”.

Article 101

Ministers are accountable to the House of Representatives.

No minister can be prosecuted or be the subject of any investigation with regard to opinions expressed by him in the exercise of his duties.

Article 102

In no circumstances may a written or oral order of the King exempt a minister from his accountability.

Article 103

Ministers are tried exclusively by the appeal court for offences they have allegedly committed in the exercise of their duties. The same rule applies in the case of offences allegedly committed by ministers outside the exercise of their duties and for which they are tried during the exercise of their duties. As the case may be, Articles 59 and 120 are not applicable.

The law determines the manner of proceeding against them, both when they are prosecuted and when they are tried.

The law designates the appeal court having jurisdiction, which sits in banc, and specifies its composition. The judgments of the appeal court can be appealed to the united chambers of the Supreme Court, which does not pronounce on the merits of the case.

Only the public prosecutor to the appeal court that has jurisdiction may institute and lead criminal proceedings against a minister.

Authorisation by the House of Representatives is required for any public prosecutor’s request to refer the minister concerned to a particular court or to discharge him, for his direct summons before the appeal court and, except in a case of a flagrant offence, for his arrest.

The law determines the procedure to be followed when Articles 103 and 125 are both applicable.

A pardon may be granted to a minister convicted in accordance with the first paragraph only upon request by the House of Representatives.

The law determines in which cases and in accordance with which rules injured parties may institute a civil action.

Transitional provision

The present article is not applicable to acts which have been the subject of a preliminary judicial investigation or to proceedings instituted prior to the entry into force of the law implementing the article.

In such a case, the following rule applies: the House of Representatives has the right to indict ministers and to bring them before the Supreme Court. Only the united chambers of this court have jurisdiction to try ministers in cases covered by the criminal laws and by application of the penalties prescribed by such laws. The Law of 17 December 1996 concerning the temporary and partial implementation of Article 103 of the Constitution remains applicable in such cases.

Article 104

The King appoints and dismisses the federal secretaries of State.

These are members of the Federal Government. They do not form part of the Council of Ministers. They are deputies to a minister.

The King determines their duties and the limits within which they may receive the right to countersign.

Constitutional provisions that apply to ministers apply equally to federal secretaries of State, with the exception of Articles 90, second paragraph, 93 and 99.

SECTION III
On responsibilities

Article 105

The King has no powers other than those formally attributed to him by the Constitution and by specific laws passed by virtue of the Constitution itself.

Article 106

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

Article 107

The King bestows ranks within the army.

He appoints civil servants to positions in the general and foreign affairs administrations of the State, but for those exceptions created by the laws.

He makes appointments to other positions only by virtue of specific legal provisions.

Article 108

The King makes decrees and regulations required for the execution of laws, without ever having the power either to suspend the laws themselves or to grant dispensation from their execution.

Article 109

The King sanctions and promulgates laws.

Article 110

The King has the right to remit or to reduce sentences passed by judges, except with regard to what has been ruled on concerning ministers and members of the Community and Regional Governments.

Article 111

The King may not pardon a minister or a member of a Community or Regional Government convicted by the Supreme Court, except at the request of the House of Representatives or of the Parliament concerned.

Article 112

The King may mint money, in execution of the law.

Article 113

The King may confer titles of nobility, without ever having the power to attach privileges to them.

Article 114

The King grants military orders, with consideration of the rules laid down by the law.

CHAPTER IV

On Communities and Regions

SECTION I

On bodies

Sub-section I

On Community and regional parliaments

Article 115

§1. There is a Parliament of the Flemish Community, called the Flemish Parliament, and a Parliament of the French Community, the composition and functioning of which are determined by a law adopted by a majority as described in Article 4, last paragraph.

There is a Parliament of the German-speaking Community, the composition and functioning of which are determined by the law.

§2. Without prejudice to Article 137, the regional bodies referred to in Article 39 include a Parliament for each Region.

Article 116

§1. The Community and Regional Parliaments are composed of elected representatives.

§2. Each Community Parliament is composed of members elected directly as members of the Community Parliament concerned or as members of a Regional Parliament. Except when Article 137 is applied, each Regional Parliament is composed of members elected directly as members of the Regional Parliament concerned or as members of a Community Parliament.

Article 117

Members of the Community and Regional Parliaments are elected for a period of five years. The Community and Regional Parliaments are re-elected as a whole every five years. Elections for the Community and Regional Parliaments take place on the same day and coincide with elections for the European Parliament.

In execution of a law as described in Article 118, § 2, fourth sub-paragraph, a federate law or a rule referred to in Article 134, passed in accordance with Article 118, § 2, fourth sub-paragraph, may derogate from the first and second paragraphs.”

Article 118

§1. Elections referred to in Article 116, § 2, as well as the composition and functioning of Community and Regional Parliaments are regulated by the law. Except for the Parliament of the German-speaking Community, such a law is adopted by a majority as described in Article 4, last paragraph.

§2. A law adopted by a majority as described in Article 4, last paragraph designates those matters relating to the election, composition and functioning of the Brussels- Capital Region Parliament, the Flemish Community Parliament, the French Community Parliament and the Walloon Region Parliament which these Parliaments regulate, each for itself, either by federate law or by rule as referred to in Article 134, according to the case. This federate law and this rule as referred to in Article 134 are adopted by a two-thirds majority of the votes cast, provided that a majority of the members of the Parliament concerned is present.

The law as described in the first sub-paragraph determines additional majority requirements with respect to the Parliament of the Brussels-Capital Region.

A law designates those matters relating to the election, composition and functioning of the Parliament of the German-speaking Community which this Parliament regulates by federate law. This federate law is adopted by a two-thirds majority of the votes cast, provided that a majority of the members of the Parliament is present.

The law as described in the first or third sub-paragraph, according to the case, may entitle the Community and Regional Parliaments to determine, each for itself, by federate law or rule referred to in Article 134, according to the case, the duration of the term for which they are elected and the date of their election. This federate law and rule referred to in Article 134 are adopted by majorities as described in the first to third sub-paragraphs.

Transitional provision

After elections for the European Parliament have been held in 2014, a law passed by a majority as described in Article 4, last paragraph sets the date on which § 2, fourth sub-paragraph, comes into force. This date is that on which Article 46, sixth paragraph and Article 65, third paragraph come into force.

Article 118bis

Within the national borders, the members of the Regional and Community Parliaments, referred to in Articles 2 and 3, have the right to free travel on all means of transport operated or conceded by the public authorities.

Article 119

A member of a Community or Regional Parliament cannot be at the same time a member of the House of Representatives. Moreover, neither can he be a senator as referred to in Article 67, § 1, 6° and 7°.

Transitional provision

This article comes into force on the day when elections take place with a view to the complete renewal of the Community and Regional Parliaments in 2014. Until this day, the following provisions apply:

“A member of a Community or Regional Parliament cannot be at the same time a member of the House of Representatives. Moreover, neither can he be a

senator as referred to in Article 67, § 1, 1°, 2°, 6° and 7°.”.

Article 120

All members of Community and Regional Parliaments benefit from the immunities described in Articles 58 and 59.

Sub-section II

On Community and Regional governments

Article 121

§1. There is a Government of the Flemish Community and a Government of the French Community, the composition and functioning of which are determined by a law adopted by a majority as described in Article 4, last paragraph.

There is a Government of the German-speaking Community, the composition and functioning of which are determined by the law.

§2. Without prejudice to Article 137, the regional bodies referred to in Article 39 include a Government for each Region.

Article 122

Members of each Community or Regional Government are elected by their Parliament.

Article 123

§1. The law establishes the composition and functioning of the Community and Regional Governments. Except with regard to the Government of the German-speaking Community, this law is adopted by a majority as described in Article 4, last paragraph.

§2. A law adopted by a majority as described in Article 4, last paragraph designates those matters relating to the composition and functioning of the Brussels-Capital Region Government, the Flemish Community Government, the French Community Government and the Walloon Region Government which their Parliaments regulate, each one in so far as it is concerned, either by federate law or by rule as referred to in Article 134, according to the case. This federate law and this rule referred to in Article 134 are adopted by a two-thirds majority of the votes cast, provided that a majority of the members of the Parliament concerned is present.

The law as described in the first sub-paragraph determines additional majority requirements with respect to the Parliament of the Brussels Capital Region.

A law designates those matters relating to the composition and functioning of the government of the German-speaking Community which the

Parliament of this Community regulates by federate law. This federate law is adopted by a two-thirds majority of the votes cast, provided that a majority of the members of the Parliament is present.

Article 124

No member of a Community or Regional Government can be prosecuted or be the subject of any investigation with regard to opinions expressed and votes cast by him in the exercise of his duties.

Article 125

Members of a Community or Regional Government are tried exclusively by the appeal court for offences they have allegedly committed in the exercise of their duties. The same rule applies in the case of offences allegedly committed by members of a Community or Regional Government outside the exercise of their duties and for which they are tried during the exercise of their duties. As the case may be, Articles 120 and 59 are not applicable.

The law determines the manner of proceeding against them, both when they are prosecuted and when they are tried.

The law designates the appeal court that has jurisdiction, which sits in banc, and specifies its composition. The judgments of the appeal court can be appealed to the united chambers of the Supreme Court, which does not pronounce on the merits of the case.

Only the public prosecutor to the appeal court having jurisdiction may institute and lead criminal proceedings against a member of a Community or of a Regional Government. Authorisation by the Parliament of the Community or Region, each one for matters of its concern, is required for any public prosecutor's request to refer the member concerned to a particular court or to discharge him, for his direct summons before the appeal court and, except in a case of a flagrant offence, for his arrest.

The law determines the procedure to be followed when Articles 103 and 125 are both applicable and when there is a double application of Article 125.

A pardon may be granted to a member of a Community or Regional Government convicted in accordance with the first paragraph only upon request by the Community or Regional Parliament concerned.

The law determines in which cases and in accordance with which rules injured parties may bring a civil action.

The laws referred to in the present article must be adopted by a majority as described in Article 4, last paragraph.

Transitional provision

The present article is not applicable to acts which have been the subject of a preliminary judicial investigation or to proceedings instituted prior to the entry into force of the law implementing the article.

In such a case, the following rule applies: the Community or Regional Parliament concerned has the right to indict members of their Government and to bring them before the Supreme Court. Only the united chambers of this court have jurisdiction to try ministers in cases covered by the criminal laws and by application of the penalties prescribed by such laws. The special Law of 28 February 1997 concerning the temporary and partial implementation of Article 125 of the Constitution remains applicable in such cases.

Article 126

Constitutional provisions that apply to members of the Regional and Community Governments, as well as the implementing laws referred to in Article 125, last paragraph apply equally to Regional secretaries of State.

SECTION II
On responsibilities

Sub-section I
On the responsibilities of the Communities

Article 127

§1. The Parliaments of the Flemish and French Communities, each one in so far as it is concerned, regulate by federate law:

- 1° cultural matters;
- 2° education, with the exception of:
 - a) the setting of the beginning and of the end of compulsory education;
 - b) minimum standards for the granting of diplomas;
 - c) the pension scheme;
- 3° cooperation between the Communities, as well as international cooperation, including the concluding of treaties for those matters referred to in 1° and 2°.

A law adopted by a majority as described in Article 4, last paragraph designates the cultural matters referred to in 1° and determines the forms of cooperation referred to in 3°, as well as the

specific arrangements for the concluding of treaties referred to in 3°.

§2. These federate laws have the force of law in the Dutch-speaking and French-speaking regions respectively, as well as in those institutions established in the bilingual region of Brussels-Capital which, because of their activities, must be considered as belonging exclusively to one Community or the other.

Article 128

§1. The Parliaments of the Flemish and French Communities regulate by federate law, each one in so far as it is concerned, person-related matters, as well as, in such matters, cooperation between the Communities and international cooperation, including the concluding of treaties.

A law adopted by a majority as described in Article 4, last paragraph designates such person-related matters and determines the forms of cooperation, as well as the specific arrangements for the concluding of treaties.

§2. These federate laws have the force of law in the Dutch-speaking and French-speaking regions respectively, as well as – unless a law adopted by a majority as described in Article 4, last paragraph determines otherwise – with regard to those institutions established in the bilingual region of Brussels-Capital which, because of their organisation, must be considered as belonging exclusively to one Community or the other.

Article 129

§1. The Parliaments of the Flemish and French Communities, to the exclusion of the federal legislator, regulate by federate law, each one as far as it is concerned, the use of languages for:

- 1° administrative matters;
- 2° education in the establishments created, subsidised or recognised by the public authorities;
- 3° social relations between employers and their personnel, as well as company acts and documents required by the law and by regulations.

§2. These federate laws have the force of law in the Dutch-speaking and French-speaking regions respectively, except as concerns:

- the municipalities or groups of municipalities adjacent to another linguistic Region and in which the law prescribes or permits the use of another language than that of the Region in which they are located. For these municipalities, a change to the rules governing the use of languages in the matters as described in § 1 may be made only by a law adopted by a majority as described in Article 4, last paragraph;

- services whose activities extend beyond the linguistic region within which they are located;
 - federal and international institutions designated by the law whose activities are common to more than one Community.

Article 130

§1. The Parliament of the German-speaking Community regulates by federate law: 1° cultural matters;

2° person-related matters;

3° education, within the limits established by Article 127, § 1, first sub-paragraph, 2°;

4° cooperation between the Communities, as well as international cooperation, including the conclusion of treaties, for matters referred to in 1°, 2° and 3°;

5° the use of languages for education in establishments created, subsidised or recognised by the public authorities.

The law designates the cultural and person-related matters referred to in 1° and 2° and determines the forms of cooperation referred to in 4°, as well as the manner in which treaties are concluded.

§2. These federate laws have the force of law in the German-speaking region.

Article 131

The law determines the measures designed to prevent all forms of discrimination for ideological or philosophical reasons.

Article 132

The right to propose legislation belongs to the Community Government and to the members of the Community Parliament.

Article 133

Only the federate law can give an authoritative interpretation of federate laws.

Sub-section II

On the competences of the Regions

Article 134

Laws passed in order to execute Article 39 determine the judicial force of the rules which the bodies that they create enact in matters which they determine.

They can confer to these bodies the power to pass federate laws that have the force of law, within the jurisdiction and in the manner that they determine.

Sub-section III Special provisions

Article 135

A law adopted by a majority as described in Article 4, last paragraph designates the authorities which exercise for the bilingual region of Brussels-Capital the competences not assigned to the Communities in the matters referred to in Article 128, § 1.

Article 135bis

A law passed by a majority as described in Article 4, last paragraph can attribute to the Region of Brussels-Capital, for the bilingual region of Brussels-Capital, powers that have not been assigned to the Communities in the matters referred to in Article 127, § 1, first sub-paragraph, 1° and in the same sub-paragraph, 3°, insofar as this 3° concerns matters referred to in the aforesaid 1°.

Article 136

There are linguistic groups within the Parliament of the Brussels-Capital Region, as well as executive colleges, responsible for Community matters; their composition, functioning and competences and, without prejudice to Article 175, their financing are regulated by a law adopted by a majority as described in Article 4, last paragraph.

The colleges together form the United College, which acts as a consultation and coordination body between the two Communities.

Article 137

With a view to the application of Article 39, the Parliaments of the Flemish and French Communities, as well as their respective Governments, may exercise the competences, respectively, of the Flemish Region and of the Walloon Region, under the conditions and according to the terms set by the law. This law must be adopted by a majority as described in Article 4, last paragraph.

Article 138

The Parliament of the French Community, on one hand, and the Parliament of the Walloon Region and the French linguistic group of the Parliament of the Brussels-Capital Region, on the other hand, may decide by common accord and each by federate law, that in the French-speaking region, the Parliament and the Government of the Walloon Region and, in the bilingual region of Brussels-Capital, the French linguistic group of the

Parliament of the Brussels-Capital Region and its executive college exercise, in full or in part, competences of the French Community.

These federate laws are adopted by a two-thirds majority of the votes cast within the Parliament of the French Community and by absolute majority of the votes cast within the Parliament of the Walloon Region and within the French linguistic group in the Parliament of the Brussels-Capital Region, provided that a majority of the Parliament members or of the members of the linguistic group concerned is present. They can regulate the financing of the competences which they designate, as well as the transfer of personnel, assets, rights and obligations linked with these competences.

These competences are exercised, according to the case, by means of federate laws, decisions or regulations.

Article 139

Upon proposal by their respective Governments, the Parliament of the German-speaking Community and the Parliament of the Walloon Region can, each by federate law, decide by common accord that the Parliament and the Government of the German-speaking Community exercise, in whole or in part, competences of the Walloon Region.

These competences are exercised, according to the case, by means of federate laws, decisions or regulations.

Article 140

The Parliament and the Government of the German-speaking Community exercise by means of decisions and regulations all other competences attributed to them by the law.

Article 159 is applicable to these decisions and regulations.

CHAPTER V

On the Constitutional Court, and the prevention and resolution of conflicts

SECTION I

On the prevention of conflicts of competence

Article 141

The law organises a procedure to prevent conflicts between laws, federate laws and rules referred to in Article 134, as well as between federate laws themselves and between the rules referred to in Article 134 themselves.

SECTION II

On the Constitutional Court

Article 142

There is for all Belgium a Constitutional Court, the composition, competences and functioning of which are established by the law.

This Court rules by means of judgments on:

- 1° those conflicts referred to in Article 141;
- 2° the violation of Articles 10, 11 and 24 by a law, a federate law or a rule as referred to in Article 134;
- 3° the violation of constitutional articles that the law determines by a law, a federate law or by a rule as referred to in Article 134.

A matter may be referred to the Court by any authority designated by the law, by any person that can prove an interest or, preliminarily, by any court.

The Court pronounces by a ruling, under the conditions and according to the terms specified by the law, on every referendum described in Article 39*bis* before it is organised.

In the cases, under the conditions and according to the terms that it specifies, the law can give the Court competence to pronounce by a judgment on appeals lodged against decisions made by legislative assemblies or bodies thereof regarding the control of electoral expenditure incurred in the elections for the House of Representatives.

The laws referred to in the first paragraph, in the second paragraph, 3° and in the third to fifth paragraphs are adopted by a majority as described in Article 4, last paragraph.

SECTION III

On the prevention and the settlement of conflicts of interest

Article 143

§1. In the exercise of their respective responsibilities, the federal State, the Communities, the Regions and the Joint Community Commission act with respect for federal loyalty, in order to prevent conflicts of interest.

§2. The Senate makes decisions, by means of reasoned opinions, on conflicts of interest which may arise between the assemblies which legislate through laws, federate laws or rules as referred to in Article 134, under the conditions and in the manner determined by a law adopted by a majority as referred to in Article 4, last paragraph.

§3. A law adopted by a majority as described in Article 4, last paragraph organises a procedure designed to prevent and to settle conflicts of interest between the Federal Government, the

Community and Regional Governments and the United College of the Joint Community Commission.

§4. The procedures described in §§ 2 and 3 do not apply to laws, decrees, regulations, acts and decisions of the Federal State relating to the basis of taxation, tax rates and exemptions, and any other element playing a role in the computation of the personal income tax.

Transitional provision

Concerning the prevention and the settlement of conflicts of interest, the ordinary law of 9 August 1980 on institutional reforms remains valid; however, it can only be repealed, completed, corrected or replaced by those laws mentioned in §§ 2 and 3.

CHAPTER VI

On judicial power

Article 144

Disputes about civil rights belong exclusively to the competence of the courts.

However, the law can empower the Council of State or federal administrative courts, in accordance with the terms it specifies, to rule on the effects that their decisions have with respect to civil law.

Article 145

Disputes about political rights belong to the competence of the courts, except for the exceptions established by the law.

Article 146

A court and a body capable of rendering judgment can only be established by virtue of a law. No extraordinary courts or commissions may be created, no matter under which designation.

Article 147

There is a Supreme Court for all Belgium.
This Court has no competence over the substance of the case.

Article 148

Court hearings are public, unless such public access endangers morals or the peace; if such is the case, the Court so declares in a judgment.

In cases of political or press offences, proceedings can only be conducted in camera on the basis of a unanimous vote.

Article 149²

Each judgment is supported by reasons.
It shall be made public in accordance with the procedures laid down by law. In criminal matters, its operative part is pronounced in open court.

Article 150

A jury is sworn in for all criminal matters, as well as for political and press offences, with the exception of press offences motivated by racism or xenophobia.

Article 151

§1. Judges are independent in the exercise of their jurisdictional competences. The public prosecutor is independent in conducting individual investigations and prosecutions, without prejudice to the right of the competent minister to order prosecutions and to prescribe binding directives on criminal policy, including policy on investigations and prosecutions.

Moreover, Community and Regional Governments have the right, each one insofar as it is concerned, to order prosecutions regarding matters falling under their responsibility through the Minister referred to in the first paragraph. A law passed by a majority as described in Article 4, last paragraph determines the manner in which they exercise this right.

A law passed by a majority as described in Article 4, last paragraph provides for the participation by the Communities and the Regions, in matters falling under their responsibility, in the elaboration of the directives described in the first sub-paragraph and in planning security policy, and also for the participation of their representatives in the meetings of the College of Public Prosecutors General, insofar as these meetings have reference to these same matters.

§2. There is one High Council of Justice for all Belgium. In the exercise of its competences, the High Council of Justice respects the independence referred to in § 1.

The High Council of Justice is composed of a Dutch-speaking college and of a French-speaking college. Each college comprises an equal number of members and is constituted with equal representation, on the one hand, of judges and

2 Revision of 22 April 2019, B.O.G., 2 May 2019.
Translated by the author.

officers of the public prosecutor's office elected directly by their peers under the conditions and in the manner determined by the law and, on the other hand, of other members appointed by the Senate by a two-thirds majority of the votes cast, under conditions established by the law.

Within each college, there is a nomination and appointment committee, as well as an advisory and investigatory committee, which are constituted with equal representation in accordance with the provision laid down in the preceding paragraph.

The law specifies the composition of the High Council of Justice, of its colleges and of their committees, as well as the conditions under which and the manner in which they exercise their competences.

§3. The High Council of Justice exercises its competences in the following areas:

1° the nomination of candidates for appointment as judge, as referred to in § 4, first sub-paragraph or for appointment as officer of the public prosecutor's office;

2° the nomination of candidates for an appointment to the positions referred to in § 5, first sub-paragraph and to the position of head of the public prosecutor's office;

3° access to the position of judge or of officer of the public prosecutor's office;

4° training of judges and of officers of the public prosecutor's office;

5° drafting of general profiles for the positions referred to in 2°;

6° voicing of advice and of proposals concerning the general operation and organisation of the judiciary;

7° general surveillance on and the promoting of the use of means of internal control;

8° to the exclusion of all disciplinary and criminal competences:

- the receiving and the following-up of complaints relating to the operation of the judiciary;

- the conducting of an enquiry on the operation of the judiciary.

Under the conditions and in the manner determined by the law, the competences referred to in 1° to 4° are assigned to the relevant nomination and appointment committee, and the competences referred to in 5° to 8° are assigned to the relevant advisory and investigatory committee. The law determines the cases in which and the manner in which the nomination and appointment committees and the advisory and

investigatory committees exercise their competences jointly.

A law to be adopted by a majority as described in Article 4, last paragraph determines the other competences of this Council.

§4. The justices of the peace and the judges of the courts and of the Supreme Court are appointed by the King under the conditions and in the manner specified by the law. Such appointment is made on reasoned nomination by the relevant nomination and appointment committee, by a majority of two thirds in accordance with the terms specified by the law and after evaluation of qualifications and aptitude. The nomination can be rejected only in the manner specified by the law and with justification.

In the case of appointment of an appeal judge or of a judge of the Supreme Court, the general assembly of the court concerned issues a reasoned opinion in the manner specified by the law, prior to the nomination referred to in the preceding paragraph.

§ 5. The first president of the Supreme Court, the first presidents of the appeal courts and the presidents of the lower courts are appointed to those positions by the King under the conditions and in the manner specified by the law.

Such appointment is made on reasoned nomination by the relevant nomination and appointment committee, by a majority of two thirds in accordance with the terms specified by the law and after evaluation of qualifications and aptitude. The nomination may be rejected only in the manner specified by the law and with justification.

In the case of appointment to the position of first president of the Supreme Court or of first president of an appeal court, the general assembly of the court concerned issues a reasoned opinion in the manner specified by the law, prior to the nomination referred to in the preceding paragraph.

The president of the Supreme Court, the presidents of the sections of this court, the presidents of the divisions of the appeal courts and the vice-presidents of the lower courts are appointed to their positions by the courts from their midst under the conditions and in the manner specified by the law.

Notwithstanding the provisions of Article 152, the law specifies the duration of the appointment to these positions.

§6. In the manner specified by the law, the judges, the incumbents of the positions referred to in § 5,

fourth sub-paragraph and the officers of the public prosecutor's office are subject to an evaluation.

Transitional provision

The provisions of §§ 3 to 6 enter into force after the setting up of the High Council of Justice, referred to in § 2.

On that date, it is assumed that the first president and the president of the Supreme Court, the presidents of the sections of this court, the first presidents of the appeal courts, the presidents of the divisions of these courts and the presidents and vice-presidents of the lower courts are appointed to these positions for the duration and under the conditions specified by the law and that they are appointed at the same time to the Supreme Court, to the appeal court or to the labour court and to the corresponding lower court, respectively.

In the meantime, the following provisions remain applicable:

The justices of the peace and the judges of the lower courts are appointed directly by the King.

The judges of the appeal courts and the presidents and vice-presidents of the courts of first instance under their jurisdiction are appointed by the King from two lists each with two candidates, one submitted by these courts, the other by the provincial councils and the Parliament of the Brussels-Capital Region, depending upon the case.

The judges of the Supreme Court are appointed by the King from two lists each with two candidates, one submitted by the Supreme Court, the other alternately by the House of Representatives and by the Senate.

In these two cases, the candidates placed on one list may also appear on the other. All the nominations are made public at least fifteen days before the appointment. The courts choose from among themselves their presidents and vice-presidents.

Article 152

Judges are appointed for life. They retire at an age determined by the law and receive the pension provided for by the law.

No judge can be deprived of his post or suspended except by a court decision.

The transfer of a judge can only take place by his appointment to a new position and with his consent.

Article 153

The King appoints and dismisses officials of the public prosecutor's offices attached to the courts.

Article 154

Salaries of members of the judicature are determined by the law.

Article 155

A judge cannot accept a salaried position from a Government, unless this position is exercised free of charge, and even then, such a position must not entail an incompatibility as determined by the law.

Article 156

There are five appeal courts in Belgium:

1° that of Brussels, with jurisdiction over the provinces of Flemish Brabant, of Walloon Brabant and the bilingual region of Brussels-Capital;

2° that of Ghent, with jurisdiction over the provinces of West Flanders and East Flanders;

3° that of Antwerp, with jurisdiction over the provinces of Antwerp and Limburg;

4° that of Liege, with jurisdiction over the provinces of Liege, Namur and Luxembourg;

5° that of Mons, with jurisdiction over the province of Hainaut.

Article 157

There are military courts when a state of war referred to in Article 167, § 1, second sub-paragraph has been stated to exist. The organisation of the military courts, their powers, their members' rights and obligations as well as their members' terms of office are determined by the law.

There are commercial courts in the places determined by the law. The law lays down rules for their organisation, their powers, the way their members are appointed as well as their members' terms of office.

The law also lays down rules for the organisation of the labour courts, their powers, the way their members are appointed as well as their members' terms of office.

There are courts for the enforcement of penalties in the places determined by the law. The law lays down rules for their organisation, their powers, the way their members are appointed as well as their members' terms of office.

Transitional provision

The first paragraph becomes effective on the date of repeal of the Law of 15 June 1899 containing Titles I and II of the Military Penal Procedure Code.

Until then, the following provision remains effective:

Specific laws regulate the organisation of the military courts, their powers, their members' rights

and obligations as well as their members' terms of office.

Article 157bis

Any modification to essential features of the reform regarding the use of languages in judicial matters in the judicial district of Brussels, as well as any modification to features relating to this issue and concerning the public prosecutor's office, the Bench and the extent of jurisdiction, may only be made by a law passed by a majority as described in Article 4, last paragraph.

Transitional provision

The law determines the date on which this article comes into force. This date is that on which the law of 19 July 2012 reforming the judicial district of Brussels comes into force.

Article 158

The Supreme Court makes decisions in conflicts of powers in the manner provided for by the law.

Article 159

Courts only apply general, provincial or local decisions and regulations provided that they are in accordance with the law.

CHAPTER VII

On the Council of State and administrative Courts

Article 160

There is a Council of State for all Belgium, the composition, competences and functioning of which are determined by the law. However, the law can give the King the power to establish the procedure in accordance with the principles that it determines.

The Council of State makes decisions by means of judgments as an administrative court and provides an opinion in the cases determined by the law.

Any modification to the rules relating to the general assembly of the Council of State's Administrative Litigation Section which come into force on the same day as this paragraph may only be made by a law passed by a majority as described in Article 4, last paragraph;

Transitional provision

This article comes into force on 14 October 2012.

Article 161

An administrative court can only be established by virtue of a law.

CHAPTER VIII

On provincial and municipal institutions

Article 162

Provincial and municipal institutions are regulated by the law.

The law guarantees the application of the following principles:

1° the direct election of the members of provincial and municipal councils;

2° the attribution to provincial and municipal councils of all that is of provincial and municipal interest, without prejudice to the approval of their acts in the cases and in the manner that the law determines;

3° the decentralisation of competences to provincial and municipal institutions;

4° the public nature of provincial and municipal council meetings, within the limits established by the law;

5° the disclosure of accounts and budgets;

6° the intervention of the supervisory authority or of the federal legislative power to prevent the law from being violated or public interests from being harmed.

Supra-municipal collectivities are governed by the rule referred to in Article 134. This rule enshrines the application of the principles mentioned in the second paragraph. Other principles considered essential can be set by the rule referred to in Article 134, whether or not adopted by a majority of two thirds of the votes cast, under the condition that the majority of the members of the Parliament concerned is present. Articles 159 and 190 are applicable to decisions and regulations of supra-municipal collectivities.”

In accordance with a law adopted by a majority as described in Article 4, last paragraph, the federate law or the rule referred to in Article 134 establishes the conditions and the manner in which several provinces, supra-municipal collectivities or municipalities can cooperate or form associations. However, provincial councils, councils of supra-municipal collectivities or municipal councils cannot be permitted to deliberate jointly.

Article 163

The competences exercised in the Flemish and Walloon Regions by elected provincial bodies are exercised, in the bilingual region of Brussels-Capital, by the Flemish and French Communities and by the Joint Community Commission, each with respect to matters falling under their responsibility in pursuance of Articles 127 and 128

and, with respect to other matters, by the Brussels-Capital Region.

However, a law adopted by a majority as described in Article 4, last paragraph establishes the detailed rules by which the Brussels-Capital Region or any institution whose 55 members are designated by the latter exercise the competences described in the first paragraph which do not belong to those matters referred to in Article 39. A law adopted by the same majority lays down rules for the attribution to those institutions described in Article 136 of all or part of the competences referred to in the first paragraph that belong to those matters described in Articles 127 and 128.

Article 164

The drafting of registry office certificates relating to civil status and the maintenance of registers fall exclusively under the responsibility of the municipal authorities.

Article 165

§1. The law creates metropolitan districts and federations of municipalities. It determines their organisation and their competences and, when doing so, guarantees the application of the principles described in Article 162.

Each metropolitan district has a council and an executive college.

The president of the executive college is elected by the council from its midst; his election is ratified by the King; the law establishes his status.

Articles 159 and 190 apply to the decisions and regulations of the metropolitan districts and the federations of municipalities.

The boundaries of the metropolitan districts and of the federations of municipalities can only be changed or corrected by virtue of a law.

§2. The law creates the body within which each metropolitan district and the nearest federations of municipalities consult each other under the conditions and in the manner which the law establishes to examine common problems of a technical nature that fall under their respective competence.

§3. Several federations of municipalities may cooperate or form associations with each other or with one or more metropolitan districts in accordance with the conditions and in the manner prescribed by the law to jointly regulate and manage those issues that fall within their competence. Their councils are not permitted to deliberate jointly.

Article 166

§1. Article 165 applies to the metropolitan district to which the capital of the Kingdom belongs, with the exception of what is provided for hereinafter.

§2. The competences of the metropolitan district to which the capital of the Kingdom belongs are, in the manner determined by a law adopted by a majority as described in Article 4, last paragraph, exercised by the bodies of the Brussels-Capital Region created by virtue of Article 39.

§3. The bodies described in Article 136:

1° possess, each for its Community, the same competences as the other organising powers with respect to cultural, educational and person-related matters;

2° exercise, each for its Community, the competences delegated to them by the Flemish Community Parliament and by the French Community Parliament;

3° jointly regulate those matters described in 1° which are of common interest.

TITLE IV

On international relations

Article 167

§1. The King directs international relations, notwithstanding the competence of Communities and Regions to regulate international cooperation, including the concluding of treaties, for those matters that fall within their competences in pursuance of or by virtue of the Constitution.

The King commands the armed forces; he states that there exists a state of war or that hostilities have ceased. He notifies the Houses with additional appropriate messages as soon as interests and security of the State permit.

Cession, exchange or expansion of territory can only take place by virtue of a law.

§2. The King concludes treaties, with the exception of those regarding matters described in § 3. These treaties take effect only after they have received the approval of the House of Representatives.

§3. The Community and Regional Governments described in Article 121 conclude, each one in so far as it is concerned, treaties regarding matters that fall within the competence of their Parliament. These treaties take effect only after they have received the approval of the Parliament.

§4. A law adopted by a majority as described in Article 4, last paragraph fixes the specific rules for the concluding of treaties described in § 3 and of the treaties that do not exclusively concern matters falling within the competence of the

Regions or Communities in pursuance of or by virtue of the Constitution.

§5. The King, by common consent with the Community or Regional Governments concerned, can denounce treaties concluded before 18 May 1993 and covering matters described in § 3.

The King denounces these treaties if the Community or Regional Governments concerned invite him to do so. A law adopted by a majority as described in Article 4, last paragraph establishes the procedure in the event of disagreement between the Community and Regional Governments concerned.

Transitional provision

The second sentence of § 2 comes into force on the day when elections take place with a view to the complete renewal of the Community and Regional Parliaments in 2014. Until this day, treaties referred to in § 2 take effect only after they have received the approval of both Houses.

Article 168

From the beginning, the Houses are informed of negotiations concerning any revision of the treaties establishing the European Community and the treaties and acts which have modified or complemented them. They receive the draft treaty before its signature.

Article 168bis

With respect to the election of the European Parliament, the law determines special rules with a view to protecting the legitimate interests of French and Dutch-speaking people in the former province of Brabant.

The provisions which establish these special rules may only be amended by a law passed by a majority as described in Article 4, last paragraph.

Article 169

In order to ensure the observance of international or supranational obligations, the authorities mentioned in Articles 36 and 37 can, provided that the conditions stipulated by the law are met, temporarily replace the bodies mentioned in Articles 115 and 121. This law must be adopted by a majority as described in Article 4, last paragraph.

On finances

Article 170

§1. Taxes to the benefit of the State can only be introduced by a law.

§2. Taxes to the benefit of a Community or Region can only be introduced by a federate law or a rule as described in Article 134.

The law determines, with respect to the taxes referred to in the first sub-paragraph, the exceptions that are proved to be necessary.

§3. A charge or tax can only be introduced by a province or a supra-municipal collectivity by the decision of its council.

The law determines, with respect to the taxes described in the first paragraph, the exceptions that are proved to be necessary.

The law can abolish, either totally or partially, the taxes referred to in the first sub-paragraph.

§4. A charge or tax can only be introduced by the metropolitan districts, federations of municipalities or by the municipalities by a decision of their council.

The law determines, with respect to the taxes referred to in the first sub-paragraph, the exceptions that are proved to be necessary.

Article 171

Taxes to the benefit of the State, a Community or a Region are subject to an annual vote.

The rules which introduce them are valid only for one year if they are not renewed.

Article 172

No privileges with regard to taxes can be introduced.

No exemption or reduction of taxes can be introduced except by a law.

Article 173

Except to the benefit of the provinces, the bodies responsible for polders and for draining and flood protection, and except for the cases formally excepted by the laws, the federate laws and rules referred to in Article 134, charges can only be claimed from citizens in the form of taxes to the benefit of the State, the Community, the Region, the metropolitan district, the federation of municipalities or the municipality.

Article 174

Each year, the House of Representatives passes the law that settles the final accounts and approves the budget. However, the House of

Representatives and the Senate fix, each for itself, their operating allowances annually.

All State receipts and expenditure must be included in the budget and in the accounts.

Article 175

A law adopted by a majority as described in Article 4, last paragraph establishes the system for financing the Flemish Community and the French Community.

The Flemish and French Community Parliaments decide by federate law, each one in so far as it is concerned, upon the use of their revenues.

Article 176

A law establishes the system for financing the German-speaking Community.

The Parliament of the German-speaking Community decides by federate law upon the use of its revenues.

Article 177

A law adopted by a majority as described in Article 4, last paragraph establishes the system for financing the Regions.

Regional Parliaments determine, each one for matters of its concern, the use of their revenues, by means of the rules referred to in Article 134.

Article 178

Under the conditions and in the manner stipulated by a law adopted by a majority as described in Article 4, last paragraph, the Parliament of the Brussels-Capital Region transfers, by the rule referred to in Article 134, financial means to the Joint Community Commission and to the Flemish and French Community Commissions.

Article 179

No pension or gratuity payable by the public treasury can be attributed other than by virtue of a law.

Article 180

Members of the Court of Audit are appointed by the House of Representatives for a term established by the law.

This Court is responsible for examining and validating the general administration accounts and the accounts of all accounting officers answerable to the public treasury. It must see that no budgetary item is surpassed and that no transfers take place. The Court also has general oversight of operations relating to the

establishment and collection of entitlements owed to the State, including tax receipts. It clears the accounts of the various State administrations and is responsible for collecting all information and accounting documents needed for that purpose. General accounts of the State are submitted to the House of Representatives with the Court of Audit's observations.

This Court is organised by the law.

The law can entrust the Court of Audit with the control of the budgets and accountancy of the Communities and Regions, as well as of the public interest bodies which depend on them. It can also permit their control to be regulated by the federate law or the rule referred to in Article 134. Except as far as the German-speaking Community is concerned, the said law is passed by the majority as described in Article 4, last paragraph.

The law, the federate law or the rule referred to in Article 134 can entrust additional tasks to the Court of Audit. After the Court has agreed to it, the federate law or the rule referred to in Article 134 fixes the fee that is paid to the Court for carrying out these tasks. No fee is due for carrying out a task that the Court is already performing for a Community or Region before this paragraph comes into force.

Article 181

§1. The salaries and pensions of ministers of religion are paid for by the State; the amounts required are charged annually to the budget.

§2. The salaries and pensions of representatives of organisations recognised by the law as providing moral assistance according to a non-denominational philosophical concept are paid for by the State; the amounts required are charged annually to the budget.

TITLE VI

On the armed forces and the police service

Article 182

Army recruitment methods are determined by the law. The law also regulates the promotion, the rights and the duties of military personnel.

Article 183

Military quotas are subject to an annual vote. The law that determines them is valid only for one year if it is not renewed.

Article 184

The organisation and competence of the integrated police service, structured at two levels,

are regulated by the law. The essential features of the status of the members of the personnel of the integrated police service, structured at two levels, are regulated by the law.

Transitional provision

However, the King can decide upon and implement the essential features of the status of the members of the personnel of the integrated police service, structured at two levels, provided that this decree, with regard to these features, is confirmed by the law before 30 April 2002.

Article 185

Foreign troops may only be admitted to the service of the State, or occupy or cross the territory by virtue of a law.

Article 186

Military personnel can only be deprived of rank, honours and pensions in the manner described by the law.

TITLE VII

General provisions

Article 187

The Constitution cannot be wholly or partially suspended.

Article 188

From the day on which the Constitution becomes enforceable, all laws, decrees, decisions, regulations and other acts that are contrary to it are abrogated.

Article 189

The text of the Constitution is drafted in Dutch, in French and in German.

Article 190

No law or decision, or regulation of general, provincial or municipal administration is binding until it has been published in the manner described by the law.

Article 191

All foreigners on Belgian soil benefit from the protection provided to persons and property, except for those exceptions provided for by the law.

Article 192

An oath can only be made obligatory by virtue of a law. The law determines the wording.

Article 193

The Belgian Nation adopts red, yellow and black colours, and as arms of the kingdom the Lion of Belgium with the motto: UNION IS STRENGTH.

Article 194

The city of Brussels is the capital of Belgium and the seat of the Federal Government.

TITLE VIII

On the revision of the constitution

Article 195

The federal legislative power has the right to declare that there are reasons to revise such constitutional provision as it determines.

Following such a declaration, the two Houses are automatically dissolved.

Two new Houses are then convened, in accordance with Article 46.

These Houses make decisions, in common accord with the King, on the points submitted for revision.

In this case, the Houses can only debate provided that at least two thirds of the members who make up each House are present; and no change is adopted unless it is supported by at least two thirds of the votes cast.

Transitional provision

The Houses, as they were constituted following their full renewal on 13 June 2010, may however, in common consent with the King, pronounce on the revision of the following provisions, articles and groups of articles, but only to the effect as indicated hereafter:

1° Articles 5, second paragraph, 11bis, 41, fifth paragraph, 159 and 190, in order to guarantee the full exercise of the Regions' autonomy towards the provinces without prejudice neither to the present specific provisions of the law of 9 August 1988 modifying the law on municipalities, the electoral law for municipalities, the law organising public centres for social welfare, the law on provinces, the electoral Code, the electoral law for provinces and the law organising simultaneous elections for the Legislative Houses and the provincial councils, nor to those relating to the office of governor, and in order to limit the meaning of the word "province" used in the Constitution to its sole territorial meaning, to the exclusion of any institutional meaning;

2° Article 23, in order to guarantee the right to child allowances;

3° Title III, in order to insert in it a provision aimed at prohibiting to modify election laws less than one year before the date when elections are to be held;

4° Articles 43, § 1, 44, second paragraph, 46, fifth paragraph, 69, 71, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83 and 168, in order to implement the reform of the bicameral system and entrust the residual legislative powers to the House of Representatives;

5° Articles 46 and 117, in order to provide that the parliamentary elections at federal level will take place the same day as the election of the European Parliament and that, in case of early dissolution, the new federal parliamentary term may not extend beyond the day when the election of the European Parliament following this dissolution is held, as well as in order to permit a law passed by a majority as described in Article 4, last paragraph to entitle the Regions and Communities to determine, by special decree or special ordinance, the duration of the term for which their Parliaments are elected and the date for the election of these Parliaments, and to provide that a law, passed by a majority as described in Article 4, last paragraph, fixes the date when the new rules laid down in this division with regard to elections will enter into force;

6° Article 63, § 4, in order to supplement it with a sub-paragraph providing that, for the election of the House of Representatives, the law establishes special rules with a view to protecting the legitimate interests of French and Dutch-speaking people in the former province of Brabant, and also providing that the provisions which establish these special rules can only be amended by a law passed by a majority as described in Article 4, last paragraph;

7° Title III, Chapter IV, Section II, Sub-section III, in order to insert in it an article permitting a law passed by a majority as described in Article 4, last paragraph to attribute to the Region of Brussels-Capital, for the bilingual region of Brussels-Capital, powers that have not been assigned to the Communities in the matters referred to in Article 127, § 1, first sub-paragraph, 1° and in the same sub-paragraph, 3°, insofar as this 3° concerns matters referred to in the aforesaid 1°;

8° Title III, Chapter IV, Section II, Sub-section III, in order to permit a law passed by a majority as described in Article 4, last paragraph to simplify the procedures for cooperation between entities;

9° Article 143, in order to supplement it with a paragraph that precludes the procedure relating to conflicts of interest from being initiated with respect to a law or decision of the federal authority which modifies the basis of taxation, the tax rate, exemptions or any other element playing a role in the computation of the personal income tax;

10° Title III, Chapter VI, in order to insert in it a provision according to which any modification to essential features of the reform regarding the use of languages in judicial matters in the judicial district of Brussels, as well as any modification to features relating to this issue and concerning the public prosecutor's office, the Bench and the extent of jurisdiction, may only be made by a law passed by a majority as described in Article 4, last paragraph;

11° Article 144, in order to provide that the Council of State and, as the case may be, federal administrative courts may rule on the effects that their decisions have with respect to private law;

12° Article 151, § 1, in order to provide that the Communities and the Regions are entitled to order prosecutions regarding matters falling under their responsibility through the Minister of Justice, who immediately carries out the prosecutions, and in order to permit a law passed by a majority as described in Article 4, last paragraph to provide for the participation by the Communities and the Regions, in matters falling under their responsibility, in decisions concerning the investigation and prosecution policy of public prosecutors, the binding guidelines with respect to criminal policy, the representation in the College of Public Prosecutors General, and in decisions concerning the Guide Note on Full Security and the National Security Scheme;

13° Article 160, in order to add a paragraph providing that any modification to the new powers granted to the general assembly of the Council of State's Administrative Litigation Section and any modification to the rules for deliberation in this assembly may only be made by a law passed by a majority as described in Article 4, last paragraph;

14° Title IV, in order to insert in it an article providing that, with respect to the election of the European Parliament, the law determines special rules with a view to protecting the legitimate interests of French and Dutch-speaking people in the former province of Brabant, and that the provisions which establish these special rules can only be amended by a law passed by a majority as described in Article 4, last paragraph;

15° Article 180, in order to provide that assemblies which legislate through federate laws or rules referred to in Article 134 may entrust tasks to the Court of Audit, for which a fee may be charged.

The Houses can only debate on the items mentioned in the first paragraph provided that at least two thirds of the members who make up each House are present and no change is adopted unless it is supported by at least two thirds of the votes cast.

This transitional provision is not to be considered as a declaration in the sense of Article 195, second paragraph.

Article 196

No constitutional revision can be started or pursued during times of war or when the Houses are prevented from meeting freely on federal territory.

Article 197

During a regency, no changes can be made to the Constitution regarding the constitutional powers of the King and Articles 85 to 88, 91 to 95, 106 and 197 of the Constitution.

Article 198

In agreement with the King, the Constituent Houses can change the numbering of articles and of subdivisions of the articles of the Constitution, as well as the subdivisions of the latter into titles, chapters and sections, modify the terminology of provisions not submitted for revision in order to harmonise them with the terminology of new provisions and to ensure the concordance of the Dutch, French and German texts of the Constitution.

In this case, the Houses can debate only provided that at least two thirds of the members who make up each House are present; and no change will be adopted unless it is supported by at least two thirds of the votes cast.

TITLE IX

The entry into force and transitional provisions

I. – The provisions of Article 85 will for the first time be applicable to the progeny of H.R.H. Prince Albert, Felix, Humbert, Theodore, Christian, Eugene, Marie, Prince of Liege, Prince of Belgium, it being understood that the marriage of H.R.H. Princess Astrid, Josephine, Charlotte, Fabrizia, Elisabeth, Paola, Marie, Princess of Belgium to Lorenz, Archduke of Austria-Este, is regarded as having obtained the consent described in Article 85, second paragraph.

Until such time, the following provisions remain in effect.

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, from male to male, by order of primogeniture and with the permanent exclusion of women and of their descendants.

The prince who marries without the King's consent or, in his absence, without the consent of those exercising the King's powers in cases provided for by the Constitution shall be deprived of his right to the crown.

Nonetheless, this right may be restored by the King or, in his absence, by those exercising the powers of the King in cases provided for by the Constitution, but only with the assent of both Houses.

II. *[Repealed]*

III. – Article 125 is valid for events taking place after 8 May 1993.

IV. *[Repealed]*

V. *[Repealed]*

VI. – § 1. *[Repealed]*

§ 2. *[Repealed]*

§ 3. The personnel and the assets of the province of Brabant will be divided between the province of Flemish Brabant, the province of Walloon Brabant, the Brussels-Capital Region, the authorities and the institutions described in Articles 135 and 136, as well as the federal authority, in accordance with the terms determined by a law adopted by a majority as described in Article 4, last paragraph.

Following the next renewal of the provincial councils and until they are divided, personnel and assets remaining in common will be jointly managed by the province of Flemish Brabant, the province of Walloon Brabant and by the authorities which are competent in the bilingual region of Brussels-Capital.

§ 4. *[Repealed]*

§ 5. *[Repealed]*

**CONSTITUTIONAL DECREE PROCLAIMING THE
INDEPENDENCE OF THE BELGIAN PEOPLE**

18 NOVEMBER 1830

The National Congress of Belgium proclaims the independence of the Belgian people, except for Luxembourg's relations with the German Confederation.

**CONSTITUTIONAL DECREE ON PERPETUAL
EXCLUSION OF THE ORANGE-NASSAU FROM
ALL POWER IN BELGIUM**

24 NOVEMBER 1830

The National Congress declares that the members of the Orange-Nassau family are forever excluded from any power in Belgium.

SPECIAL LAW OF INSTITUTIONAL REFORMS

8 AUGUST 1980

Excerpt

(Source in French:
<http://www.ejustice.just.fgov.be>. Translated by
 the author)

TITLE I
 PRELIMINARY PROVISIONS

Article 1.

§ 1. The Parliament and Government of the Flemish Community, hereinafter referred to as "the Flemish Parliament" and "the Flemish Government", are competent in the matters referred to in Articles 127 to 129 of the Constitution.

They shall exercise in the Flemish Region the powers of the regional bodies in respect of the matters referred to in Article 39 of the Constitution, under the conditions and in the manner laid down by this Law.

§ 2. The Parliament and Government of the French Community, hereinafter referred to as "the Parliament of the French Community" and "the Government of the French Community", shall have competence in the matters referred to in Articles 127 to 129 of the Constitution.

§ 3. For the Walloon Region, there is a Parliament and a Government, hereinafter referred to as "the Walloon Parliament" and "the Walloon Regional Government", which are competent for the matters referred to in Article 39 of the Constitution, in the Walloon Region.

Art. 2.

The territory of the Walloon and Flemish Region is set as follows:

The Flemish Region includes the territory of the provinces of Antwerp, West Flanders, East Flanders and Limburg, as well as the territory of the administrative borough of Hal-Vilvorde and Leuven.

The Walloon Region includes the territory of the provinces of Hainaut, Liège, Luxembourg and Namur, as well as the territory of the administrative borough of Nivelles.

By the territory of the provinces and boroughs listed above, we mean the territory of these provinces and boroughs as it existed on October 1, 1979.

Art. 3.

The French Community, the Flemish Community, the Walloon Region and the Flemish Region shall have legal personality.

Concerning the Flemish Region, the attributes of legal personality shall be exercised in accordance with this Law, in particular Article 1.

TITLE II.
 ON COMPETENCES

Art. 4.

The cultural matters referred to in Article 127, § 1, 1° of the Constitution are:

- 1° Defending and illustrating the language;
- 2° Encouraging the training of researchers;
- 3° Fine arts;
- 4° Cultural heritage, museums and other scientific cultural institutions with the exception of monuments and sites;
- 5° Libraries, record stores and similar services;
- 6° The content and technical aspects of audiovisual and audio media services, with the exception of the issuance of federal government communications;
- 6°bis Support for the written press;
- 7° Youth policy;
- 8° Continuing education and cultural animation;
- 9° Physical education, sports and outdoor life;
- 10° Leisure activities;
- 11° Pre-school training in pre-schools;
- 12° Post-school and extracurricular training;
- 13° Artistic training;
- 14° Intellectual, moral and social training;
- 15° Social promotion;
- 16° Professional retraining and retraining, with the exception of the rules relating to intervention in the expenses inherent in the selection, vocational training and resettlement of personnel recruited by an employer with a view to setting up a business or extending or reconverting his business;
- 17° work-linked training systems, in which practical on-the-job training is supplemented by alternating with training in an education or training institute.

Art. 5.

§ 1. The person-related matters referred to in Article 128, § 1 of the Constitution are:

I. With regard to health policy:

1° without prejudice to paragraph 1, 2, 3, 4, 5 and 6, the policy of providing care in and outside care institutions, with the exception of:

a) organic legislation, with the exception of the cost of investments in infrastructure and medical technical services;

b) the financing of the exploitation, where it is organised by organic legislation, without prejudice to the powers of the communities referred to in a);

c) basic programming rules;

d) the determination of conditions and designation as a teaching hospital in accordance with hospital legislation;

2° the policy for providing mental health care in care institutions other than hospitals;

3° the policy of providing care in institutions for the elderly, including isolated geriatric services;

4° the policy of providing care in isolated specialized rehabilitation and treatment services;

5° the long-term care revalidation policy;

6° the organization of primary health care and support for the primary health care professions;

7° with respect to the health care professions:

a) their approval, in accordance with the conditions of approval determined by the federal authority;

b) their quotas, in compliance, where applicable, with the overall number that the federal authority may set annually by community for access to each health care profession;

8° health education and preventive medicine activities and services, as well as any initiative in the field of preventive medicine.

However, the federal authority remains competent for:

1° sickness and disability insurance;

2° national prophylactic measures.

Any preliminary draft or proposal for a federate law, any amendment to a draft or proposal for a federate law, as well as any draft community decree aimed at setting standards for the accreditation of hospitals, hospital services, hospital care programmes and hospital functions, shall be forwarded for report to the General Assembly of the Court of Audit so that it may assess the short- and long-term impact of these standards on the budget of the Federal State and social security.

This report is also sent to the federal government and all community governments.

After having obtained the mandatory opinion of the National Institute for Sickness and Invalidity Insurance and the competent administration of the community concerned and, where appropriate, the optional opinion of the Federal Centre for Health Care Expertise, the General Assembly of the Court of Audit shall, within two

months of receipt of the preliminary draft, proposal, amendment or draft, issue a detailed report on all the consequences of these standards, in the short and long term, on the Federal State budget and social security. This period may be extended by one month.

This report is communicated by the Court of Audit to the requester of the report, the federal government and all community governments.

If the report concludes that the adoption of these standards has a negative impact, in the short or long term, on the federal state budget and social security, a consultation involving the federal government and community governments takes place at the request of the federal government or the government of the community concerned. If this consultation does not lead to an agreement, the standards are subject to the agreement of the competent federal ministers or to the agreement of the Council of Ministers if one of its members requests that this matter be discussed.

If no report is submitted within two months, extended by one month, the consultation referred to in paragraph 7 may take place at the initiative of the government of the community concerned or the federal government.

Each year, the Court of Audit draws up a detailed report on the impact, during the previous financial year, of the Community accreditation standards in force on the Federal State budget and social security. This report is shared with the federal government and community governments.

II. In terms of helping people:

1° Family policy, including all forms of aid and assistance to families and children.

2° Social assistance policy, including the organic rules relating to public social assistance centres, with the exception of:

a) the determination of the minimum amount, conditions for granting and financing of legally guaranteed income, in accordance with legislation establishing the right to a minimum means of subsistence;

b) matters relating to public social assistance centres, governed by Articles 1 and 2 and Chapters IV, V and VII of the Organic Law of 8 July 1976 on public social assistance centres, without prejudice to the competence of the Communities to grant additional or complementary rights and excluding the competence of the Regions to employ persons who enjoy the right to social integration or the right to financial social assistance referred to in Article 6, § 1, IX, 2/1°;

c) matters relating to public social welfare centres regulated in the Act of 2 April 1965 on the

assumption of responsibility for assistance granted by public welfare commissions;

d) rules relating to the public social welfare centres of the municipalities referred to in Articles 6 and 7 of the Laws on the Use of Languages in Administrative Matters, coordinated on 18 July 1966, and of the municipalities of Comines-Warneton and Fourons, enshrined in Articles 6, § 4, 11, § 5, 18ter, 27, § 4, and 27bis, § 1, last paragraph, of the Organic Law of 8 July 1976 on Public Welfare Centres and in the Law of 9 August 1988 amending the Municipal Law, the new municipal law, the communal electoral law, the organic law on public social welfare centres, the provincial law, the Electoral Code, the organic law on provincial elections and the law on simultaneous elections for legislative chambers and provincial councils, as amended by the special law of 19 July 2012.

3° The policy of welcoming and integrating immigrants.

4° The policy on the disabled, including training, retraining and retraining of the disabled and mobility aids, with the exception of:

a) the rules and the financing, including individual cases, of allowances for the disabled other than the allowance for assistance to the elderly;

b) the rules on financial intervention for the employment of disabled workers, granted to employers employing disabled persons.

5° The policy for the elderly, with the exception of the fixing of the minimum amount, the conditions for granting it and the financing of the income legally guaranteed to the elderly.

6° Youth protection, including social protection and judicial protection, with the exception of:

a) civil law rules relating to the status of minors and the family, as established by the Civil Code and its complementary laws;

b) criminal law rules criminalizing conduct that contravenes the protection of young people and establishing penalties for such breaches, including provisions relating to prosecutions, without prejudice to Articles 11 and 11bis;

c) the organisation of youth courts, their territorial jurisdiction and the proceedings before these courts;

d) the enforcement of sentences imposed on juveniles who have committed an offence and who have been the subject of a measure of divestment, excluding the management of centres intended to receive such juveniles until the age of 23;

e) the loss of parental authority and guardianship over family or other social benefits;

7) Social assistance to prisoners for their social reintegration;

8° first-line legal aid.

III. The organisation, functioning and tasks of the courts, and of the service responsible for ensuring the implementation and monitoring of electronic surveillance.

However, the federal authority shall determine the tasks that the courts or other services of the communities that take over them, where applicable, carry out in the context of judicial proceedings or the enforcement of judicial decisions.

IV. Family benefits

V. The control of films, with a view to minors' access to cinemas

2) Community Governments shall inform the competent (federal authority) of their decisions on approval, closure and investment in respect of the matters referred to in § 1, I, 1°.

3) A health policy consultation body is established in the bilingual region of Brussels-Capital.

This consultative body brings together representatives of Community Governments and the competent federal authority.

Its composition and tasks are determined by Royal Decree deliberated by the Council of Ministers. This Royal Decree will ensure the presence of representatives of the bilingual region of Brussels-Capital.

Art. 6.

§ 1 The matters referred to in Article 39 of the Constitution are:

I. With regard to spatial planning:

1° Urban and regional planning;

2° The alignment plans of the municipal road system;

3° The acquisition, development and equipment of land for the use of industry, crafts and services, or other infrastructure to receive investors, including investments for the equipment of industrial areas surrounding the ports and their availability to users;

4° Urban renewal;

5° The renovation of disused economic activity sites;

6° Land policy;

7° Monuments and sites.

II With regard to the environment and water policy:

1° The protection of the environment, in particular that of the soil, subsoil, water and air

against pollution and aggression as well as the fight against noise;

2° Waste policy;

3° The police of dangerous, unhealthy and inconvenient establishments, subject to internal police measures concerning the protection of work;

4° Water protection and distribution, including technical regulations relating to drinking water quality, wastewater treatment and drainage;

5° Financial intervention following damage caused by public calamities.

However, the federal authority is competent for:

1° The establishment of product standards;

2° Protection against ionising radiation, including radioactive waste;

3° [...]

III. With regard to rural renewal and nature conservation:

1° The consolidation of rural properties and rural renovation;

2° The protection and conservation of nature, with the exception of the import, export and transit of non-indigenous plant species and non-indigenous animal species and their remains;

3° Green space zones, park zones and green zones;

4° Forests;

5° Hunting, with the exception of the manufacture, trade and possession of hunting weapons, and tenderia;

6° River fishing;

7° Fish farming;

8° Agricultural hydraulics and non-navigable watercourses including their banks;

9° Flood water drainage;

10° Polders and wateringues.

IV. With regard to housing:

1° the housing and police of dwellings that constitute a danger to public cleanliness and sanitation;

2° the specific rules concerning the rental of property or parts of property intended for habitation.

V. With regard to agriculture:

1° agricultural policy and maritime fisheries;

2° financial intervention following damage caused by agricultural disasters;

3° the specific rules concerning farm leases and livestock leases.

However, the federal authority is competent for:

1° standards relating to the quality of raw materials and plant products, and the control of these standards, in order to ensure the safety of the food chain;

2° standards and their control relating to animal health and the quality of products of animal origin in order to ensure the safety of the food chain;

3° income replacement measures in the event of early cessation of the activity of older farmers.

VI With regard to the economy:

1° Economic policy;

2° Regional aspects of credit policy, including the creation and management of public credit institutions;

3° The policy of outlets and exports, without prejudice to federal jurisdiction:

a) to provide guarantees against export, import and investment risks; the regions shall be represented in the federal institutions and bodies providing such guarantees;

b) in the field of multilateral trade policy, without prejudice to the implementation of Article 92bis, § 4bis.

4° The import, export and transit of arms, ammunition and equipment intended specifically for military use or for maintaining order and related technology as well as dual-use products and technologies, without prejudice to the federal competence for import and export concerning the army and police and in compliance with the criteria defined by the European Union Code of Conduct on Arms Exports;

5° Natural resources.

6° The conditions for access to the profession, with the exception of the conditions for access to the health care professions and the intellectual professions providing services;

7° The specific rules concerning the commercial lease;

8° The activities of the Participation Fund, including compensation for loss of income in favour of self-employed workers who are victims of nuisances due to work in the public domain;

9° Tourism.

However,

1° any regulation enacted by the Region with respect to tax benefits relating to national taxation and granted pursuant to economic expansion laws shall be subject to the agreement of the competent federal authority;

2° in matters of economic expansion, the Council of Ministers may, on a proposal from the regional Government concerned, grant the State the guaranty provided for in Articles 19 to 21 and 22, paragraph 3, e, of the Law of 30 December 1970 on economic expansion.

In economic matters, the Regions exercise their powers in accordance with the principles of the free movement of persons, goods, services and

capital and the freedom of trade and industry, as well as in accordance with the general normative framework of the economic union and monetary unity, as established by or under the law and by or under international treaties.

For this purpose, the federal authority is competent to set the general rules on:

- 1° public procurement contracts;
- 2° consumer protection;
- 3° organization of the economy;
- 4° ceilings for aid to companies for economic expansion, which may only be amended by agreement of the Regions.

The federal authority is also the only competent authority for:

- 1° monetary policy, both internal and external;
- 2° financial policy and the protection of savings, including the regulation and supervision of credit institutions and other financial institutions and insurance and similar undertakings, holding companies and mutual funds, mortgage credit, consumer credit, banking and insurance law, as well as the establishment and management of its public credit institutions;

3° pricing and income policy, with the exception of price regulation in matters falling within the competence of the regions and communities, subject to Article 6 § 1, VII, paragraph 2, d);

4° competition law and trade practice law, with the exception of the award of quality labels and appellations of origin of a regional or local nature;

5° commercial and corporate law;

6° [...]

7° industrial and intellectual property;

8° Quotas and licences with the exception of licences for the import, export and transit of arms, ammunition and equipment intended specifically for military or law enforcement use and related technology as well as dual-use products and technologies, without prejudice to federal jurisdiction for those concerning the army and police;

9° metrology and standardization, with the exception of what is referred to in Article 6, § 1, XII, 5°;

10° statistical confidentiality;

11° the National Company on Investment

12° labour law and social security.

VII. With regard to energy policy:

The regional aspects of energy, and in any case:

a) The distribution and local transmission of electricity using networks with a nominal voltage of 70.000 volts or less, including tariffs for electricity distribution networks, with the exception of tariffs for networks with a

transmission function operated by the same operator as the transmission system;

b) Public distribution of gas, including tariffs of public gas distribution networks, with the exception of tariffs of networks which also perform a natural gas transmission function and which are operated by the same operator as the natural gas transmission system;

c) The use of firedamp and blast furnace gas;

d) Remote heat distribution networks;

e) Reclamation of slag heaps;

f) New sources of energy with the exception of those related to nuclear energy;

g) Energy recovery by industries and other users.

h) Rational use of energy.

However, the federal authority is competent for matters whose technical and economic indivisibility requires uniform implementation at the national level, namely:

a) studies on energy supply prospects;

b) The nuclear fuel cycle;

c) Major storage infrastructure; transport and energy production;

d) Tariffs, including pricing policy, without prejudice to the regional competence for tariffs referred to in paragraph 1 (a) and (b).

VIII With regard to subordinate powers:

1° the composition, organization, competence and functioning of provincial and municipal institutions and supra-municipal authorities, with the exception of:

- the rules laid down in the municipal law, the new municipal law, the communal electoral law, the organic law of public social welfare centres, the provincial law, the Electoral Code, the organic law of provincial elections and the law organising simultaneous elections for legislative chambers and provincial councils under the law of 9 August 1988 amending the municipal law, the new municipal law, the communal electoral law, the organic law on public social welfare centres, the provincial law, the Electoral Code, the organic law on provincial elections and the law on simultaneous elections for legislative chambers and provincial councils, as amended by the special law of 19 July 2012;

- the rules set out in Articles 5, 5bis, 70, 3° and 8°, 126, second and third paragraphs, and Title XI of the Provincial Law;

- the rules laid down in Articles 125, 126, 127 and 132 of the new municipal law, insofar as they concern civil status registers;

- the organisation of and policy relating to the police, including Article 135 § 2 of the new municipal law, and fire services;

- staff and agent pension schemes.

The regions exercise this competence, without prejudice to Articles 279 and 280 of the new municipal law.

The municipal councils and, where they exist, the provincial councils or the councils of supra-municipal authorities, respectively regulate all matters of municipal, provincial or supra-municipal interest; they deliberate and decide on all matters submitted to them by the federal authority or by the communities.

The provincial governors, the vice-governor of the administrative borough of Brussels-Capital, the deputy governor of the province of Flemish Brabant, the borough commissioners and the deputy borough commissioners are appointed and dismissed by the regional government concerned, with the assent of the Council of Ministers. When provincial institutions are abolished, this does not affect the function of provincial governors. If a region abolishes provincial institutions, the Governor has, within his or her territorial jurisdiction, the status of government commissioner of the state, community or region.

When a regional or community government requests information contained in civil status registers, the civil registrar shall immediately comply with the request;

2° the change or rectification of the boundaries of the provinces, supra-municipal authorities and municipalities, with the exception of the boundaries of the municipalities referred to in section 7 of the Laws on the use of languages in administrative matters, coordinated on July 18, 1966, and the municipalities of Comines-Warneton and Fourons;

3° the composition, organization, competence and functioning of the institutions of the agglomerations and federations of municipalities, except for the municipalities referred to in section 7 of the Laws on the use of languages in administrative matters, coordinated on July 18, 1966, and the municipalities of Comines-Warneton and Fourons;

4° the election of provincial bodies, supra-municipal, municipal and intra-municipal, as well as bodies of agglomerations and federations of communes, including the regulations and the control of election expenses relating thereto and the origin of the funds allocated thereto:

a) with the exception of the rules laid down in the municipal law, the new municipal law, the municipal electoral law, the organic law on public social welfare centres, the provincial law, the

Electoral Code, the organic law on provincial elections and the law organising simultaneous elections for legislative chambers and provincial councils under the law of 9 August 1988 amending the municipal law, the new municipal law, the municipal electoral law, the organic law on public social welfare centres, the provincial law, the Electoral Code, the organic law on provincial elections and the law on simultaneous elections for legislative chambers and provincial councils, as amended by the special law of 19 July 2012;

b) with the exception of the exclusive competence of the Council of State to rule by means of judgments on appeals as a last resort in electoral matters;

c) it being understood that federate laws and ordinances having the effect of reducing the proportionality of the distribution of seats in relation to the distribution of votes must be adopted by the majority referred to in Article 35 § 3.

The regions shall exercise this competence, without prejudice to Articles 5, second and third paragraphs, 23bis and 30bis of the Municipal Electoral Law coordinated on 4 August 1932, and Articles 2, § 2, fourth paragraph, 3bis, second paragraph, 3novies, second paragraph and 5, third paragraph of the Organic Law on Provincial Elections;

5° the disciplinary regime for mayors, it being understood that the mayor who lodges a final appeal with the Council of State against the disciplinary sanction imposed on him and which is not based on his notorious misconduct, but on non-compliance with a law, federate law, ordinance, regulation or administrative act, may request the Chamber, as the case may be, that it refers a preliminary question to the Constitutional Court, or that it refers the case to the general meeting of the administrative section, which will check whether the regulation or administrative act does not constitute a violation of Article 16bis of this Special Law or Article 5bis of the Special Law of 12 January 1989 on Brussels institutions; the chamber must comply with this request; the Constitutional Court or the general assembly of the administrative section shall decide within 60 days; the chamber shall be required, for the settlement of the dispute, to comply, as the case may be, with the judgment of the Constitutional Court or the decision of the general assembly; the mayor's appeal to the Council of State shall have suspensive effect; the Council of State shall decide on the appeal within sixty days; if reference to the Constitutional Court or to the General Assembly is

requested, the Council shall decide within sixty days of their decision;

6° church factories and establishments responsible for the temporal management of recognized religions, with the exception of the recognition of religions and the treatment and pensions of ministers of religions;

7° funerals and burials;

8° associations of provinces, supra-municipal authorities and municipalities for public utility purposes, with the exception of specific fire-fighting supervision, organised by law;

9° the general financing of municipalities, agglomerations and federations of municipalities, supra-municipal authorities and provinces;

9°bis. [...]

10° the financing of tasks to be carried out by municipalities, agglomerations and federations of municipalities, supra-municipal authorities, provinces and other legal persons governed by public law in matters falling within the competence of the regions, except where those tasks relate to a matter falling within the competence of the federal authority or the communities;

11° the conditions and manner in which the intra-communal territorial bodies referred to in Article 41 of the Constitution may be created.

The acts, regulations and ordinances of the authorities of the provinces, of the supra-municipal authorities, of the municipalities, agglomerations and federations of municipalities and other administrative authorities may not be contrary to the laws and decrees of the federal authority or to the federate laws and decrees of the communities, which may, in any case, entrust these authorities with their execution, and other tasks, including giving an opinion, as well as with the budget all the expenditure they impose on these authorities.

IX With regard to employment policy:

1° The placement of workers;

2° programmes for returning unemployed jobseekers to work, including in the social economy, excluding programmes for returning them to work in the administrations and services of the federal authority or under its supervision and excluding the agreements referred to in section 5 of Chapter II of Royal Decree No. 25 of 24 March 1982 creating a programme to promote employment in the non-market sector.

2°/1 the employment of persons who benefit from the right to social integration or the right to financial social assistance;

3° the employment of foreign workers, with the exception of standards relating to work licences issued on the basis of the particular residence situation of the persons concerned and exemptions from professional cards linked to the particular residence situation of the persons concerned.

The recording of offences may also be carried out by officials authorised for this purpose by the federal authority.

4° the application of the standards relating to the work licence issued in accordance with the particular residence situation of the persons concerned. Monitoring compliance with these standards is the responsibility of the federal authority. Infringements may also be detected by officials authorised for this purpose by the regions;

5° decision-making and enforcement powers to control the active and passive availability of the unemployed and to impose the related penalties.

The federal authority remains competent for the normative framework as regards the regulation of suitable employment, active job search, administrative control and sanctions, as well as for the material execution of sanctions, without prejudice to the regional competence referred to in 6°.

The region may delegate the exercise of its authority to control active availability to the federal authority for a fee. In this case, the regional government and the federal authority shall first conclude an agreement to determine the cost of this service;

6° the establishment of the conditions under which exemptions from the requirement of availability for the labour market of unemployed persons receiving benefits, with maintenance of benefits, in the event of resumption of studies, vocational training or a traineeship may be granted and the decision whether or not to grant such exemption.

In order to determine the category of unemployed beneficiaries eligible for the exemption referred to in the first paragraph, the assent of the Council of Ministers shall be required.

The regions shall grant financial assistance to the federal authority for the exemptions referred to in paragraph 1 where the percentage of days provided in a year for training, education or probationary purposes in relation to the total number of fully compensated unemployment days in the same year exceeds 12 % in that region. Exemptions for vocational training that prepares for a shortage profession and exemptions granted

in the context of an activity cooperative are not taken into account in this mechanism;

7° the policy focused on target groups:

a) reductions in employers' social security contributions which are established on the basis of the specific characteristics of workers.

The federal authority is not competent to introduce reductions in employer contributions that are established according to the specific characteristics of the workers.

However, the federal authority remains responsible for structural reductions in employers' social security contributions, reductions in workers' contributions and reductions in employers' social security contributions based on the employer's own characteristics or on a sector of activity.

However, the regions are responsible for:

- reductions for the dredging and towing sectors and for the merchant navy, excluding the reduction of workers' social security contributions for the dredging and towing sectors.

- reductions for the social economy sector;
- discounts for people who provide childcare;
- discounts for domestic staff;
- discounts for artists.

The federal institutions responsible for social security contributions are the only administrative and technical operators.

b) the activation of unemployment insurance benefits or financial social assistance, in the event of a return to work, with the maintenance of an allowance deducted from wages by the employer.

The federal institutions responsible for unemployment benefits and those responsible for financial social assistance are the only administrative and technical operators.

c) the granting of bonuses to unemployed persons who are compensated and return to work or have undergone vocational training;

d) the granting of bonuses to employers and pupils in the context of work-linked training schemes;

8° the promotion of local services and jobs;

9° the granting of subsidies to promote the employment opportunities of older workers, the quality of working conditions for older workers and the organization of work for older workers;

10° the system under which workers have the right to be absent from work, with continued pay, to attend approved training courses;

11° local employment agencies (LEA).

Provided that the regions maintain an LEA system, the federal authority continues to pay unemployment benefits to workers put to work

through a local employment agency. If the average annual number of persons employed through the LEA system exceeds 7.466 beneficiaries for the Walloon Region and 7.291 for the Flemish Region, the region concerned will be liable to pay an amount of responsibility in accordance with Article 35nonies, § 3, of the Special Law of 16 January 1989 on the financing of the communities and regions;

12° in the case of professional reclassification, the reimbursement of reclassification costs to employers, the imposition of sanctions on employers in the absence of reclassification and the imposition of conditions other than those covered by collective labour agreement No 51 concluded within the National Labour Council of 10 February 1992 on outplacement and made compulsory by the Royal Decree of 10 April 1992 and collective labour agreement No 82 concluded within the National Labour Council of 10 July 2002 on the right to professional reclassification for workers aged forty-five and over who are dismissed, made compulsory by the Royal Decree of 20 September 2002, as amended by Collective Labour Agreement No 82bis concluded within the National Labour Council on 17 July 2007 and made compulsory by the Royal Decree of 3 October 2007;

13° the conditions under which temporary agency work may be used in the context of work journeys.

X. With regard to public works and transport:

1° roads and their dependencies;

2° hydraulic roads and their dependencies;

2°bis the legal regime of land roads and waterways, regardless of who manages them, excluding the railways managed by the Belgian National Railways Company.

3° the ports and their dependencies;

4° coastal defences;

5° the dikes;

6° bin services;

7° the equipment and operation of airports and public aerodromes, with the exception of Brussels National Airport;

8° urban and local public transport, including special regular services (taxi services and car rental services with drivers);

9° pilotage and beaconing services to and from ports, as well as rescue and towing services at sea.

10° the rules governing navigation on inland waterways, excluding the regulations respecting the transport of animal materials that pose a danger to the population, the transport of radioactive materials and the transport of explosive materials;

11° the rules on inland navigation crew requirements and the rules on the safety of inland navigation vessels and inland navigation vessels which are also used for non-international voyages by sea;

12° the minimum technical safety standards for the construction and maintenance of roads and their dependencies, and hydraulic roads and their dependencies;

13° the regulations respecting the transport of dangerous goods and exceptional transport by road, with the exception of the regulations respecting the transport of radioactive materials, the transport of explosives and the transport of animal materials that pose a danger to the population;

14° under the condition of the conclusion of a cooperation agreement in accordance with Article 92bis, § 4nonies, and for a period limited to the duration of the agreement, the additional financing of investments for the development, adaptation or modernisation of railway lines, as well as additional equipment on unguarded stopping points enhancing their visibility and intermodality with public transport and active modes, taxis and shared cars, provided that they are carried out in addition to the investments included in a multiannual investment plan effectively endowed by the federal authority with sufficient resources to ensure an attractive, efficient and effectively interconnected rail transport offer with other modes of transport throughout the country and in a proportionality with regard to the federal funding fixed by the above-mentioned cooperation agreement.

The powers referred to in 2°, 3°, 4° and 9° include the right to carry out in territorial waters and on the continental shelf the works and activities, including dredging, necessary for the exercise of these powers.

14 XI. Animal welfare

15 XII. With regard to road safety policy:

1° the determination of speed limits on public roads, with the exception of highways as defined in Article 1, j) of the Convention on Road Traffic, done at Vienna on 8 November 1968;

2° regulations respecting placement and technical requirements, as well as the control of road signs, with the exception of signs relating to customs zones, level crossings and crossings with railways and military lines;

3° the regulations respecting the maximum authorized mass and axle weights of vehicles on the public highway, as well as the safety of loading and the dimensions and signage of the load;

4° the control of compliance with the federal technical requirements applicable to vehicles with a view to their entry into road traffic and the roadworthiness testing of vehicles travelling on the road in accordance with federal standards, it being understood that natural and legal persons established in one region are free to have their vehicles checked by a roadworthiness test centre located in another region;

5° the approval of radars and other instruments related to regional responsibilities;

6° the regulations on training and examinations relating to the knowledge and skills required to drive vehicles of each category, including the organization and conditions for the approval of driving schools and test centres and including the control of the driving skills of drivers and candidate drivers suffering from a decrease in functional skills, with the exception of the federal competence to determine the knowledge and skills necessary to drive vehicles, it being understood that residents of one region are free to attend a driving school or take examinations in a centre in another region and it being understood that a recognized driving school in one region may also operate in the other regions;

7° promotion, awareness and information in road safety matters.

2§ The Governments concerned shall consult each other with regard to:

1° specific provisions relating to forests located in the territory of more than one Region;

2° the opening and closing of hunting, tenderia and river fishing;

3° water bodies extending over more than one Region;

4° the minimum technical safety standards for the construction and maintenance of roads and their outbuildings as well as hydraulic roads and their outbuildings;

5° the regulations respecting the transport of dangerous goods and exceptional transport by road, with the exception of the regulations respecting the transport of animal materials that pose a danger to the population, the transport of radioactive materials and the transport of explosive materials.

[...]

§ 2bis. The regional governments concerned and the federal authority consult each other to prepare for negotiations and decisions, as well as to monitor the activities of the European institutions relating to agricultural policy.

§ 3. A consultation involving the Governments concerned and the competent federal authority will take place:

1° on the exercise of devolved provincial powers, in the event of the abolition of provincial institutions;

2° for any measure concerning energy policy, outside the competences listed in § 1, VII;

3° on the main axes of the national energy policy.

4° for the minimum technical safety standards relating to the construction and maintenance of ports, dikes, airports and aerodromes;

5° for the work to be carried out in favour of European and international institutions;

6° for air traffic at regional airports and public aerodromes and for the fees related thereto;

7° (repealed)

§ 3bis. A consultation involving the Governments concerned and the federal authority concerned shall take place for:

1° the exchange of information between training, unemployment and placement services, as well as initiatives concerning programs for returning unemployed job seekers to work;

2° the planning, functionality and compatibility of motorway networks and waterways;

3° cooperation between the railways, on the one hand, and urban and local transport companies, on the other, with a view to coordinating and promoting public transport;

4° the modification of the tasks referred to in Article 5, § 1, III, paragraph 2;

5° measures affecting agricultural policy.

6° the determination of police rules for navigation on inland waterways.

§ 4 Governments will be associated to:

1° the preparation of federal regulations on product standards referred to in § 1, II, paragraph 2, 1°;

2° (repealed)

3° the drafting of general police rules with the exception of the rules on navigation on inland waterways referred to in § 1, X, 10°, and the regulations relating to communications and transport, as well as the technical requirements relating to the means of communication and transport;

With regard to the development of road traffic regulations, if, within the framework of this association, an unfavourable opinion is given by one of the governments concerned, the competent federal authority shall convene an inter-ministerial conference before taking its decision. Failing agreement, the final decision rests with the Federal Council of Ministers.

Each regional government may propose amendments to the traffic police rules. The competent federal authority submits them to consultation with the governments of the three regions. In the event of a consensus on these amendments, the King adopts them or tables them in the House of Representatives;

4° the development of rules relating to the organization and implementation of air traffic safety at regional airports and public aerodromes;

5° the preparation of the studies on the prospects for energy supply referred to in Article 6, § 1, VII, paragraph 2;

6° the drafting of general federal provisions provided for in the second paragraph of Article 9 § 1 of the Civil Protection Act of 31 December 1963;

7° the drafting of general federal provisions provided for in section 189 of the new municipal law;

8° the elaboration of rules relating to the organization and functioning of the national crisis centre.

§ 4bis. The federal authority shall be involved in the conclusion of the cooperation agreement referred to in Article 92bis, § 2, i).

§ 5 The federal authority and the regional governments concerned shall determine, in consultation, how policy on the import, export and transit of waste can be coordinated.

§ 5bis. Before a commercial establishment referred to in Article 6 § 1, VI, paragraph 1, 6°, of a net commercial surface area of more than 20.000 m² which is located at a distance of less than twenty kilometres from another region or regions may be authorised, the government of the region in which the commercial establishment is located shall notify the proposed commercial establishment to the government of each of the regions concerned.

If requested by the government of a region concerned, a consultation shall take place.

§ 6. The Governments shall inform:

1° the Minister in charge of Energy of the management of associations of gas and electricity distribution municipalities;

2° (repealed)

§ 6bis. In matters falling within the competence of the federal authority, the individual recognition or automatic recognition of one or more localities as touristic centres or similar centres and the amendment of the relevant standards require the assent of the region concerned.

§ 7. The Governments referred to in §§ 2 to 6 are the Governments provided for by this Law and the

competent authority for the territory other than that of the Walloon Region or the Flemish Region.

§ 8. If a proposed law, federate law or ordinance concerns a matter referred to in §§ 2, 2bis, 3, 3, 3bis, 4, 5 and Article 11, paragraph 2, the consultation, association or opinion procedure of the federal authority and the Governments of the Community or Region concerned shall take place in accordance with the rules laid down in the regulations of the Legislative Chamber or Parliament before which the proposed law, federate law or ordinance is submitted.

Art. 6bis.

§1. The Communities and Regions are competent for scientific research, within the framework of their respective competences, including research in implementation of international or supranational agreements or acts.

§ 2. However, the federal authority is competent to:

1° scientific research necessary for the exercise of its own powers, including scientific research pursuant to international or supranational agreements or acts;

2° the implementation and organization of networks for the exchange of data between scientific institutions at the national and international levels;

3° space research within the framework of international or supranational institutions, agreements or acts;

4° federal scientific and cultural institutions, including their research and public service activities. The King designates these establishments by decree deliberated by the Council of Ministers. The assent of the Community and Regional Governments is required for any subsequent amendment of this decree;

5° programmes and actions requiring uniform implementation at national or international level in fields and in accordance with procedures laid down by cooperation agreements referred to in Article 92a § 1;

6° the maintenance of a permanent inventory of the country's scientific potential in accordance with the procedures laid down in a cooperation agreement referred to in Article 92a § 1;

7° Belgium's participation in the activities of international research organisations in accordance with arrangements laid down in the cooperation agreements referred to in Article 92a § 1.

§ 3. Without prejudice to the provisions of § 1, the national authority may take initiatives, create

structures and provide financial resources for scientific research in matters which fall within the competence of the Communities or Regions and which, in addition:

a) is the subject of international or supranational agreements or acts to which Belgium is a contracting party or considered as such;

b) relates to actions and programmes which go beyond the interests of a Community or Region.

In these cases, the federal authority submits, prior to its decision, a proposal for collaboration to the Communities and/or Regions on the advice of the Federal Council for Science Policy composed in accordance with Article 92ter.

Each Community and each Region may refuse any participation as far as it is concerned and as far as the establishments under its jurisdiction are concerned.

§4. (repealed)

Art. 6ter.

Some parts of development cooperation will be transferred as from 1 January 2004 insofar as they concern the competences of the communities and regions.

A special working group shall be set up, whose task shall be to propose, in consultation with the sector and by 31 December 2002 at the latest, a list of subjects relating to the competences of the communities and regions in the field of development cooperation.

Art. 6quater.

The regions shall determine the judicial procedure specifically applicable in the event of expropriation in the public interest of property located in the region concerned, in return for fair and prior compensation as referred to in Article 16 of the Constitution, with the exception of the federal competence to determine the cases and the modalities, including judicial procedure, under which expropriation in the public interest may be resorted to by the federal authority and by legal persons authorised by or under the law to resort to expropriations in the public interest.

Art. 6quinquies.

Within the limits of their competences, the communities and regions are competent to determine who may authenticate deeds of a real estate nature to which a community, a region, a subordinate authority as referred to in Article 6 § 1, VIII, a public social welfare centre is a party, or an entity subject to the control or administrative supervision of one of those authorities or a

subsidiary of that entity, as well as acts relating to the organisation and internal administration of an entity subject to the control or administrative supervision of one or more of those authorities or a subsidiary of that entity.

Art. 6sexies.

Community competences include the power to finance tourist infrastructure in the territory of the bilingual region of Brussels-Capital.

Art. 7.

§ 1. With the exception of the rules laid down in the municipal law, the new municipal law, the municipal electoral law, the organic law on public social assistance centres, the provincial law, the Electoral Code, the organic law on provincial elections and the law organising simultaneous elections for the legislative chambers and provincial councils under the law of 9 August 1988 amending the municipal law, the new municipal law, the municipal electoral law, the organic law on public social assistance centres, the Provincial Law, the Electoral Code, the Organic Law on Provincial Elections and the Law on the Organisation of Simultaneous Elections for Legislative Chambers and Provincial Councils, as amended by the Special Law of 19 July 2012, the regions are competent to organise and exercise supervisory authority over the provinces, supra-municipal authorities, agglomerations and federations of municipalities, municipalities and intra-municipal territorial bodies, as referred to in article 41 of the Constitution.

The first paragraph does not affect the competence of the federal authority and the communities to organise and exercise themselves specific supervisory authority in matters within their competence.

The regions shall exercise the competence referred to in paragraph 1 without prejudice to the rules laid down in Articles 12 § 3; 28 § 3; 41; 65 § 3; 68 § 3; 146 § 2; 150 § 3; 155 § 3; 231 § 3, 2°; 235 § 1, second paragraph; 237; 249, § 3; 287, § 3 and, in so far as they concern the municipalities of Comines-Warneton and Fourons, Articles 47, § 2, 235, § 3, 240, § 2, 241, § 2, 244, 254, 258 and 264 to 266 of the new municipal law.

§ 2. By way of derogation from § 1, no supervisory authority is organised or exercised by the federal authority or by the regions over decisions taken in disciplinary matters with regard to the local police.

Art. 7bis.

Without prejudice to the provisions referred to in Article 7, § 1, first and third paragraphs, and Articles 279 and 280 of the new municipal law, the composition, organisation, competence, functioning, appointment or election of the bodies of municipalities located in the territory of the same region, as well as the supervisory authority thereof, shall be regulated by that Region in the same way.

Art. 8.

The competences of Parliaments in the matters listed in Articles 4, 5, 6 and 7 include the power to adopt the provisions and other measures relating to infrastructure necessary for the exercise of these competences.

Art. 9.

In matters within their competence, the Communities and Regions may create decentralised services, establishments and undertakings, or take equity stakes.

The federate law may grant the above-mentioned bodies legal personality and allow them to take equity stakes. The federate law provides for the creation, composition, competence, functioning and control of these bodies.

Art. 10.

The federate laws may contain legal provisions relating to matters over which the Parliaments do not have jurisdiction, insofar as these provisions are necessary for the exercise of their competence.

Art. 11.

Within the limits of the powers of the Communities and Regions, federate laws may establish breaches of their provisions as an offence and establish penalties for such breaches; the provisions of Book I of the Penal Code shall apply, except for exceptions which may be provided by federate laws for specific offences.

The assent of the Council of Ministers is required for any deliberation within the Government of the Community or Region on a preliminary draft federate law containing a penalty or penalty not provided for in Book I of the Criminal Code.

Within the limits referred to in paragraph 1, federate laws may:

1° grant the status of agent or judicial police officer to sworn officers of the Government of the Community or Region or bodies under the authority or control of the Government of the Community or Region;

2° regulate the probative value of the reports;
3° determine the cases that may give rise to a search.

[...]

SPECIAL LAW ON THE CONSTITUTIONAL COURT

6 JANUARY 1989

(Source in French:
<http://www.ejustice.just.fgov.be>. Translated by
 the author)

TITLE I.**ON THE COMPETENCE OF THE CONSTITUTIONAL
COURT****CHAPTER I.**

On actions for annulment.

Section I.**Actions****Article 1.**

The Constitutional Court shall rule, by way of a judgment, on actions for the annulment, in whole or in part, of a law, federate law or rule referred to in Article 134 of the Constitution for violation:

1° of the rules which are established by or under the Constitution to determine the respective competences of the State, the Communities and the Regions; or

2° of the articles of Title II "Belgians and their rights", and articles 170, 172 and 191 of the Constitution;

3° of Article 143, § 1, of the Constitution

Art. 2.

The actions referred to in Article 1 shall be lodged:

1° by the Council of Ministers, by the executive of a Community or a Region;

2° by any physical or legal person having an interest; or

3° by the presidents of the legislative assemblies at the request of two-thirds of their members.

The provisions of this law concerning the Governments of the community or region shall apply to the United College of the Joint Community Commission and the College of the French Community Commission.

Art. 3.

§ 1. Without prejudice to paragraph 2 and Article 4, actions for the annulment, in whole or in part, of a law, federate law or rule referred to in Article 134 of the Constitution shall be admissible only if brought within six months of the publication of the law, federate law or rule referred to in Article 26bis of the Constitution.

§ 2. Appeals for the annulment in whole or in part of a law, federate law or rule referred to in Article

134 of the Constitution by which a treaty is approved shall be admissible only if they are brought within sixty days of the publication of the law, decree or rule referred to in Article 26bis of the Constitution.

Art. 3bis.

For actions for the annulment of a federate law or rule referred to in Article 134 of the Constitution based on the violation of Articles 6, § 2 and 9, § 1 of the Special Law of 16 January 1989 on the financing of communities and regions, the six-month period provided for in Article 3 shall not begin until the expiry of the enrolment period provided for by Article 359 of the Income Tax Code 1992.

Art. 4.

A new period of six months shall be allowed for the filing of an action for annulment of a law, federate law or rule referred to in Article 134 of the Constitution by the Council of Ministers or by the Executive of a Community or Region, where:

§ 1. an action is made against a norm that has the same purpose and that was made by a legislator other than the one who adopted the law, federate law or rule referred to in Article 134 of the Constitution. The period shall begin on the day following the date of the publication of the statement referred to in Article 74;

§ 2. the Court has annulled a norm which had, in whole or in part, the same purpose and which had been adopted by a legislator other than the one who adopted the law, federate or rule referred to in Article 134 of the Constitution. The period begins the day after the date of publication of the judgment in the Belgian Official Gazette.

A new six-month period shall be allowed for the filing of an action for annulment of a law, federate law or rule referred to in Article 134 of the Constitution by the Council of Ministers, by the Government of a Community or Region, by the presidents of legislative assemblies at the request of two thirds of their members or by any physical or legal person having an interest, where the Court, ruling on a preliminary question, has declared that such law, federate law or rule referred to in Article 134 of the Constitution violates one of the rules or articles of the Constitution referred to in Article 1. The period begins the day after the date of publication of the judgment in the Belgian Official Gazette.

Art. 5.

The Court shall be seized of an action for annulment by an application signed, as the case may be, by the Prime Minister, by a member of the Executive designated by him, by the President of a legislative assembly or by the person proving an interest or their lawyer.

*FUTURE LAW**Art. 5.*

The Court shall be seized of an action for annulment by an application from the Prime Minister, a member of the government designated by the Prime Minister, the President of a legislative assembly or the person justifying an interest or their counsel.

Art. 6.

The request is dated. It shall indicate the subject matter of the action and shall contain a statement of the facts and arguments.

*FUTURE LAW**Art. 6.*

The application shall indicate the subject matter of the appeal and shall contain a statement of the facts and grounds.

Art. 7.

The requesting party shall attach to its request a copy of the law, federate law or rule referred to in Article 134 of the Constitution which is the subject of the action and, where applicable, its annexes.

If the action is lodged by the Council of Ministers, by the Executive of a Community or a Region or by the President of a legislative assembly, the requesting party shall also attach to its request a certified copy of the decision by which it decided to initiate the action.

If the action is lodged or the intervention is made by a legal person, that party shall, on first request, provide proof of the decision to initiate or continue the action or to intervene and, where its articles of association are to be published in the annexes to the Belgian Official Gazette, a copy of that publication.

Art. 8.

If the action is well founded, the Constitutional Court shall annul, in whole or in part, the law, federate law or rule referred to in Article 134 of the Constitution which is the subject of the action.

Where the Court annuls, in whole or in part, a federate law or rule referred to in Article 134 of the Constitution, adopted in accordance with Article 92bis/1 of the Special Law of 8 August 1980 on institutional reforms, it shall also annul the corresponding provisions contained in the federate law or federate laws, or the rule or rules referred to in Article 134 of the Constitution, adopted jointly.

If the Court considers it necessary, it shall indicate, by means of a general provision, which of the effects of the annulled provisions shall be considered final or provisionally maintained for the period it determines.

Section II

On effects of annulment judgments

Art. 9.

§ 1. Annulment judgments delivered by the Court of Arbitration shall have absolute *res judicata* force from the date of their publication in the Belgian Official Gazette.

§ 2. The judgments of the Constitutional Court dismissing actions for annulment are binding on the courts with regard to the questions of law decided by those judgments.

Art. 10.

Insofar as they are based on a provision of a law, federate law or rule referred to in Article 134 of the Constitution, which was subsequently annulled by the Constitutional Court, or a regulation made pursuant to such a law, federate law or rule referred to in Article 134 of the Constitution, decisions rendered by criminal courts and passed into force may be wholly or partly revoked by the court which issued them.

Art. 11.

It is the responsibility of the Public Prosecutor's Office to request withdrawal.

The right to request withdrawal also belongs:

1° to the convicted person;

2° to the person who has been the subject of a decision ordering the suspension of the pronouncement of the sentence;

3° if the convicted person or, where applicable, the person who was the subject of a decision ordering the suspension of the pronouncement of the sentence has died, if his prohibition has been pronounced or if he is in a state of declared absence, to his spouse, his descendants, his ascendants, his brothers and sisters;

4° to the party declared civilly liable for the convicted person or, where applicable, for the person who has been the subject of a decision ordering the suspension of the pronouncement of the sentence.

Art. 12.

§ 1. The competent court is seized, either by the prosecution's indictment or by a request specifying the reason for the withdrawal.

Under penalty of nullity, the application shall be filed within six months of the publication of the judgment of the Constitutional Court in the Belgian Official Gazette.

§ 2. In the light of the indictment or request, the court seized, if the sentenced person has died, is absent or prohibited, shall appoint a curator to defend him, who shall represent him in the proceedings in retraction.

§ 3. The public prosecutor shall have the application served on all the parties involved in the decision undertaken. The service shall contain a summons to appear before the court which issued the decision undertaken and shall reproduce the text of Articles 10 to 12 of this Law.

The decision by which a final decision is taken on the withdrawal shall be deemed to be contradictory with regard to the civil party duly cited, even if it did not take place before the end of the proceedings in the proceedings for withdrawal.

§ 4. The file on the basis of which the decision was rendered shall be made available to the parties for a period of at least fifteen days.

§ 5. The court seized may, if the sentenced person is detained pursuant to the decision whose retraction is requested, order his provisional release in accordance with the procedure laid down.

That court may also, if the pleas in law relied on appear serious and likely to justify the withdrawal requested, order that any measure implementing or enforcing the decision likely to be withdrawn shall be suspended.

§ 6. The judge may, at the request of a person referred to in Article 11, 1° to 4°, order that his decision to withdraw be published by extract in a daily newspaper he designates.

§ 7. The costs of the proceedings shall be borne by the State.

Art. 13.

§ 1. Within the limits to which it is applied, withdrawal renders null and void criminal convictions based on a law, federate law or rule

referred to in Article 26bis of the Constitution annulled, or on a regulation made pursuant to such law, federate law or rule referred to in Article 134 of the Constitution, as well as decisions to suspend the delivery of such convictions.

§ 2. Where, by the decision undertaken, only one penalty has been imposed for several offences, at least one of which was an offence under a provision not annulled, the judge may, on the request of the Public Prosecutor's Office and provided that the prosecution is not time-barred, either maintain the sentence in its entirety, reduce the sentence, suspend the sentence or pronounce a judgment of acquittal.

§ 3. If the facts giving rise to the retracted judgment remain punishable by virtue of provisions once again applicable as a result of the annulment, the judge hearing the request for retraction may, on the request of the public prosecutor and provided that the public proceedings are not time-barred, pronounce new convictions, without, however, resulting in an increase in the penalties.

§ 4. The judge shall order the repayment of the fine unduly collected, plus statutory interest since collection.

Article 28 of the Law of 13 March 1973 on compensation in the event of inoperative preventive detention applies to a convicted person who has been unduly detained in execution of the withdrawn judgment.

§ 5. If, as a result of the withdrawal, the judge has ceased to have jurisdiction to rule on the civil action, he shall refer it to the competent judge. Articles 660 to 663 of the Judicial Code and Article 16, §§ 1 and 2 of this Law shall apply to this referral.

Art. 14.

Decisions ordering the internment of accused persons in a state of insanity, mental imbalance or mental retardation, pronounced under the Social Defence Act, with regard to abnormal and habitual offenders, shall be subject to withdrawal, in accordance with articles 10 to 13.

Art. 15.

By way of derogation from article 1082, paragraph 2, of the Judicial Code, a second appeal in cassation may be brought when it exclusively invokes the annulment by the Constitutional Court of the provision of a law, federate law or rule referred to in Article 134 of the Constitution which served as a basis for the decision undertaken, or of a regulation made pursuant to such a norm.

Art. 16.

§ 1. Insofar as they are based on a provision of a law, federate law or rule referred to in Article 134 of the Constitution, which was subsequently annulled by the Constitutional Court, or a regulation made pursuant to such a provision, final decisions rendered by civil courts may be revoked in whole or in part, at the request of those who have been parties or duly called upon.

§ 2. Within the limits of withdrawal, the judge may render a new decision on the basis of another case or on the basis of a legal classification different from a fact or act relied on in support of the decision undertaken.

§ 3. The application for withdrawal shall be brought before the court which issued the decision undertaken and shall be introduced by a summons containing the statement of grounds of appeal, and served on all the parties involved in the decision undertaken, all under penalty of nullity.

§ 4. Under penalty of forfeiture, the application shall be filed within six months of the publication of the judgment of the Constitutional Court in the Belgian Official Gazette.

Art. 17.

Insofar as a decision of the Council of State is based on a provision of a law, federate law or rule referred to in Article 134 of the Constitution, which was subsequently annulled by the Constitutional Court, or a regulation made pursuant to such a rule, that decision may be wholly or partly withdrawn.

The period for appeal is six months from the publication of the judgment of the Constitutional Court in the Belgian Official Gazette.

Art. 18.

Notwithstanding the expiry of the time limits provided for in the specific laws and regulations, the acts and regulations of the various administrative authorities and the decisions of courts other than those referred to in Article 16 of this Law may, if they are based on a provision of a law, federate law or rule referred to in Article 134 of the Constitution, which was subsequently annulled by the Constitutional Court, or a regulation made pursuant to such a regulation, to be the subject of administrative or judicial proceedings against them, as the case may be, within six months of the publication of the judgment of the Constitutional Court in the Belgian Official Gazette.

Section III
On suspension

Art. 19.

At the request of the applicant, the Court may, by a reasoned decision, suspend in whole or in part the law, federate law or rule referred to in Article 134 of the Constitution, which is the subject of an action for annulment.

Art. 20.

Without prejudice to Article 16ter of the Special Law of 8 August 1980 on institutional reforms and Article 5ter of the Special Law of 12 January 1989 on Brussels institutions, suspension may only be decided:

1° if serious grounds are invoked and on condition that the immediate execution of the law, federate law or rule referred to in Article 134 of the Constitution that is the subject of the action may cause serious damage that is difficult to repair;

2° if an action is brought against a norm that is identical (or similar) to a norm already annulled by the Constitutional Court and which has been adopted by the same legislator.

Art. 21.

The request for suspension shall be made in the request for annulment or by a separate act, signed in accordance with Article 5, and attached to the request or brought in the course of the proceedings.

By way of derogation from Article 3, requests for suspension shall be admissible only if they are submitted within three months of the publication of the law, federate law or rule referred to in Article 134 of the Constitution.

Art. 22.

Without prejudice to Article 16ter of the Special Law of 8 August 1980 on institutional reforms and Article 5ter of the Special Law of 12 January 1989 on Brussels institutions, the request referred to in Article 20, 1°,) shall contain a statement of the facts such as to establish that the immediate application of the contested regulation is likely to cause serious damage which is difficult to repair.

Where it is submitted by a separate act, the request shall be dated and shall indicate the standard which is the subject of the action for annulment.

Art. 23.

Without prejudice to the provisions of Articles 70 to 73, the Court shall decide on the application

without delay by a reasoned judgment, after hearing the parties.

Art. 24.

The judgment ordering the suspension shall be drawn up in French, Dutch and German. At the request of the Registrar, it shall be published in the Belgian Official Gazette (in its entirety or by extract) within five days of delivery.

It shall take effect from the date of its publication.

Art. 25.

The Court shall deliver its judgment on the main application within three months of the delivery of the judgment ordering the suspension. This time limit cannot be extended.

If the judgment on the main application is not delivered within that period, the suspension shall immediately cease to have effect.

Section IV

On appeals against decisions of the Control Commission on the control of election expenses incurred for elections to the House of Representatives

Art. 25bis.

The Court shall rule, by way of judgment, on actions for annulment for infringement of either essential or prescribed forms on pain of nullity, excess or misuse of power, brought against the decisions of the Control Commission referred to in Article 14/1 of the Law of 4 July 1989 on the limitation and control of election expenses incurred for the election of the House of Representatives, as well as on the financing and open accounting of political parties.

In considering this appeal, the Court has the powers conferred on it by Article 26 § 1 and 1bis.

Art. 25ter.

The appeals referred to in Article 25bis shall be lodged by the elected candidate who is the subject of the Control Commission's sanction decision.

Such appeals shall be admissible only if they are lodged within 30 days of notification of the decision of the Control Commission. The limitation period for the appeals referred to in this Article shall only take effect if the notification by the Control Commission of its sanction decision indicates the existence of such appeal and the forms and time limits to be respected. Where this condition is not met, the limitation period shall begin four months after the person concerned has

become aware of the decision of the Control Commission.

Art. 25quater.

An action for annulment shall be brought before the Court by an application signed by the elected candidate referred to in Article 25ter or his lawyer.

The request is dated. It shall indicate the subject matter of the appeal and shall contain a statement of the facts and arguments.

Without prejudice to Articles 70 to 73, the Court shall decide within three months of the filing of the action for annulment by a reasoned judgment, after hearing the parties.

Art. 25quinquies.

The applicant submits with its application a copy of the decision of the Control Commission referred to in Article 14/1 of the Law of 4 July 1989 on the limitation and control of election expenses incurred for the election of the House of Representatives, as well as on the financing and open accounting of the political parties which is the subject of the appeal and, where applicable, its annexes.

The Registrar shall notify the President of the House of Representatives of the request. Within ten days of receipt of the notification by the Registrar, the President of the House of Representatives shall forward to the Court the file which gave rise to the contested decision.

Within 30 days of receipt of the notification by the Registrar, the Control Commission may send a statement to the Court. A brief that has not been submitted within the time limit shall be disregarded from the debates. The Registrar shall forward a copy of the memorandum to the applicant. The latter shall have 15 days from the day of receipt to send the Registry a reply statement. These time limits may be shortened or extended by reasoned order of the President.

Art. 25sexies.

If the appeal is well founded, the Court shall annul the decision of the Control Commission which is the subject of the appeal.

The Registrar shall notify the judgments to the parties and the President of the House of Representatives.

Art. 25septies.

Articles 74, 76, 78, 80, 85 to 89bis and 113 shall not apply to appeals against decisions of the Control Commission. If, however, the Court is called upon to apply its jurisdiction in accordance with Article

26, the Council of Ministers shall be notified by the Registrar. In this case, the Council of Ministers has fifteen days to submit a brief to the Court.

Article 90 shall apply to the appeal referred to in Article 25bis by replacing the period provided for in Article 89 by the period of fifteen days provided for in the third paragraph of Article 25quinquies, abbreviated or extended where appropriate.

CHAPTER II On preliminary questions

Art. 26.

§ 1. The Constitutional Court shall give a preliminary ruling, by way of a judgment, on questions relating to:

1° the violation by a law, federate law or rule referred to in Article 134 of the Constitution, of the rules which are established by or under the Constitution to determine the respective competences of the State, the Communities and the Regions;

2° without prejudice to 1°, any conflict between federate laws or rules referred to in Article 134 of the Constitution issued by separate legislators and insofar as the conflict results from their respective scope of application;

3° the violation by a law, federate law or rule referred to in Article 134 of the Constitution, of the articles of Title II "Belgians and their rights", and of Articles 170, 172 and 191 of the Constitution.

4° the violation by a law, federate law or rule referred to in Article 134 of the Constitution, of Article 143, § 1, of the Constitution.

§ 1bis. Excluded from the scope of this article are the laws, federate laws and rules referred to in Article 134 of the Constitution by which a treaty establishing the European Union or the Convention of 4 November 1950 for the Protection of Human Rights and Fundamental Freedoms or an Additional Protocol to that Convention is approved.

§ 2. When such a question is raised before a court, the court must ask the Constitutional Court to rule on the question.

However, the court is not obliged to do so:

1° where the case cannot be examined by that court for reasons of lack of jurisdiction or inadmissibility, unless those grounds are taken from standards which are themselves the subject of the reference for a preliminary ruling;

2° when the Constitutional Court has already ruled on a question or an action having the same purpose.

The court, whose decision may be appealed, opposed, appealed to the Council of State or appealed for annulment, as the case may be, is also not bound to do so if the law, federate law or rule referred to in Article 134 of the Constitution does not manifestly infringe a rule or article of the Constitution referred to in § 1 or if the court considers that the answer to the preliminary question is not necessary to give its decision.

§ 3. Unless there is a serious doubt as to the compatibility of a law, federate law or rule referred to in Article 134 of the Constitution with one of the rules or articles of the Constitution referred to in § 1 and there is no request or action having the same purpose pending before the Court, a court is not required to refer a question for a preliminary ruling either when the request is urgent and the decision on the request is of a provisional nature only, or during a procedure for assessing the continuation of preventive detention.

§ 4. When a court invokes a violation by a law, federate law or rule referred to in Article 134 of the Constitution of a fundamental right guaranteed in a totally or partially similar manner by a provision of Title II of the Constitution as well as by a provision of European or international law, the court must first refer a preliminary question to the Constitutional Court on the compatibility with the provision of Title II of the Constitution. Where before the court is only invoked infringement of the provision of European or international law, the court is required to verify, even *ex officio*, whether Title II of the Constitution contains a wholly or partially similar provision. These obligations do not affect the possibility for the court to also refer a question to the Court of Justice of the European Union for a preliminary ruling, either simultaneously or subsequently.

By way of derogation from paragraph 1, the obligation to refer a question to the Constitutional Court for a preliminary ruling shall not apply:

1° in the cases referred to in paragraphs 2 and 3;

2° where the court considers that the provision of Title II of the Constitution is manifestly not violated;

3° where the court considers that a judgment of an international court shows that the provision of European or international law is manifestly infringed;

4° when the court considers that a decision of the Constitutional Court shows that the provision of Title II of the Constitution is manifestly violated.

Art. 27.

§ 1. The Court shall be seized of the questions referred for a preliminary ruling by forwarding a copy of the decision to refer, signed by the President and the Registrar of the court.

§ 2. The decision to refer shall indicate the provisions of the law, federate law or rule referred to in Article 134 of the Constitution which are the subject of the question; where appropriate, it shall also specify the relevant articles of the Constitution or special laws. However, the Constitutional Court may reformulate the preliminary question referred.

Art. 28.

The court which referred the question for a preliminary ruling, as well as any other court called upon to rule in the same case, shall be bound, for the settlement of the dispute in which the questions referred to in Article 26 were raised, to comply with the judgment delivered by the Constitutional Court.

If the Court considers it necessary, it shall indicate, by means of a general provision, those of the effects of the provisions which have been found to be unconstitutional which shall be considered final or provisionally maintained for the period it determines.

Art. 29.

§ 1. A court's decision to refer a question to the Constitutional Court for a preliminary ruling is not subject to appeal.

§ 2. The decision by which a court refuses to refer a question for a preliminary ruling must indicate the grounds for refusal. As it refuses to ask such a question, the decision of a court is not subject to a separate appeal.

Art. 30.

The decision to refer a question to the Constitutional Court for a preliminary ruling suspends the procedure and the procedural and limitation periods from the date of that decision until the date on which the judgment of the Constitutional Court is notified to the court which referred the question for a preliminary ruling. A copy will be sent to the parties.

However, the court may, even of its own motion, take the necessary provisional measures, in particular to ensure the protection of the rights conferred by the legal order of the European Union.

CHAPTER III

Common provisions

Art. 30bis.

For the application of Articles 1 and 26, § 1, the rules referred to in 1° of these two provisions are considered to include consultation, association, transmission of information, opinions, assent, agreements, joint agreements and proposals provided for by the special law of 8 August 1980 on institutional reforms, with the exception of the cooperation agreements referred to in Article 92bis of the said law, as well as by the Special Law of 16 January 1989 on the financing of communities and regions or by any other law adopted in implementation of Articles 39, 127, § 1, 128, § 1, 129, § 1, 130, § 1, 135, 136, 137, 140, 166, 175, 176 and 177 of the Constitution.

CHAPTER IV

On control of popular consultations

Art. 30ter.

The Constitutional Court shall rule, by decision, on each regional popular consultation, prior to its organisation, verifying compliance with the standards referred to in Article 1, as well as with the terms and conditions laid down by or pursuant to Article 39bis of the Constitution.

The request shall be submitted by the President of the Regional Parliament. This request shall be dated, indicate the subject of the popular consultation and the regional competence to which it relates, and contain the statement of the question to be asked, the name of the initiator of the popular consultation or, if there are several initiators, the name of their representative, any observations of the President of the Regional Parliament and the administrative file. This administrative file is transmitted with an inventory of the parts that compose it.

The Constitutional Court shall decide within sixty days of the submission of the application.

If the popular consultation does not comply with one of the standards, conditions or procedures referred to in paragraph 1, or if the matter is not brought before the Constitutional Court, the popular consultation shall not be held. Nor can popular consultation be organised until the Constitutional Court has ruled.

CHAPTER V
On privacy

Art. 30quater.

The President may decide, at any stage of the proceedings and even after the judgment has been delivered, ex officio or at the request of a party or an interested third party, that the information enabling it to be directly identified shall be deleted, as soon as possible, from any publication which the Court may make or may have made under this Special Law or on its own initiative.

TITLE II

THE ORGANISATION OF THE CONSTITUTIONAL
COURT

CHAPTER I

On the Judges of the Constitutional Court

Art. 31.

The Constitutional Court is composed of twelve judges: six French-speaking judges who form the French linguistic group of the Court and six Dutch-speaking judges who form the Dutch linguistic group of the Court.

The status of French-speaking judge or Dutch-speaking judge of the Constitutional Court shall be determined, in the case of the judges referred to in Article 34 § 1, 1°, by the language of the diploma and, in the case of the judges referred to in Article 34 § 1, 2°, by the parliamentary language group of which they were last members.

Art. 32.

Judges are appointed for life by the King on a double list presented alternately by the House of Representatives and the Senate. It is adopted by a two-thirds majority of the votes of the members present.

Presentations may only be made at least fifteen days after the vacancy has been published in the Belgian Official Gazette. This publication may take place at the earliest three months before the vacancy.

Each presentation shall be published in the Belgian Official Gazette; the appointment may not take place until fifteen days after the presentation.

Art. 33.

The French-speaking judges and the Dutch-speaking judges of the Constitutional Court shall each choose, as far as they are concerned, a French-speaking president and a Dutch-speaking president from among themselves.

Art. 34.

§ 1. To be eligible for appointment as a judge of the Constitutional Court, the candidate must be over forty years of age and meet one of the following conditions:

1° have held the position in Belgium for at least five years:

a) as a Judge, General Public Prosecutor, First General Attorney or General Attorney to the Supreme Court;

b) either as State Councillor or Auditor General, Deputy Auditor General or First Auditor or First Referendary to the Council of State;

c) a referendary at the Constitutional Court;

d) or as an ordinary professor, an extraordinary professor, a professor or an associate professor of law at a Belgian university.

2° have been a member of the Senate, the House of Representatives or a Parliament of a Community or a Region.

§ 2. The Court shall include, among its French-speaking judges and among its Dutch-speaking judges, as many judges meeting the conditions laid down in § 1, 1°, as judges meeting the condition laid down in § 1, 2°.

Among the judges who meet the conditions set out in § 1, 1°, at least one judge must satisfy the condition referred to in a), or the condition referred to in b), at least one judge must satisfy the condition referred to in c) and at least one judge must satisfy the condition referred to in d).

§ 3. A candidate whose nomination is based on the conditions set out in § 1, 1° may not be nominated under the condition set out in § 1, 2°.

A candidate whose nomination is based on the condition set out in § 1, 2°, may not be nominated under the conditions set out in § 1, 1°.

§ 4. At least one judge, among the judges who meet the conditions laid down in § 1, 1°, must provide proof of sufficient knowledge of German. The King determines how to justify the knowledge of German.

§ 5. The Court is composed of judges of different gender.

FUTURE LAW

Art. 34.

§ 1. To be eligible for appointment as a judge of the Constitutional Court, the candidate must be 40 years old and meet one of the following conditions:

§ 1. have held the position in Belgium for at least five years:

a) as a Judge, General Public Prosecutor, First General Attorney or General Attorney to the Supreme Court;

b) either as State Councillor or Auditor General, Deputy Auditor General or First Auditor or First Referendary to the Council of State;

c) a referendary at the Constitutional Court;

d) or as an ordinary professor, an extraordinary professor, a professor or an associate professor of law at a Belgian university.

2° have been a member of the Senate, the House of Representatives or a Parliament of a Community or a Region.

§ 2. The Court shall include, among its French-speaking judges and among its Dutch-speaking judges, as many judges meeting the conditions laid down in § 1, 1°, as judges meeting the condition laid down in § 1, 2°.

Among the judges who meet the conditions set out in § 1, 1°, at least one judge must satisfy the condition referred to in a), or the condition referred to in b), at least one judge must satisfy the condition referred to in c) and at least one judge must satisfy the condition referred to in d).

§ 3. A candidate whose nomination is based on the conditions set out in § 1, 1° may not be nominated under the condition set out in § 1, 2°.

A candidate whose nomination is based on the condition set out in § 1, 2°, may not be nominated under the conditions set out in § 1, 1°.

§ 4. At least one judge, among the judges who meet the conditions laid down in § 1, 1°, must provide proof of sufficient knowledge of German. The King determines how to justify the knowledge of German.

§ 5. The Court is composed of judges of different sexes, both in respect of the judges referred to in § 1, 1°, and those referred to in § 1, 2°.

It shall have at least one third of judges of each gender.

CHAPTER II On Referendaries

Art. 35.

The Constitutional Court is assisted by a maximum of twenty-four referendaries, half of whom are French-speaking and the other half Dutch-speaking, depending on the language of the diploma and who have demonstrated sufficient knowledge of the second national language before a jury constituted by the Chief Executive Officer of the Federal Administration's Selection Office.

At least one French-speaking and one Dutch-speaking referendary candidate must provide proof of sufficient knowledge of German before a

jury constituted by the Chief Executive Officer of the Selection Office of the Federal Administration.

Art. 36.

No one may be appointed as a referendary unless he is twenty-five years old and is a doctor or a master in law.

Appointments may only be made after the place has become vacant and at least fifteen days after the vacancy has been published in the Belgian Official Gazette. This publication may take place at the earliest three months before the vacancy.

Art. 37.

Candidates are ranked for appointment in an examination for which the Court sets the conditions and constitutes the selection board.

Half of the members of the jury shall be judges of the Court and half shall be persons from outside the institution, with due regard for linguistic parity.

The examination is valid for three years.

The examination is, as for its effects, assimilated to examinations giving access in the State administration and in public interest organisations, to the functions of administrative-legal secretary.

Art. 38.

Referendaries are appointed by the Court for a three-year probationary period according to the ranking of the competition provided for in Article 37.

At the end of these three years, the appointment becomes final unless otherwise decided by the Court during the third year of the internship.

Art. 39.

The functions of referendary at the Constitutional Court are assimilated to judicial functions with regard to the conditions of appointment provided for in Articles 70 and 71 of the Laws on the Council of State coordinated on 12 January 1973, and in Articles 187 et seq. of the Judicial Code.

The years completed as a referendary at the Constitutional Court shall be taken into account for the calculation of seniority in any administrative or judicial function, or in a function at the Council of State or at the Constitutional Court that the referendaries may subsequently exercise.

CHAPTER III
On Registrars

Art. 40.

§ 1. The King shall appoint two registrars from two lists, each containing two candidates, one nominated by the French linguistic group and the other by the Dutch linguistic group of the Constitutional Court.

Article 32, paragraphs two and three, shall apply to such submissions.

§ 2. The linguistic role of a registrar is determined by his presentation by the corresponding linguistic group of the Constitutional Court.

Art. 41.

To be eligible for appointment as registrar of the Constitutional Court, the candidate must

- 1° be thirty years of age;
- 2° have passed one of the following examinations:
 - a) the referendary examination at the Constitutional Court;
 - b) the referendary examination at the Supreme Court;
 - c) the examination for assistant auditor or assistant referendary to the Council of State;
 - d) the examination of professional competence provided for in Article 259bis of the Judicial Code;
 - e) the examination for admission to the judicial traineeship referred to in Article 259quater of the Judicial Code;
 - f) the examination at recruitment grade 1, qualification "jurist", for administrations of the federal authority, the communities and regions and for the public interest bodies dependent on them, as well as for the services of the Constitutional Court;
 - g) the examination at the recruitment grade of attaché, "lawyer" qualification, for legislative chambers and Community and Regional Parliaments.

3° have at least two years' useful experience.

In addition, the French-speaking candidate must prove knowledge of the Dutch language and the Dutch-speaking candidate must prove knowledge of the French language by passing one of the examinations provided for in Articles 43quinquies and 53, § 6, the Law of 15 June 1935 on the use of languages in judicial matters, Article 43, § 3, paragraph 3, of the Law on the use of languages in administrative matters, coordinated on 18 July 1966, and Article 73, § 2, paragraph 5, of the Laws on the Council of State, coordinated on 12 January 1973.

CHAPTER IV
On administrative personnel

Art. 42.

The Constitutional Court has its own personnel. It shall determine the professional and linguistic modalities, with due regard for linguistic parity by level; it shall appoint and dismiss staff members.

The King approves the frameworks referred to in the first paragraph.

Unless otherwise decided by the Court, required for the proper functioning of its services and laid down in regulations approved by Royal Decree, personnel shall be subject to the legal and statutory rules applicable to permanent agents of the State.

Art. 43.

The Court decides on delegations, impediments and replacements, absences, leave and vacations of administrative personnel members.

The Court may delegate all or part of this power to a staff committee, composed of the two presidents, two judges from the French language group and two judges from the Dutch language group, appointed by the Court for a period of four years. They may be re-elected.

CHAPTER V
On incompatibilities

Art. 44.

The functions of judge, referendary and registrar are incompatible with judicial functions, with the exercise of a public mandate conferred by election, with any public function or office of a political or administrative nature, with the offices of notary and bailiff, with the profession of attorney at law, with the profession of military and with the office of minister of a recognised religion.

The King may derogate from the first paragraph, on a favourable and reasoned opinion of the Court, from the first paragraph:

1° in the case of the performance of the duties of professor, lecturer, or assistant in higher education institutions, provided that these duties are not performed for more than five hours a week or in more than two half-days a week;

2° in the case of the performance of duties as a member of a board of examiners;

3° in the case of participation in a commission, council or advisory committee, provided that the number of remunerated offices or functions is limited to two and that their total remuneration

does not exceed one-tenth of the gross annual salary of the main function at the Court.

Art. 45.

Presidents, judges, referendaries and registrars may not be required for any public service, except in cases provided for by law.

Art. 46.

Presidents, judges, referendaries and registrars may not:

1° defend the persons concerned, either orally or in writing, or give them consultations;

2° engage in paid arbitration;

3° either personally or through an intermediary, engage in any professional activity, any kind of trade, be a business agent, participate in the management, administration or supervision of commercial companies or industrial or commercial establishments.

Art. 47.

Parents and allies, up to and including the third degree, may not simultaneously be president or judge and referendary without an exemption from the King.

Art. 48.

§ 1. Article 44, first paragraph, and Articles 46, 1° and 2° shall apply to members of the administrative personnel of the Constitutional Court.

§ 2. Derogations may be granted by the Court in cases where the provisions applicable to civil servants allow them or their spouses to carry out certain additional occupations.

CHAPTER VI
On discipline

Art. 49.

Presidents and judges who have failed in the dignity of their functions or in the duties of their state may be dismissed or suspended from their functions by decision of the Constitutional Court.

Art. 50.

§ 1. Referendaries and registrars who fail in their duties shall be notified and reprimanded by the President, suspended and dismissed by the Constitutional Court. Suspension entails deprivation of salary, with its inherent repercussions, both in terms of pensions and the granting of subsequent salary increases.

§ 2. No sanction shall be imposed without the person concerned having been heard or duly summoned.

§ 3. When prosecuted for a crime or misdemeanour or in the case of disciplinary proceedings, referendaries and registrars may, where the interests of the service so require, be suspended from their functions by order of the Constitutional Court, for the duration of the proceedings and until the final decision.

Suspension by order is pronounced for one month; it may be extended from month to month until the final decision is taken. The Constitutional Court may decide that this measure shall include, during all or part of its duration, provisional, total or partial withholding of the salary.

CHAPTER VII
Miscellaneous provisions

Art. 51.

§ 1. The presidents and judges take the oath prescribed by Article 2 of the Decree of 20 July 1831 into the hands of the King.

§ 2. Referendaries and registrars shall take this oath in the hands of the President.

§ 3. They shall be required to take the oath within one month from the day on which they were notified of their appointment, failing which their replacement may be provided.

§ 4. The oath shall be taken in French or Dutch depending on whether the person concerned is French-speaking or Dutch-speaking.

Art. 52.

The King prescribes the costume worn at hearings and official ceremonies by office holders at the Constitutional Court.

It regulates precedence and honours.

Art. 53.

The King creates a concordance service at the Constitutional Court.

TITLE III

THE FUNCTIONING OF THE CONSTITUTIONAL
COURT

Art. 54.

The presidency is held alternately by each president for a period of one year.

These periods begin on the first of September of each year.

Art. 55.

Without prejudice to Article 56, the Constitutional Court shall hold its hearings, deliberate and rule, and shall be composed of seven judges: three French-speaking, three Dutch-speaking and the President or, in his absence, the most senior or, where appropriate, the oldest judge of the same linguistic group.

Of the seven judges referred to in paragraph 1, at least two must meet the conditions laid down in Article 34, § 1, 1°, and at least two must meet the condition laid down in Article 34, § 1, 2°.

In the event of a case which must be dealt with in the language other than that of the language group to which it belongs, the President shall delegate his powers to the other President or, in his absence, to the most senior judge or, where appropriate, the oldest judge of the other language group.

All decisions are taken by a majority of the votes of the members.

Art. 56.

The Constitutional Court shall meet in plenary session to take decisions pursuant to Articles 37, 38, 42, 43, 44, 44, 49, 50, 100 and 122.

Whenever it considers it necessary, each of the presidents may submit a case to the Constitutional Court meeting in plenary session. The presidents are required to do so when, of the seven judges who, in accordance with article 55, make up the seat, two judges so request.

In plenary session, the Court may only rule if at least ten judges and as many French-speaking judges as Dutch-speaking judges are present. If the latter condition is not met, the most recently appointed judge or, where applicable, the youngest judge from the largest language group shall refrain from taking any decision.

When the Court rules in plenary session, the President shall have the casting vote in the event of a tie. When the President is absent or unable to attend, he or she shall be replaced by the most senior or, where appropriate, the oldest judge from the same language group.

Art. 57.

Article 258 of the Criminal Code on denial of justice is applicable to judges of the Constitutional Court.

Art. 58.

On 1 September each year, the presidents shall draw up, for the purposes of the service, a list of the judges of their language group.

Art. 59.

The presidents sit in all cases.

For each case, the President-in-Office shall designate the judges of the seat in accordance with the following rules. In his list, he retains:

- for the first case, the first, second and third names;
- for the second case, the fourth, fifth and first names, and so on.

In the other president's list, he retains:

- for the first case, the first and second names;
- for the second case, the third and fourth names;
- for the third case, the fifth and first names, and so on.

The order of business is that determined by section 67.

Art. 60.

In the absence or incapacity of a judge other than a President, that judge shall be replaced by the one who, appointed on the basis of the same provision, follows him on the list or, if he is the last on that list, by the first.

Art. 60bis.

Presidents and judges admitted to retirement on the grounds of age continue to exercise their functions in cases in which they sat at the hearing and which were reserved before the date of their admission to retirement and have not yet given rise to a decision, unless the current president exempts them from doing so at their request.

The extension of the performance of duties may not exceed six months.

For the purposes of applying Article 56(1), presidents and judges who have retired because of their age shall sit until their successors have taken the oath.

Art. 61.

The Court shall be assisted by the Registrar, whose language shall be the language of the proceedings.

TITLE IV

THE USE OF LANGUAGES

CHAPTER I

The use of languages before the Constitutional Court

Art. 62.

Cases are brought before the Constitutional Court in French, Dutch or German.

In acts and declarations:

1° the Council of Ministers shall use French or Dutch in accordance with the rules laid down in Article 17 § 1 of the laws on the use of languages in administrative matters coordinated on 18 July 1966;

2° the Executives use their administrative language;

3° the courts shall use the language or languages in which they must draft their decision;

4° the Presidents of the Legislative Chambers, the President of the Parliament of the Brussels-Capital Region and the President of the United Assembly of the Joint Community Commission shall use French and Dutch;

5° the Presidents of the Parliament of the French Community, the Walloon Parliament and the Assembly of the French Community Commission use French, the President of the Parliament of the German-speaking Community uses German, and the President of the Flemish Parliament uses Dutch;

6° persons having to prove an interest use the language of their choice, except where they are subject to legislation on the use of languages in administrative matters, in which case they use the language determined by the laws on the use of languages in administrative matters, coordinated on July 18, 1966.

7° an elected candidate who appeals against a decision of the Control Commission shall use the language in which he or she took the oath;

8° the Control Commission shall use the language used by the applicant in the event of an appeal against one of its decisions.

The Court shall declare *ex officio* that acts and declarations of the Council of Ministers, the Executive, the Presidents of the legislative assemblies and persons subject to legislation on the use of languages in administrative matters, which are not addressed to the Court in the language prescribed by paragraph 2, are void.

Art. 63.

§ 1. Subject to the provisions of §§ 2 and 3, the investigation of the case shall take place in the language of the request before the Court.

§ 2. If the case is brought in German, or both French and Dutch, the Court shall decide whether the investigation shall be conducted in French or Dutch.

§ 3. Without prejudice to § 2, the case shall be heard in the language of the linguistic region in which the applicant's domicile is located, if the application is brought by a person having a

legitimate interest and having his domicile in a municipality or group of municipalities where the law does not prescribe or allow the use of a language other than that of the region in which they are located.

The processing of joined cases continues in the language of the first case brought.

§ 4. Files for the use of the Court shall be translated into French or Dutch as appropriate.

Art. 64.

Oral interventions at the hearing shall be in French, Dutch or German and shall be translated simultaneously.

Art. 65.

The Court's judgments are written and delivered in French and Dutch. They shall be published in the Belgian Official Gazette in the way determined in Article 114, with a German translation.

Judgments are delivered in Dutch and French by the presidents.

They are also pronounced and published in German in the case of judgments on actions for annulment or where the case has been brought in German.

CHAPTER II

The use of languages in the services of the Constitutional Court

Art. 66.

The administrative work of the Constitutional Court and the organization of its services are governed by the provisions of the legislation on the use of languages in administrative matters, which are applicable to services whose activity extends throughout the country.

TITLE V

PROCEEDINGS BEFORE THE CONSTITUTIONAL COURT

CHAPTER I

The scheduling and appointment of rapporteurs

Art. 67.

The Registrar shall enter the cases in the Court's list in the order in which they are received.

Art. 68.

In each case, the rapporteurs shall be the judges appointed in the first instance from each of the lists referred to in Article 59.

Each rapporteur is responsible for investigating the case and reporting back to the hearing.

CHAPTER II

The preliminary procedure

Art. 69.

There is a restricted chamber, composed of the President and the two rapporteurs.

Art. 70.

Upon receipt of an action for annulment or a decision to refer, the rapporteurs shall examine whether or not it appears, in the light of the application or decision to refer, that the action or question is manifestly inadmissible or unfounded, that the Constitutional Court clearly has no jurisdiction to hear it or that it appears that the case may be terminated by a judgment delivered on preliminary proceedings.

Art. 71.

If the action for annulment or the question referred for a preliminary ruling appears manifestly inadmissible or manifestly outside the jurisdiction of the Court, the rapporteurs shall report on the matter to the President within a maximum period of thirty days following receipt of the request or the decision to refer; if the contested rule is also the subject of a request for suspension, this period shall be reduced to a maximum of fifteen days.

The conclusions of the rapporteurs shall be notified to the parties by the Registrar within the time limit provided for in the first paragraph. The parties shall have 15 days from receipt of the notification to submit a supporting memorandum.

The restricted chamber may then decide, by a unanimous vote, to terminate the examination of the case, without further procedural action, by a judgment in which the action or question is declared inadmissible or in which it is found that the Court does not have jurisdiction.

If the proposal to pronounce a judgment of inadmissibility or incompetence is not accepted, the restricted chamber shall establish this by order.

Art. 72.

If the rapporteurs consider that the action for annulment is manifestly unfounded, that the preliminary question must clearly be answered in the negative or that, by the nature of the case or by the relative simplicity of the problems raised therein, it may be terminated by a judgment

delivered on preliminary procedure, they shall report to the Court on the matter within a maximum period of thirty days after receipt of the request or the decision to refer; if the contested rule is also the subject of a request for suspension, this period shall be reduced to a maximum of fifteen days.

The conclusions of the rapporteurs shall be notified to the parties by the Registrar within the time limit provided for in paragraph 1. If the rapporteurs' conclusions propose to find a violation of the rules mentioned in Articles 1 and 26, they shall be notified, together with the action for annulment or the decision containing the preliminary question, to the parties mentioned in Article 76. The parties have fifteen days from the receipt of the notification to submit a supporting statement.

The Court may then decide to terminate the examination of the case, without further procedural steps, by a judgment in which, as the case may be, the action is declared well founded or unfounded or the question receives a positive or negative answer.

If the proposal to deliver a judgment on preliminary proceedings is not accepted, the Court shall record it by order.

Art. 73.

The judgments referred to in Articles 71, paragraph three, and 72, paragraph three, shall be notified to the parties.

CHAPTER III

Publication and notification of requests and preliminary questions

Art. 74.

Where Articles 71 and 72 have not been applied or in the light of the order referred to in the fourth paragraph of Article 71 or the order referred to in the fourth paragraph of Article 72, the Registrar shall have a notice published in the Belgian Official Gazette, in French, in Dutch and in German, indicating in particular the author and the subject of the action for annulment or the preliminary question.

The request for annulment may be consulted at the Court Registry within 30 days of the publication referred to in the first paragraph.

The procedure shall be continued in accordance with the following provisions.

Art. 75.

The Court may appoint a public defender. The designation will be considered void if the interested party chooses a personal advisor.

The King organizes the modalities of the assistance.

Art. 76.

§ 1. The Registrar shall notify the Regional and Community Executives and the Presidents of the Legislative Assemblies of the actions for annulment brought by the Council of Ministers.

§ 2. He shall notify the Council of Ministers and other Executives and the Presidents of the Legislative Assemblies of actions for annulment brought by a Regional or Community Executive.

§ 3. He shall notify the Council of Ministers, the Regional and Community Executives and the Presidents of the other legislative assemblies of actions for annulment brought by the President of a legislative assembly.

§ 4. He shall notify the Council of Ministers and the Regional and Community Executives and the Presidents of the Legislative Assemblies of actions for annulment brought by a person proving an interest.

Art. 77.

The Registrar shall notify the decisions to refer to the Council of Ministers, to the Regional and Community Executives and the Presidents of the Legislative Assemblies, as well as the parties concerned.

Art. 78.

Where the same provision is the subject of an action for annulment and an earlier decision to refer it back, the Registrar shall notify the parties concerned of the action for annulment before the court which referred the question for a preliminary ruling. The notification shall specify the time limit within which they may file a memory in accordance with Article 85.

Except where Article 100 applies, the Court shall first decide on the action for annulment.

CHAPTER IIIbis
Electronic procedure

Art. 78bis.

§ 1. The Court shall provide an electronic platform for the communications required in proceedings before the Constitutional Court, in particular for the submission of applications, the sending of

procedural documents and the sending of notifications, communications and summonses.

The King determines the functioning of the platform, including the conditions for managing and securing the platform. This includes the parties who have access to it, the registration procedure, the terms of use, user authentication, document format and signature. As regards the parties who have access to it, the King may, under penalty of inadmissibility, make the use of the platform mandatory for certain categories of parties or provide that certain categories of parties may only register on the platform when the King has set the conditions to that effect.

In particular, the platform must meet the following conditions:

1° it must be possible to establish precisely the dates and times of dispatch and issue of procedural documents, notifications and communications;

2° the identity of the parties involved in the service must be capable of being accurately verified;

3° all exchanges that have taken place by means of the platform must be protected against changes by means of appropriate technical and cryptographic security measures;

4° the confidentiality of all data exchanged by means of the platform must be guaranteed.

§ 2. Data communicated on a regular basis by electronic means using the platform shall, in the absence of proof to the contrary, have the same probative value as data communicated on paper.

§ 3. In the absence of proof to the contrary, data communicated in a regular manner by electronic means by means of the platform shall take effect and delivery to the recipient shall be deemed to take place at the time when such data can be consulted by means of the platform.

§ 4. Where the communication of data by means of the platform is not possible for reasons of force majeure, and in particular in the event of malfunctioning of the platform, the communication may be made on paper, at the latest on the day following the expiry of the time limit for paper mailings, either by registered mail with acknowledgement of receipt or by filing with the Court Registry, and may be stored and consulted as such.

CHAPTER IV
Education

Art. 79.

The instruction shall be in writing.

Art. 80.

Notifications to the Council of Ministers are made to the Prime Minister's Office.

Notifications to the Executives of the Communities and Regions are made to the cabinet of the President of the Executive.

Notifications to the presidents of the legislative assemblies are made to the registrar of the assembly.

Art. 81.

Any party, if it is not a public authority, shall indicate in the request or statement its domicile or registered office in Belgium or the domicile it elects in Belgium.

In the absence of such an indication, no notification shall be made by the Registry and the procedure shall be deemed to be contradictory.

Any notification shall be made by the Registry office at the registered office or domicile indicated, even in the event of the death of the party.

*FUTURE LAW**Art. 81.*

Any party, if it is not a public authority and if it is not registered on the platform, shall indicate in the request or statement its domicile or registered office in Belgium or the domicile or registered office it elects in Belgium.

In the absence of an indication of the domicile or registered office and registration on the platform, no notification shall be made by the Registry and the procedure shall be deemed to be contradictory.

All notifications shall be made by the Registry:

1° to the electronic address of a party registered on the platform;

2° for persons who are not registered on the platform, at the address or registered office indicated, even in the event of the death of the party.

Art. 82.

The sending to the Court of any procedural document shall be made by registered letter to the post office.

The Court shall send any document, notification or summons by registered mail to the post office with acknowledgement of receipt.

The period granted to the parties begins on the date of receipt of the letter. If the addressee refuses the envelope, the period begins on the date of the refusal.

The date of the post office is decisive for both sending and receiving or refusing.

*FUTURE LAW**Art. 82.*

The sending to the Court of any procedural documents by the parties registered on the platform shall be done by means of the platform. The sending to the Court of any procedural documents by parties who are not registered on the platform shall be by registered mail.

The Court shall send any document, notification or summons to the parties registered on the platform by means of the latter. The Court shall send any document, notification or summons to the parties who are not registered on the platform by registered mail with acknowledgement of receipt.

The application or statement shall be signed and dated when sent to the Court by registered mail.

In the case of registered mail, the time limit granted to the parties shall begin on the day following the date of receipt of the mail or of the notice that the mail may be withdrawn, where it cannot be delivered personally to the addressee or his recipient. If the recipient refuses the shipment, the period begins on the day following the refusal.

In the case of communication by means of the platform, the period shall begin on the day on which the documents, notifications and notices referred to may be consulted by means of the platform.

These dates are binding for both sending and receiving or refusing.

Art. 83.

(Repealed)

Art. 84.

The requests and memorandums transmitted to the Court shall contain an inventory of supporting documents.

All files are transmitted with an inventory of the attachments that compose them.

Art. 85.

Within 45 days of receipt of the notifications made by the Registrar under Articles 76, 77 and 78, the Council of Ministers, the Executive, the Presidents of the Legislative Assemblies and the persons to whom such notifications are addressed may address a memorandum to the Court.

Where the case concerns an action for annulment, these memorandums may formulate new pleas in law. Subsequently, the parties may no longer invoke new pleas in law.

Art. 86.

The memorandums referred to in articles 71, paragraph 2, 72, paragraph 2, 85, 87 and 89, which have not been submitted within the time limits provided for in this Act, shall be excluded from the proceedings.

Art. 87.

§ 1 When the Constitutional Court rules, by way of preliminary ruling, on the questions referred to in Article 26, any person proving an interest may submit a memorandum to the Court within thirty days of the publication prescribed by Article 74. It is therefore deemed to be a party to the dispute.

§ 2. Where the Constitutional Court rules on the actions for annulment referred to in Article 1, any person proving an interest may submit his observations in a memorandum to the Court within thirty days of the publication prescribed by Article 74. It is therefore deemed to be a party to the dispute.

Art. 88.

Any person who, pursuant to Articles 85 and 87, submits a memorandum to the Court, is required to attach the file he holds to it.

Art. 89.

§ 1. When the Court gives a preliminary ruling on the questions referred to in Article 26, the Registrar shall forward a copy of the memorandums filed to the other parties who have filed a memorandum. They then have 30 days from the day of receipt to send the Registry a reply. At the end of this period, the Registrar shall transmit to the parties who have filed a request, a copy of the response memorandums filed.

§ 2. When the Court rules on the actions for annulment referred to in Article 1, the Registrar shall forward a copy of the memorandums filed, at the expiry of the time limits referred to in Articles 85 and 87, to the applicant. The latter has 30 days from the day of receipt to send the Registry a reply. At the end of that period, the Registrar shall forward to each party who has lodged a memorandum a copy of the memorandum in response submitted by the applicant and of the memorandums submitted by the other parties. The addressees of such notification shall have 30 days from the day of receipt to send a reply to the Registry. At the end of that period, the Registrar shall forward to the applicant and to the other parties who have lodged a memorandum a copy of the memorandums submitted in reply.

Art. 89bis.

The time limits set out in articles 85, 87 and 89 may be shortened or extended by reasoned order of the President.

Where a time limit fixed in Article 87 is shortened or extended in accordance with paragraph 1, the Registrar shall indicate this in the notice referred to in Article 74(1).

Art. 90.

At the end of the time limits provided for in Article 89, the Court, after hearing the rapporteurs, shall decide whether or not the case is in a state of readiness and whether a hearing is held.

The order deciding that the case is in a fixed state, if any, on the day of the hearing and setting out the grounds which appear to require ex officio examination and the questions to which the parties will be invited to reply, either by means of a supplementary statement to be submitted within the time limit set in the order or orally at the hearing.

The order deciding that the case is not in a state of readiness shall set out the duties to be performed by the rapporteurs or registrars and shall mention, where appropriate, the pleas in law which appear to require ex officio examination and the questions to which the parties will be invited to reply by means of a supplementary memorandum to be submitted within the time limit set in the order. Once these duties have been fulfilled, the Court shall proceed in accordance with paragraphs 1 and 2.

Orders are notified to the parties. If no hearing is scheduled, either party may apply to be heard. This request shall be made within seven days of notification of the order referred to in paragraph 2.

Art. 91.

The Court has the broadest powers of investigation.

In particular, it may:

1° correspond directly with the Prime Minister, with the presidents of the legislative assemblies and executives, and with any other public authority;

2° hear the parties contradictorily and be informed by them and by any public authority of all documents and information relating to the case;

3° hear any person whose hearing it considers useful;

4° make any observations on the premises;

5° committing experts.

It may, by order, delegate to the rapporteurs the powers of investigation that it determines.

Art. 92.

The Court may decide that the persons referred to in Article 91, 3°, shall be heard under oath, the parties and their attorneys summoned.

In this case, they will take the following oath:

“Je jure en honneur et conscience de dire toute la vérité, rien que la vérité”

or

“Ik zweer in eer en geweten dat ik de gehele waarheid en niets dan de waarheid zal zeggen”,

or

“Ich schwöre auf Ehre und Gewissen, die ganze Wahrheit und nur die Wahrheit zu sagen.”

Any person summoned will be required to appear and comply with the summons. Refusal to appear, take an oath or give evidence shall be punishable by a fine of 26 to 100 francs.

Minutes relating to the failure to appear or to refuse to testify under oath shall be drawn up and transmitted to the public prosecutor of the borough in which the person was to be heard.

The provisions of the Criminal Code relating to false testimony in civil matters and the bribery of witnesses shall apply to the investigation procedure provided for in this article.

The minutes of the hearing shall be signed by the President or the judges of the Court who conducted the hearing, by the Registrar and by the person heard.

Art. 93.

In the event of a raid on the premises, the parties and their attorneys are summoned.

Art. 94.

The Court shall determine by order the mission of the experts it commits and shall fix the time limit for the filing of their report. The Registrar shall notify this order to the experts and the parties.

Articles 966 to 970 of the Judicial Code apply to experts appointed.

Within eight days of the notification provided for in paragraph 1, the experts shall notify each of the parties by registered letter of the place, day and time when they will start their operations.

The necessary documents shall be submitted to the experts; the parties may make such statements and submissions as they deem appropriate; they shall be mentioned in the report, the preliminaries of which shall be brought to the attention of the parties.

The report shall be signed by all the experts, unless the Registrar is prevented from doing so at the time of filing the report. The experts' signatures are preceded by the oath:

“Je jure que j'ai rempli ma mission en honneur et conscience, avec exactitude et probité”,

or

“Ik zweer dat ik in eer en geweten, nauwgezet en eerlijk, mijn opdracht heb vervuld”,

or

“Ich schwöre, dass ich den mir erteilten Auftrag auf Ehre und Gewissen, genau und ehrlich erfüllt habe”.

The minutes of the report shall be filed with the Registry. The Registrar shall notify the parties thereof.

The Court may, for serious reasons and by a reasoned decision, terminate the experts' mission and provide for their replacement after hearing them. The Registrar shall notify the experts and the parties of the decision.

FUTURE LAW

Art. 94.

The Court shall determine by order the mission of the experts it commits and shall fix the time limit for the submission of their report. The Registrar shall notify this order to the experts and the parties.

Articles 966 to 970 of the Judicial Code apply to experts appointed.

Within eight days of the notification provided for in paragraph 1, the experts shall notify each of the parties of the place, day and time at which they will commence their operations. 1 This notice shall be sent by registered mail or by means of the platform for parties registered on the platform.

The necessary documents shall be submitted to the experts; the parties may make such statements and submissions as they deem appropriate; they shall be mentioned in the report, the preliminaries of which shall be brought to the attention of the parties.

The report shall be signed by all the experts, unless the Registrar is prevented from doing so at the time of filing the report. The experts' signatures are preceded by the oath:

“Je jure que j'ai rempli ma mission en honneur et conscience, avec exactitude et probité”,

or

“Ik zweer dat ik in eer en geweten, nauwgezet en eerlijk, mijn opdracht heb vervuld”,

or

“Ich schwöre, dass ich den mir erteilten Auftrag auf Ehre und Gewissen, genau und ehrlich erfüllt habe”.

The minutes of the report shall be filed with the Registry. The Registrar shall notify the parties thereof.

The Court may, for serious reasons and by a reasoned decision, terminate the experts' mission and provide for their replacement after hearing them. The Registrar shall notify the experts and the parties of the decision.

Art. 94bis.

§ 1. Where the Court is seized of a preliminary question referred by the Council of State pursuant to Article 6 § 1; VIII, 5°, of the Special Law of 8 August 1980 on institutional reforms, the Registrar shall notify the decision to refer the case in accordance with Article 77.

§ 2. Within ten days of receipt of the notification, the Council of Ministers, Governments, the presidents of the legislative assemblies and the persons to whom such notifications are addressed may address a memorandum to the Court.

§ 3. At the end of the period provided for in § 2, the Court, after hearing the rapporteurs, shall decide whether or not the case is ready for trial. The order deciding that the case is in a fixed state on the day of the hearing. It shall be notified to the parties at least three days before the date of the hearing. During the period between notification of the order for fixing the hearing, the parties may consult the file at the Registry.

CHAPTER V
On incidents

Section I
On plea for forgery

Art. 95.

Where a party pleads for forgery on a document produced, the Court shall invite the party who produced it to declare without delay whether it persists in its intention to use it.

If the party does not comply with this request or declares that it does not intend to use the document, it is rejected.

If it declares that it wishes to use it and that the document is essential for the settlement of the dispute, the Court shall stay its proceedings until after the judgment of forgery has been rendered by the competent court; the latter shall rule on all cases which have ceased. If no court has been seized of the matter, the Court shall assess the probative value of the document.

If it can be decided without taking into account the alleged forgery evidence, it is ignored.

Section II
On resumption of proceedings

Art. 96.

If, before the closure of the proceedings, a person proving an interest having brought an action for annulment or a party referred to in Article 87 dies, the proceedings shall be continued without any further proceedings being required.

Art. 97.

If, before the closure of the proceedings, one of the parties to the dispute before the court which referred the question for a preliminary ruling dies after having become a party before the Court, the proceedings before the Court shall be suspended.

The procedure is resumed when the court which referred the question for a preliminary ruling informs the Court of the resumption of proceedings.

Section III
On withdrawal

Art. 98.

The applicants may withdraw their action for annulment.

The Council of Ministers and the Regional and Community Executives shall attach to their communication of this decision to the Court a certified copy of the decision by which the withdrawal was decided.

If necessary, the Court shall order the withdrawal, after hearing the other parties.

Art. 99.

Withdrawal, accepted or admitted before the court which referred the question for a preliminary question, terminates the proceedings before the Court.

The court shall forward a copy of its decision to the Court.

Section IV
On connectedness

Art. 100.

The Constitutional Court meeting in plenary session may join actions for annulment or preliminary questions relating to the same provision, on which a single judgment must be delivered. In this case, the cases are examined by the first seat seized.

The Registrar shall notify the parties of the order to join.

Where two or more cases have been joined, the rapporteurs shall be those who, in accordance with Article 68, are appointed for the first case brought before the Court.

Section V On challenge

Art. 101.

Judges of the Court may be challenged on cases that give rise to a challenge under articles 828 and 830 of the Judicial Code.

The fact that a judge of the Court has participated in the drafting of the law, federate law or rule referred to in Article 134 of the Constitution which is the subject of the action for annulment or the decision to refer does not in itself constitute a ground for challenge.

Any judge of the Court who knows of a cause of challenge in his person is required to declare it to the Court, which decides whether he should abstain.

Art. 102.

Anyone who wishes to challenge must do so as soon as he is aware of the reason for the challenge.

Reasoned objection shall be proposed by application to the Court.

A decision on the challenge shall be taken without delay, the challenger and the challenged judge heard.

The challenged judge shall be replaced by another judge, as provided for in the first paragraph of Article 55, Article 56 and Article 60, as the case may be.

CHAPTER VI On audience

Art. 103.

Parties who have filed a request or memorandum, their representatives and attorneys shall be notified of the date of the hearing fifteen days in advance.

The report of the rapporteurs shall be communicated to the parties concerned at the same time as the notification of the date of the hearing.

During the period referred to in paragraph 1, they may consult the file at the Registry.

Art. 104.

The Court's hearings shall be public, unless such publicity is dangerous to public order or morals; in that case, the Court shall declare it by a reasoned judgment.

Art. 105.

Those who attend the hearings are open, respectful and silent.

Everything that the President orders for the maintenance of order is carried out on time and at a moment's notice.

The same provision is observed in the places where judges perform the functions of their state.

Art. 106.

At the hearing, the rapporteur belonging to the group whose language is the language of the investigation summarises the facts of the case and indicates the legal issues that the Court must resolve.

The rapporteur from the other linguistic group may, if necessary, make a supplementary report.

The Court, if necessary, shall hear the persons whose hearings it has decided to hear, as well as the experts.

Only parties who have submitted an request or a memorandum and their attorneys shall be admitted to the hearings; they may only make oral submissions.

The President then pronounces the closure of the debates and puts the case under advisement.

CHAPTER VII On the reopening of proceedings

Art. 107.

The Court may order the reopening of proceedings ex officio. It must order it before granting an exception or means on which the parties have not been given the opportunity to explain themselves.

The Court indicates the time limits within which the parties are required to file a final memorandum in this respect.

CHAPTER VIII On judgement

Art. 108.

The deliberations of the Court are secret.

Art. 109.

Without prejudice to Article 25, Article 25quater, paragraph 3, and Article 6, § 1, VIII, 5°, of the

Special Law of 8 August 1980 on institutional reforms, judgments shall be delivered within six months of the filing of the action for annulment or the receipt of the decision of referral.

However, if a case is not ready for trial at the end of that period, the Court may, by a reasoned decision, extend it to the extent necessary. The extension may, if necessary, be renewed without the total duration of the extensions exceeding six months.

Art. 110.

Unless the President decides to deliver the judgment in open court, its publication on the Court's website shall be deemed to have been delivered.

Art. 111.

The judgment shall contain the grounds and the operative part. It shall bear the mention of:

- 1° the name of each of the parties and, where applicable, the names and capacities of the persons representing them and their counsel;
- 2° the provisions on the use of languages applied;
- 3° the memorandums submitted by the parties, as well as the possible presence of the parties and their counsel at the hearing;
- 4° the date of signature of the judgment and the names of the judges who deliberated on it.

Art. 112.

Judgments shall be signed by the President and the Registrar.

Art. 113.

Judgments shall be notified by the Registrar:

- 1° [...]
- 2° [...]
- 3° to the parties;
- 4° to the court which referred the question for a preliminary question.

They are communicated electronically:

- 1° to the Prime Minister and the presidents of governments;
- 2° to the Presidents of the Legislative Chambers, the Parliament of the French Community, the Walloon Parliament, the Flemish Parliament, the Parliament of the German-speaking Community and the Legislative Assemblies of the Brussels Capital Region.

Art. 114.

The judgments are published by the Registrar on the Court's website and, in full or in part, in the Belgian Official Gazette. The excerpt includes the

operative clause and the reasoning of the judgment.

Art. 115.

The judgments are automatically enforceable.

Art. 116.

The Court's judgment is final and without appeal.

Art. 117.

§ 1. Subject to Article 118, pen or calculation errors or obvious inaccuracies may be rectified by the Court, either ex officio or at the request of a party, within two weeks of notification of the judgment.

§ 2. The parties, duly notified by the Registrar, may submit written observations within the time limit set by the President.

§ 3. The Court shall decide in camera.

§ 4. The minute of the order prescribing the rectification shall be annexed to the minute of the rectified judgment. Mention of this order shall be made in the margin of the minute of the rectified judgment.

Art. 118.

The Court, at the request of the parties to the action for annulment or of the court which referred the question to it for a preliminary ruling, shall interpret the judgment. The request for interpretation shall be made in accordance with Article 5 or Article 27, as the case may be. It shall be communicated to all parties involved.

For the rest, the procedure laid down for the request for annulment or for the preliminary question shall apply.

The minute of the interpretative judgment shall be annexed to the minute of the interpreted judgment. Mention of the interpretative judgment is made in the margin of the interpreted judgment.

CHAPTER VIIIbis

On the procedure for monitoring popular consultations

Art. 118bis.

Articles 67, 79, 80 to 82, 91, paragraph 1, paragraph 2, paragraph 2, 1° to 4°, and paragraphs 3, 92, 93, 95, 101, 102, 108 and 119, are applicable to the procedure for monitoring popular consultations.

Articles 110 to 117 shall apply, subject to the replacement of the word “judgment” by the word “decision” in each case.

Article 68 is applicable, with the deletion in paragraph 2 of the words “at the hearing”.

Article 98 shall apply, with the addition in the first paragraph of the words “and their application” after the words “action for annulment”.

FUTURE LAW

Art. 118bis.

Articles 67, 78bis, 79, 80 to 82, 91, paragraph 1, paragraph 2, 1° to 4°, and paragraphs 3, 92, 93, 95, 101, 102, 108 and 119 shall apply to the procedure for the control of popular consultations.

Articles 110 to 117 shall apply, subject to the replacement of the word “judgment” by the word “decision” in each case.

Article 68 is applicable, with the deletion in paragraph 2 of the words “at the hearing”.

Article 98 shall apply, with the addition in the first paragraph of the words “and their application” after the words “action for annulment”.

Art. 118ter.

The Registrar shall immediately notify the Council of Ministers, the Governments of the Community and Region, the presidents of the legislative assemblies other than the one from which the request originates, and the initiator of the popular consultation, of the requests.

Art. 118quater.

Within ten days of receipt of the notifications made by the Registrar under Article 118ter, the Council of Ministers, the Governments of the community and region, the presidents of the legislative assemblies other than those from which the request originates and the initiator of the popular consultation may submit a memorandum to the Court. The memorandum shall contain an inventory of supporting documents.

Ten copies certified true copies by the signatory shall be attached to any request or statement. Additional copies may be ordered.

Memorandums which have not been submitted within the time limit referred to in the first paragraph shall be excluded from the proceedings.

CHAPTER IX General provisions

Art. 119.

The day of the act which is the starting point of a time limit is not included.

The due date is counted as part of the deadline.

However, when this day is a Saturday, Sunday or public holiday, the due date is extended to the next business day at the latest.

Art. 120.

Delays run against minors, banned and other incompetent people. However, the Court may declare them disqualified where it is established that their representation was not ensured before the expiry of the time limits.

Art. 121.

The Registry is open every day, except Saturdays, Sundays and public holidays.

The King sets the opening hours.

Art. 122.

The Court shall adopt its rules of procedure. It is responsible for publishing them in the Belgian Official Gazette.

TITLE VI

FINAL PROVISIONS

Art. 123.

§ 1. The credits necessary for the functioning of the Constitutional Court shall be entered in the budget of the Allocations.

§ 2. Royal Decrees relating to the Constitutional Court shall be issued by the Council of Ministers.

TITLE VII

TRANSITIONAL PROVISIONS

Art. 124.

(Repealed)

Art. 124bis.

(Becomes Article 30bis)

Art. 125.

The appointment of referendaries, recruited by the Court of Arbitration on the basis of the Law of 28 June 1983 on the organisation, competence and functioning of the Court of Arbitration, becomes final.

Art. 126.

The provision of Article 41, paragraph 1, concerning the possession of the doctor's degree or law degree shall not apply to registrars in office at the time of entry into force of this Law.

Art. 127.

The following are repealed:

1° in the Judicial Code:

a) in Article 1082, paragraph 2, amended by the Law of 10 May 1985, the words “except where the second appeal exclusively invokes the annulment by the Court of Arbitration of the provision of a law or decree which served as a basis for the provision undertaken”;

b) Title VIII of Book III and Article 1147bis inserted by the Law of 10 May 1985;

2° Article 31bis of the Laws on the Council of State, coordinated on 12 January 1973, inserted by the law of 10 May 1985;

3° the Law of 28 June 1983 on the organisation, jurisdiction and functioning of the Court of Arbitration, amended by the law of 31 December 1983, with the exception of Articles 31 to 34 and 112;

4° Article 5 of the Law of 2 February 1984 on the salaries of the members, referendaries and registrars of the Court of Arbitration, their presentation and appointment, as well as insults and violence against the members of that Court;

5° the Law of 10 May 1985 on the effects of annulment judgments delivered by the Court of Arbitration.

Art. 128.

Article 34, § 5, comes into force at the latest from the third appointment following the entry into force of the special law of 9 March 2003 amending the special law of 6 January 1989 on the Arbitration Court.

SPECIAL LAW ON BRUSSEL'S INSTITUTIONS

12 JANUARY 1989

Excerpt

(Source in French:
<http://www.ejustice.just.fgov.be>. Translated by
 the author)

TITLE I
 PRELIMINARY PROVISIONS

Article 1.

For the Brussels Region, referred to in Article 39 of the Constitution, hereinafter referred to as the Brussels-Capital Region, there is one Parliament of the Brussels-Capital Region and one Executive of the Brussels-Capital Region, hereinafter referred to as the Parliament and the Government.

Art. 2.

§ 1. The territory of the Brussels-Capital Region includes the territory of the administrative borough of “Brussels-Capital”, as it exists at the time of the entry into force of this law.

§ 2. In Article 2, paragraph 1, of the Special Law on Institutional Reforms of 8 August 1980, hereinafter referred to as the Special Law, the words “on a transitional basis” are deleted.

Art. 3.

The Brussels-Capital Region has legal personality.

TITLE II
 ON COMPETENCES

Art. 4.

The Brussels-Capital Region has the same powers as the Walloon Region and the Flemish Region. The powers conferred on regional parliaments are, in the case of the Brussels-Capital Region, exercised by means of ordinances.

By way of derogation from paragraph 1 and without prejudice to the application of Articles 5bis and 5ter, the matters which are regulated by the Brussels-Capital Region pursuant to Articles 118 § 2 and 123 § 2 of the Constitution are designated by this Special Law.

Article 16 of the Special Law applies to the Brussels-Capital Region, with the necessary adaptations.

Article 4bis of the Special Law applies to the Brussels-Capital Region, with the necessary adaptations.

For the application of Article 6, § 1, IX, 11° of the Special Law, the Brussels-Capital Region is

required to make an accountability contribution in accordance with Article 35nonies, § 3 of the Special Law of 16 January 1989 on the financing of the Communities and Regions if the average annual number of people put to work through the LEA system is more than 1 473 beneficiaries.

Art. 4bis.

Without prejudice to the competences of the French Community and the Flemish Community, the Brussels-Capital Region shall exercise the following competences in the cultural matters referred to in Article 127 § 1, paragraph 1, 1°, and, in respect of these matters, on 3°, of the Constitution:

1° with regard to the sport referred to in Article 4, 9°, of the Special Law, the financing and subsidization of municipal sports infrastructures;

2° with regard to the retraining and retraining referred to in Article 4, 16°, of the Special Law, the establishment of vocational training programmes provided that they are part of employment policy and take into account the specific nature of Brussels;

3° in the case of fine arts, cultural heritage, museums and other scientific cultural institutions referred to in Article 4, 3° and 4° of the Special Law, bicultural matters insofar as they are of regional interest.

[...]

**LAW ON THE DIVISION OF THE MEMBERS OF
THE LEGISLATIVE CHAMBERS INTO LINGUISTIC
GROUPS AND ON VARIOUS PROVISIONS
RELATING TO THE CULTURAL COUNCILS FOR
THE FRENCH AND DUTCH CULTURAL
COMMUNITIES**

3 JULY 1971

Excerpt

(Source in French:
<http://www.ejustice.just.fgov.be>. Translated by
the author)

[...]

SECTION I
PROVISIONS TO PREVENT DISCRIMINATION ON
IDEOLOGICAL AND PHILOSOPHICAL GROUNDS

Art. 4.

A reasoned motion, signed by at least a quarter of the members of a cultural council and introduced after the report has been submitted and before the final vote in public session, may declare that the provisions of a draft or proposed federate law that it designates and that is presented before the cultural council contain discrimination on ideological and philosophical grounds.

Art. 5.

The Presidents of the Legislative Chambers and of the two Cultural Councils, sitting as a college, shall rule on the admissibility of the motion, having regard to the provisions of Article 4.

In the event of parity of votes, the motion is admissible.

The decision on admissibility suspends the examination of the offending provisions.

In this case, the draft or proposed federate law and the motion are referred to the Legislative Chambers which decide on the substance of the motion.

Art. 6.

Consideration of the provisions designated by the motion may only be resumed by the Cultural Council after each of the Legislative Chambers has declared the motion unfounded.

**COOPERATION AGREEMENT
BETWEEN THE FEDERAL STATE, THE
COMMUNITIES AND THE REGIONS ON THE
MODALITIES FOR THE CONCLUSION OF MIXED
TREATIES**

8 MARCH 1994

(Source in French:
<http://www.ejustice.just.fgov.be>. Translated by
the author)

I.

INFORMATION PHASE AND DETERMINATION OF
THE NATURE OF THE MIXED TREATY

Article 1.

As soon as the Federal Government intends to enter into bilateral or multilateral negotiations or to participate in such negotiations with a view to drawing up a treaty not relating exclusively to the areas assigned by or by virtue of the Constitution to the competence of the Communities, the Regions or the Federal State, it shall immediately inform the Interministerial Conference on Foreign Policy.³

- The obligation stipulated in the first subparagraph supplements the obligation stipulated in Article 81 of the special law of 8 August 1980 on institutional reforms, modified by the special law of 5 May 1993 on the international relations of the Communities and Regions and the special law of 16 July 1993 aimed at completing the federal structure of the State and the obligation stipulated in Article 31*bis* of the law of 9 August 1980 on institutional reforms, modified by the law of 16 June 1989 on various institutional reforms and the law of 5 May 1993 on the international relations of the Communities and Regions.

- Should a Region or Community consider it appropriate to open negotiations with a view to concluding a mixed treaty, it shall refer the matter to the Interministerial Conference on Foreign Policy, in order to request that the Federal Government take an initiative to this effect.

Art. 2.

When a Region or a Community does not envisage participating in negotiations that could lead to the conclusion of a mixed treaty, it shall communicate its decision to the Interministerial Conference no

later than thirty days after the date of the information act.

The Secretary of the Interministerial Conference shall notify the Minister for Foreign Affairs, so that the latter may inform the foreign party that a Region or Community does not at this stage envisage participating in the negotiations.

A Region or Community which has not participated in negotiations leading to the conclusion of a mixed treaty shall retain the right to sign the final text of the treaty, without being able to amend it.

If this Region or Community does not sign this text, the Belgian negotiators shall inform the foreign party of the reservation of this Region or Community.

Art. 3.

Within the framework of the Interministerial Conference on Foreign Policy, a working group on mixed treaties is set up.

This working group shall be composed of representatives of the federal authority, the Communities and the Regions.

The Presidency is assumed by the Federal Ministry of Foreign Affairs.

Art. 4.

The Interministerial Conference shall decide on a proposal from the mixed treaty working group, within sixty days of the information referred to in Article 1, on the mixed nature of the treaty, as well as - with a view to negotiations - the composition of the Belgian delegation and the position to be adopted.

II.

NEGOTIATIONS

Art. 5.

The representatives of the various authorities concerned shall negotiate on an equal footing. Negotiations take place under the coordinating leadership of the Ministry of Foreign Affairs.

A separate cooperation agreement shall be concluded with the Joint College of the Joint Community Commission on the modalities of association of the Joint College with the negotiation process.

When the negotiations are conducted in a foreign country, the authorities concerned may entrust

³ (note of the author) In the rest of the text, referred to as ICFP.

the Belgian Ambassador in that country with the direction of the negotiations.

Art. 6.

Full powers (credentials) for the negotiation of multilateral treaties are established and signed by the Minister for Foreign Affairs, subject to the formal agreement of the Ministers of the Regions and/or Communities competent for external relations.

Art. 7.

The authentication of texts (initialling) is carried out by the representative of the Minister of Foreign Affairs and by the representatives of the Regions and Communities concerned, as decided by the ICFP.

For practical reasons it is possible to derogate from the above, subject to consultation within the ICFP.

III.
SIGNATURE

Art. 8.

Mixed treaties are signed by the Minister of Foreign Affairs or by a representative with full powers and by the Minister designated by the Government of the Regions and/or Communities concerned, or by a representative with full powers.

When the signature takes place abroad, the Ambassador in office may be mandated for this purpose by the various authorities concerned.

For practical reasons it is possible to derogate from the above, subject to consultation within the ICFP.

With regard to the use of languages, the parties to the present cooperation agreement refer to the usual rules in force at federal level.

IV.
ASSENT

Art. 9.

As soon as the Minister for Foreign Affairs has the original or a certified copy of a mixed treaty intended for Belgium, he shall communicate the text to the regional and/or Community authorities concerned with a view to its assent by the various Councils, as well as to the Council of State.

Art. 10.

The Communities and Regions shall inform the Minister for Foreign Affairs of the assent by their

Councils. The Regions and Communities shall be informed of the assent by the Federal Parliament.

Art. 11.

The various authorities concerned by a mixed treaty shall endeavour to obtain a prompt assent by their Parliament or Council. Should difficulties arise in this respect, they shall inform the ICFP as soon as possible with a view to any necessary consultations.

V.
RATIFICATION. - MEMBERSHIP

Art. 12.

As soon as all the parliamentary assemblies concerned have given their assent, the Minister for Foreign Affairs shall have Belgium's instrument of ratification or membership drawn up and submitted to the King for signature. It is also the Minister for Foreign Affairs who shall have the notifications relating to the completion of internal formalities drawn up and forwarded to him.

Art. 13.

The Minister for Foreign Affairs informs the regional and/or Community authorities concerned of the date of ratification or membership by Belgium, of the date of entry into force of the Treaty and, where appropriate, communicates to them the list of States bound on that date.

VI.
PUBLICATION ON BELGIAN OFFICIAL GAZETTE

Art. 14.

Once the formalities for the entry into force of a mixed treaty have been completed, the text as well as the assent law, the references to the assent federate laws and ordinances and the information relating to ratification or membership and entry into force are published in the Belgian Official Gazette by the Minister for Foreign Affairs.

VII.
REGISTRATION WITH THE UNITED NATIONS

Art. 15.

In accordance with Article 102 of the Charter of the United Nations, the Minister for Foreign Affairs shall register mixed treaties with the United Nations.

VIII.

PRESERVATION OF THE ORIGINAL TEXTS OF
MIXED TREATIES

Art. 16.

The Minister of Foreign Affairs shall be responsible for the preservation of the original documents, namely:

1. the full powers of the other contracting party;
2. the original of the treaties intended for Belgium;
3. the instruments of ratification and the minutes of exchange or deposit of the instruments of ratification;
4. certificates of registration with the United Nations.

IX.
DENUNCIATION

Art. 17.

The King denounces mixed treaties. Both the Federal Authority and any other Regional or Community Authority may take the initiative to this effect. The denunciation of mixed treaties is carried out, with the approval of all the Authorities concerned, within the Interministerial Conference on Foreign Policy.

X.
FINAL PROVISIONS

Art. 18.

The present Cooperation Agreement is concluded for an indefinite period of time.

Art. 19.

The provisions of this cooperation agreement may be reviewed at the request of any contracting party. A request for revision shall be considered within three months within the ICFP.

**COOPERATION AGREEMENT
BETWEEN THE FEDERAL STATE, THE
COMMUNITIES AND THE REGIONS, ABOUT THE
REPRESENTATION OF THE KINGDOM OF
BELGIUM WITHIN THE COUNCIL OF MINISTERS
OF THE EUROPEAN UNION**

8 MARCH 1994

+ ANNEX II

(Source in French:
<http://www.ejustice.just.fgov.be>. Translated by
the author)

I.
HABILITATION

Article 1.

In order to ensure under the best conditions the representation of the Kingdom of Belgium within the Council of Ministers of the European Union, and within the framework of the authorisation given by Article 81, § 6, of the special law of 8 August 1980 on institutional reforms, amended by the special law of 5 May 1993 on the international relations of the Communities and Regions, this cooperation agreement specifies hereafter the rules of coordination and representation.

II.
COORDINATION

Art. 2.

1. Coordination with a view to determining the Belgian position, both from a general point of view and for each item on the agenda of the Council of the European Union, shall be ensured within the “Directorate for Administration of European Affairs” of the Ministry for Foreign Affairs, which shall chair and provide secretarial services for the meetings.

2. This coordination shall be carried out before each Council meeting in a systematic and horizontal manner, whatever the area of competence concerned. To this end, representatives of the Prime Minister, the Deputy Prime Ministers, the Minister for European Affairs, the Presidents of the Community and Regional Governments, members of the Community and Regional Governments responsible for international relations, the Permanent Representation to the European Communities and the attachés of the Communities and Regions are invited to all coordination meetings.

The competent federal, Community and regional departments as well as representatives of the functionally competent federal, Community and regional Ministers are invited according to the agenda of the meetings.

3. A separate Cooperation Agreement shall be concluded with the Joint College of the Joint Community Commission concerning its participation in the procedures for coordination and determination of the Belgian negotiating position.

4. Minutes will be drawn up of each coordination meeting, mentioning the names of the participants. They will be sent automatically to each of the members of the Interministerial Conference on Foreign Policy.

5. The person responsible for the Belgian seat in the Council of Ministers shall only take a position on matters which have been the subject of prior coordination, in accordance with the provisions of this Article.

Art. 3.

Ad hoc coordination may be organised for technical matters. Such coordination shall be without prejudice to coordination within the “Directorate for Administration of European Affairs”. They shall be required to report to the said Directorate when problems contain elements with a political dimension.

Art. 4.

In the event of persistent disagreement within the coordination organised by the Directorate for Administration of European Affairs, the latter shall refer the matter to the Secretariat of the Interministerial Conference on Foreign Policy within a maximum period of three days. In this case, the Conference shall meet as a matter of urgency on the initiative of its President.

Art. 5.

As soon as the Belgian position has been defined within the coordination organised by the Directorate for Administration of European Affairs or possibly, pursuant to Article 4, within the Interministerial Conference on Foreign Policy, the Minister for Foreign Affairs sends the instructions to the Permanent Representation to the Communities with a copy to the Federal, Community or Regional Minister concerned.

Art. 6.

1. When, at a meeting of the Council or of the Committee of Permanent Representatives

(COREPER), the Belgian position, adopted in accordance with the procedures established by this Agreement, must be adapted urgently in order to participate validly in the decision-making process in these bodies, the person in charge of the Belgian seat shall make the necessary contacts for this purpose.

2. If, due to lack of time or in the event of persistent disagreement, he is called upon to make a decision without having had the time to make these contacts, he may, exceptionally, “ad referendum”, adopt the position that is most likely to be in the general interest. Belgium's final position will be notified to the Presidency, after the matter has been settled internally, within a maximum period of three days.

III. REPRESENTATION

Art. 7.

1. The Interministerial Conference on Foreign Policy shall also decide on the distribution of the representation of the Kingdom in the Council between the Federal State, the Communities and the Regions according to the configuration of the Council. This decision is set out in Annex I to this Agreement. It may be subject to subsequent adaptations or revisions.

2. Where it is up to the Communities and/or Regions to occupy the seat of Belgium in the Council of the European Union, a system of rotation of representation shall be established, taking into account the working rhythm of the European Union.

The rotation system agreed between the Communities or Regions shall be submitted for approval to the Interministerial Conference on Foreign Policy and is set out in Annex II to this Agreement. It may be subject to subsequent adaptations or revisions.

3. The rotation system shall not apply to the Agriculture Council and the Fisheries Council.

Art. 8.

The Interministerial Conference on Foreign Policy draws up the list of ministers from each of the entities of the Kingdom who may be called upon to occupy the seat of Belgium within the Council of the European Union.

This list is drawn up each time the composition of the Governments of the Kingdom is changed or renewed and is notified to the General Secretariat of the Council of the European Union by the Minister for Foreign Affairs.

Art. 9.

The appointment of the Minister responsible for representing Belgium in the Council will be formalised within the coordination organised by the Directorate for Administration of European Affairs or possibly, pursuant to Article 4, within the Interministerial Conference on Foreign Policy, before each Council and notified, via the Permanent Representation, to the General Secretariat of the Council of the European Union by the Minister for Foreign Affairs.

Art. 10.

1. Belgium shall be represented by a single Minister throughout the duration of the Council meeting, namely the Minister-President.

At the same time, he will be the spokesman of the delegation empowered to bind Belgium by its vote.

In the absence of the abovementioned Minister-President, the seat of Belgium is occupied by the Permanent Representative of Belgium to the European Communities or by his deputy.

2. In accordance with the system of representation set out in Annex I, the Minister-President may be assisted by a Minister-Assistant.

IV. PRESIDENCY

Art. 11.

On the basis of the principles set out above, the parties shall draw up a proposal for each Presidency containing specific arrangements. This proposal shall be set out in an additional protocol.

V. FINAL PROVISIONS

Art. 12.

This Cooperation Agreement is concluded for an indefinite period.

Art. 13.

Developments are an integral part of this cooperation agreement.

Art. 14.

The provisions of this Cooperation Agreement may be reviewed at the request of any Contracting Party. A request for revision shall be considered within three months within the ICFP.

(...)

ANNEX II
ROTATION SYSTEM

1. The rotation system as provided for in Article 7 is based on a number of basic principles on which agreement was reached at the ICFP on 25 January 1993.

These principles are as follows:

- the rotation system is organised by semester (equivalent to the duration of a Presidency);
- the rotation will be organised in order to ensure a balance between the representatives of the Communities and Regions according to whether they sit as Minister-assessors or as Ministers-in-charge;
- for some Councils, several Council meetings per semester will be organised. The authority indicated by rotation will remain empowered for the different meetings of the Council during this semester;
- for other Councils, meetings will be held only sporadically. The authority indicated in rotation will be automatically entitled for the following session if it turns out that no meetings are organised during the semester.

2. From 1 January 1994 a final regulation will enter into force. Negotiations will be conducted and concluded to this end, in accordance with Article 7, before 31 December 1993 at the latest.

3. Monitoring of the rotation system shall be carried out by the Directorate for Administration of European Affairs at the Ministry for Foreign Affairs.