

---

# Belgium\*

---

WILLEM SAS, DAMIEN PIRON, ANDRÉ DECOSTER  
AND PATRICIA POPELIER

In this chapter we will give a broad overview of Belgium's practice of fiscal federalism. As we will show, the complexity of Belgium's federal constellation is reflected in the financing of its subnational level of government. As we explain in section I, the unitary Belgian state only recently morphed into a federal State relatively. The origins of this federal transformation can be traced back to a coexistence of two major communities in a single country: a Dutch-speaking majority and a French-speaking minority.<sup>1</sup> The State's structures have hence been designed to achieve a political equilibrium between these two communities, consisting of two distinctively different federated entities ('Regions' and 'Communities') which – depending on the entity – acquired ever broader fiscal autonomy.

In section II we discuss in detail the various phases of this gradual institutional reform and specify how they affected the fiscal framework regulating the financing of the subnational governments (hereafter referred to as 'federated entities').

In section III we focus on the final result of these reforms, so that readers interested mainly in the current situation can skip straight to this section. As in most federations, Belgian Fiscal federalism can be seen as resting on four pillars. First, tax autonomy gives federated entities authority over their own tax bases, tax rates, and tax policies, which we tackle in section III(A) The gap between subnational tax revenues and the overall funding needed to finance devolved

\* We are grateful to Sander Ramboer, Anne Van de Vijver, Freek Louckx and Peter Bursens for their helpful comments and suggestions on this report and/or during earlier phases of the project leading up to it. Sections II and IV of this chapter are based on re-written and adjusted sections of Piron (2022), sections III, V and VI build on updated, adjusted and translated versions of A Decoster and W Sas, *De nieuwe bijzondere financieringswet van de 6de staats hervorming: werden de beloften ingelost?*, FLEMOSI Discussion Paper 28 (2013) and A Decoster and W Sas, 'De Economische Theorie van het Federalisme: Was de 6de Staats hervorming een Schot in de Roos?' (2015) 57(3) *Belgisch Tijdschrift voor Sociale Zekerheid* 561.

<sup>1</sup> There is also a German-speaking area in the east of the country, which is relatively small and hence plays an almost in-existent role in the ongoing political tensions between Dutch- and French-speaking politicians. In the Region of Brussels, moreover, both Dutch and French are official languages, which explains why Art 4 Const mentions four communities. These should be seen as language areas or communities with small 'c', however, and not as one of the two kinds of official federated entities, coined 'Communities' with capital 'C'. Moreover, a plethora of other languages is currently spoken in Brussels, which has led some to argue Brussels has its own identity, orthogonal to the binary choice between Dutch- and French-speaking.

competences is bridged by a system of federal grants, explained in section III(B), where we also address the difference between needs-based grants and incentivising (responsibility-based) grants.

As the COVID-19 crisis has shown, however, regional tax revenues and federal grants are often insufficient to balance the budget, and borrowing from financial markets becomes necessary. In section IV we discuss the rather weak borrowing constraints of the federated entities.

When all other channels of regional finance are put under pressure, an additional source of financing can be found in interregional solidarity in the form of equalisation mechanisms, which we explain in section V.

It should not come as a surprise that such a complex system comes with rather original solutions to manage and organise cultural or language diversity, that also produces severe challenges. These challenges are discussed in section VI.

Building on them, section VII sketches out some lessons for the EU. Section VIII concludes.

## I. Goals of the System According to the Existing Legal Order and/or Tradition

Six constitutional reforms adopted between 1970 and 2015 transformed Belgium from a unitary state into a fully-fledged federal state.<sup>2</sup> This complex federation shows many peculiarities. One of them is the coexistence of two types of federated entities covering distinct, yet partially overlapping territories, namely the 'Regions' and 'Communities'. The Regions' competences are 'territory-related', and primarily concern the socio-economic sphere. Examples are inter alia, employment, economy, agriculture, energy, water, environment, town and country planning, housing, foreign trade, transport and public works. Mostly the French speaking business interests in Wallonia lobbied for this set of competences, to protect their declining metallurgic and heavy industries. The Communities are competent for 'person-related' matters relating to culture, education, audio-visual media, health and welfare. The Flemish-speaking area, mostly for reasons of cultural emancipation, was the main driving force for that division.

As a result, there are three Regions – Flanders, Wallonia and Brussels – which are territorially distinct. There are also three Communities – the Flemish Community, the French Community and the German-speaking Community. Yet the two main Communities, ie the Flemish and the French Community both have jurisdiction over certain institutions in the Brussels Region. There are, eg, Dutch-speaking and French-speaking schools in the same neighbourhood or even street in Brussels.

<sup>2</sup> Some institutional reforms took place within the context of the 1831 constitution, such as the recognition of Dutch as the official administrative language in Flemish municipalities and cities in 1921, and the official demarcation of the 'language frontier' in 1963. However, the structure of the Belgian State has remained strictly unitary until 1970.

Special protective measures also exist to safeguard the interests of the Flemish minority regarding the competences of the Brussels Region. Lastly, because of the relatively small presence of Dutch-speakers in Brussels, the Flemish Community and Region merged their competences and budgets from their inception in 1980, whilst the French Community and the Walloon Region remain legally distinct.<sup>3</sup>

Also, Federation-wide legislative processes structure around the two main poles of Belgian federalism because of the linguistic divide. There is, for instance, a French and a Dutch linguistic group in the federal Parliament. So-called ‘special majority laws’, that deal with the state structure, can only be adopted by a majority in each linguistic group.<sup>4</sup> An ever-growing body of competences being devolved from the federal level to the federated entities but not vice versa, the system is centrifugal. There are also features of constitutional asymmetry, as the federated entities do not enjoy the same status and level of autonomy.<sup>5</sup>

Through successive waves of institutional reforms, the Belgian Communities and Regions acquired significant political, legal, and financial authority. According to Eurostat data, Belgium’s federated entities (institutional sector S1312) managed 19.3 per cent of the country’s GDP in 2019. This represented almost 40 per cent of the total resources collected by Belgian public authorities. According to these sources, the federated entities’ level of revenue is even the highest of the whole continent, placing Belgium ahead of Spain (14.9 per cent of GDP) and Germany (13.9 per cent of GDP), well above the average for the European Union (EU 27: 5.7 per cent of GDP) and the euro area (6.7 per cent of GDP).

The financial framework of Belgium’s federated entities is enshrined in the special majority law of 16 January 1989 on the financing of the Communities and the Regions (hereafter Special Financing Law – SFL), whose foundations are laid down in Arts 175 to 178 Const. The SFL sets the degree of financial and tax autonomy effectively enjoyed by the component units of the Belgian Federation, as it defines how financial resources are allocated, both vertically (ie between the federal government and the federated entities) and horizontally (ie among the federated entities). The SFL represents the cornerstone of Belgium’s fiscal federalism and will be the main focus in this text.

The last (sixth) constitutional reform, negotiated in 2011/13 and enacted in 2015, thoroughly reshaped the SFL according to several principles rooted in political demands. Tax autonomy and ‘responsibility’ were to increase, whereas sufficient use should still be made of need-based criteria to distribute grants. This balance between responsibility and compensation is further discussed

<sup>3</sup>Since 1994, however, the French Community has transferred some of its competences to the Walloon Region and to the French linguistic group of the Brussels’ Regional Parliament.

<sup>4</sup>This essentially dualist nature of Belgian federalism is also reflected in the Council of Ministers, which consists of the same number of Dutch-speaking as French-speaking members (linguistic parity). The same applies to the highest courts, as well as to the senior members of the civil service.

<sup>5</sup>K Deschouwer, *The Politics of Belgium: Governing a Divided Society* (Basingstoke, Palgrave Macmillan, 2012); P Popelier and K Lemmens, *The Constitution of Belgium: A contextual analysis* (London, Bloomsbury Publishing, 2015).

below. Other changes considered the specific socio-economic position of Brussels and the sustainability of public finances, without structurally underfunding the regional entities. On all these accounts the constitutional reform was fairly successful.<sup>6</sup>

## II. Evolution Over Time and Major Bones of Contention

In terms of public finance, most institutional reforms since 1970 intended to meet pressing demands for greater financial autonomy, which particularly emerged from Flanders.<sup>7</sup> This almost uninterrupted devolution of competences and financial resources to the federated entities was among others politically justified by a desire to improve the management of public funds and increase the democratic legitimacy of the institutional framework. Three layers of financial legitimation have cumulatively been put forward in the history of Belgium's fiscal federalism:<sup>8</sup> vertical financial autonomy (since 1970), horizontal fiscal responsibility (since 1989) and, finally, tax autonomy (especially since 2001).

### A. First and Second Institutional Reform (1970–88)

In the period 1970–88, the devolution of competences aimed at responding to divergent cultural, linguistic and economic preferences and priorities throughout the country. To finance these competences, the newly created federated entities gradually received broad (vertical) financial autonomy – which we define here as the power to allocate their own expenditure autonomously. Thus, the ‘earmarked’ flows of funding, conditional on being spent only on specific competences, are now largely absent from the Belgian system. The Communities and the Regions were granted the authority to vote on their budget annually and received full autonomy in the allocation of their resources (Arts 175(2), 176(2) and 177(2) Const). Despite this autonomy, the federated entities were still heavily reliant on the federal government to access public funds. This is shown in the law of 9 August 1980, passed by ordinary majority, which allocated five sources of funding to the Communities and the Regions. Two of these sources – federal grants from the national budget and transfers out of the proceeds of federally collected taxes – covered the main share of subnational funding. Non-tax revenues were a smaller share, related to

<sup>6</sup>Decoster and Sas (2013) (n \*).

<sup>7</sup>D Piron, *Gouverner les régions par les finances publiques – Européanisation, fédéralisation et néolibéralisme en Belgique* (Bruxelles, Larcier, 2019).

<sup>8</sup>B Bayenet, M Bourgeois and D Piron, ‘Le fédéralisme financier, vecteur de renforcement de la légitimité de la gestion des finances publiques en Belgique?’ in C Husson-Rochcongar (ed), *La légitimité en finances publiques* (Paris, Mare & Martin, 2022) 521.

their competences, as were loans and a general taxing power stemming from Art 170(2) Const.<sup>9</sup>

The scope of the Communities' and Regions' autonomous taxing power was strongly restricted in practice. Art 170(2) Const, 2nd subparagraph, establishes the primacy of federal tax law over regional and community tax decrees.<sup>10</sup> On this basis, the ordinary law of 23 January 1989<sup>11</sup> set up a *non bis in idem* principle in the field of taxation, according to which the federated entities are not allowed to levy taxes in matters already taxed by the federal level of government. Throughout the 1980s, various Flemish politicians and academics denounced the limited extent of the federated entities' taxing powers. According to some calculations, the latter amounted to only 3 per cent of total regional revenues, a situation which illustrated their 'almost total dependence'<sup>12</sup> on the central government in this respect.

## B. Third and Fourth Institutional Reform (1989–2000)

A second period started in 1989, when debates regarding the financial organisation of the federal system started focusing more on the *horizontal* allocation of resources, ie the criteria according to which the resources allocated by the federal government are shared among the federated entities. This issue has led to a trade-off between financial 'responsibility' and solidarity. The concept of financial responsibility refers to the idea that an entity should 'reap the fruits' of its economic dynamism. It is portrayed as a 'fair return' principle,<sup>13</sup> ie a reward for growth enhancing economic and tax policies. Such discourse strongly resonated with the Flemish side, as it clearly gave an advantage to the more prosperous northern part of the country. This distribution method indeed favours entities whose residents are better off, hence contribute more to public revenue. French-speaking politicians, representing less prosperous territories and citizens, for their part insist on adequate financial solidarity among all the component units of the Belgian federation.

This balancing act resulted in the SFL, adopted in January 1989.<sup>14</sup> It paved the way to a genuine model of fiscal federalism in Belgium. The fact that sensitive intergovernmental financial relations are organised through a special

<sup>9</sup> *Loi ordinaire de réformes institutionnelles*, 9 August 1980, Art 1. (O.G. 15 August 1980).

<sup>10</sup> This provision states that 'the law determines, with respect to the taxes referred to in the first subparagraph, the exceptions that are proved to be necessary'.

<sup>11</sup> *Loi sur la juridiction visée aux articles 92bis, § 5 et § 6, et 94, § 3, de la loi spéciale du 8 août 1980 de réformes institutionnelles*, 23 January 1989, Art 1, relating to the tax competence referred to in Art 110 (1–2) Const (O.G. 24 January 1989).

<sup>12</sup> V Van Rompuy and E Heylen, *Openbare financiën in de deelgebieden van federale landen* (Leuven, Acco, 1986) 225.

<sup>13</sup> This expression elicits M Thatcher's famous quote: 'I want my money back'. It is considered 'fair' for an individual, region or country to receive an amount of expenditure equivalent to the payments it makes.

<sup>14</sup> *Loi spéciale relative au financement des Communautés et des Régions*, 16 January 1989.

majority law is politically significant. As mentioned above, this legal instrument was originally designed as a power sharing mechanism in the field of institutional matters, characteristic of Belgian consensus democracy. It indeed conveys a 'locking in' logic, which the SFL extended to fiscal arrangements. In practice, any amendment to the federated entities' financing system hence requires the support of a two-third majority in each House (House of Representatives and Senate), but also of a majority in the two linguistic groups that compose them.<sup>15</sup>

The SFL mainly extended existing financing mechanisms for the federated entities in the form of federal grants collected out of national tax incomes. As before, new competences transferred to the federated entities in the 1988–89 institutional reform (of which education was the most important) were funded by annual federal grants paid out of (tax) revenues collected by the federal government. These grants, whose 'basic amount' was pegged to the Consumer Price Index, were distributed according to two distinct rationales.

On the one hand, the competences devolved to the three Regions were funded by the so-called Personal Income Tax (PIT) grants, allocated on the basis of their relative share in national PIT revenue. The adverse consequences of this 'fair return' criterion were nevertheless partly compensated by an explicit equalisation scheme introduced at the behest of the representatives of the Walloon and Brussels regions. This mechanism, known as the 'national solidarity contribution', aimed to increase the resources of Regions where the PIT revenue *per capita* was lower than the national average (Art 48 SFL).

On the other hand, the 'Value Added Tax' (VAT) grant was designed for financing education policy, which then absorbed approximately 80 per cent of Community expenditure.<sup>16</sup> It was allocated according to the financial 'needs' of both Communities, estimated based on the school pupils' ratio (Art 39(2) SFL). This noticeable derogation from the 'fair return' principle has been depicted by some as an *implicit* solidarity mechanism between the Communities, justified by the argument that 'a (Francophone) child is worth just as much as a (Flemish) child'. By contrast, the Communities do not benefit from any explicit solidarity mechanism, as the latter has solely been provided for the Regions – even though a part of Community competences has also been funded by PIT grants allocated according to the 'fair return' criterion.<sup>17</sup>

<sup>15</sup>In Art 4(3) Const, a special-majority law is defined as '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'.

<sup>16</sup>VAT in the designation VAT grant is somewhat misleading in that the level of the grant is in no way linked to the revenue collected through VAT. The label was introduced to distinguish between different grants based on the allocation rule by which the grant was split across the regions. Since the 'PIT grant' referred to the grant allocated based on PIT revenue, the other grant got the label 'VAT grant' because next to PIT, VAT is obviously the other main source of government revenue. But neither the level of the VAT-grant, nor its allocation across the regions has anything to do with VAT revenues.

<sup>17</sup>The financing of the smaller German-speaking Community is governed by the (ordinary) law of 31 December 1983 on institutional reforms for the German-speaking Community (O.G.

Crucially, moreover, by devolving additional taxing power to the Regions, an important first step was taken in the direction of true tax autonomy, where subnational governments have some say in setting the tax base and rate.<sup>18</sup> For reasons discussed in section III, the SFL devolved additional taxing power to the Regions, but not to the Communities. It partially transferred revenue-raising powers over seven types of taxes to regional authorities, the proceeds of which previously had been transferred by the federal authority. These are the taxes on gambling and betting, automatic amusement devices, the opening of drinking establishments, inheritance duties, real estate, registration fees on real estate transfers, and the road fund tax on automobiles. The Regions were to some extent allowed to modify the tax base, rate and exemptions from these 'regional taxes' and empowered to take over their collection.

The entry into force of the SFL in 1989 caused financial distress to the French Community, unlike its Flemish counterpart. The reason for the difference was the merger of the Flemish Region and Community since their creation in 1980, which pooled together all financial resources linked to both entities (Art 1(3) SFL). The more the ongoing institutional process decentralised competences and funding to finance these competences, the more the Flemish government acquired fiscal autonomy over a far larger budget and tax autonomy in the most prosperous parts of the Belgian economy. As a result, and at the request of French-speaking political parties, the so-called 'Saint-Michel' agreements of September 1992 laid the groundwork for the fourth institutional reform of 1993/94. It provided a refinancing of federated entities in exchange for the devolution of new competences, as requested by Flanders as a *quid pro quo*.<sup>19</sup>

### C. Fifth Institutional Reform (2001)

As the refinancing of federated entities under the fourth reform proved scarce, a new round of institutional bargaining began at the turn of the century. It was concluded by the 'Lambermont' agreements enacted in 2001, which marked the transition to a third stage in the history of Belgian fiscal federalism. Since the early 2000s, endeavours to improve public finance management have resulted in transferring growing tax powers to the Regions. These new revenue-raising powers are supposed to enable them to more effectively link up their resources with their policies, even though this situation also increases the likelihood of interregional tax competition.

18 January 1984), regularly amended to be (broadly) aligned with the financing mechanisms of the other two Communities.

<sup>18</sup>M Installé and M Peffer, 'Le financement des communautés et des régions dans l'accord gouvernemental de mai 1988' (1988) 1209–1210 *Courrier Hebdomadaire du CRISP* 3; W Moesen et al, 'Bedenkingen bij de nieuwe financieringsvoorstellen voor gewesten en gemeenschappen' (1988) 47 *Leuvense Economische Standpunten* 1.

<sup>19</sup>*Loi spéciale visant à achever la structure fédérale de l'Etat*, 16 July 1993 (O.G. 20 July 1993).

In financial terms, the fifth institutional reform of 2001 was based on two elements. The first was a new refinancing of the Communities to address the underfinancing of the French Community. In addition, regional tax autonomy was increased in two ways. On the one hand, the Regions received new tax instruments: radio and television licence fees, vehicle registration fees and the Eurovignette (which was replaced by a so-called 'kilometre charge' on trucks in 2016). On the other hand, their prerogatives on existing regional taxes were harmonised. As a result, regional governments were granted complete jurisdiction over all their regional taxes, meaning that from then on they could autonomously set the tax base, rate and exemptions to these regional taxes. They were also entitled to collect the tax proceeds in full.<sup>20</sup>

The fifth institutional reform also extended the Regions' competence in terms of PIT, at that point still a full-fledged federal tax. It enabled them to collect general (proportional) surcharges and allow general (lump sum or proportional) tax rebates on the federal PIT levied within their territory. However, this taxing power was strictly circumscribed: the Regions could not reduce the overall progressivity of the PIT, nor engage in unfair tax competition. In addition, such surcharges or rebates could not exceed a margin set to 6.75 per cent of federal PIT revenues raised on their territory.

Despite this reform, the main Flemish political parties further advocated greater regional tax autonomy throughout the 2000s. They emphasised the need to strengthen federated entities' 'responsibility' during community negotiations that took place in 2007/08 and were resumed after the 2010 federal elections. The term 'responsibility' was mostly interpreted from a political and a fiscal perspective. In such debates, increasing the Regions' tax responsibilities by granting them direct access to part of the PIT (or even corporate tax) is argued to increase the *political accountability* of regional representatives *vis-à-vis* citizens.<sup>21</sup> The latter would be allowed to express their preferences not only on expenditure policy choices (the allocation of public expenses), but also on tax policy (the collection of revenues). When it comes to *fiscal* aspects, the responsibility principle upholds a strictly linear relationship between regional economic performance and regional resources.<sup>22</sup> This underpins the 'fair return' criterion mentioned above. We return to the question of conceptually sound foundations of responsibility in a Belgian context and how they can be linked to a grants system in section III(B).<sup>23</sup>

<sup>20</sup> *Loi spéciale portant refinancement des communautés et extension des compétences fiscales des régions*, 13 July 2001, Art 6 (O.G. 3 August 2001).

<sup>21</sup> R Boadway and JF Tremblay, 'Reassessment of the Tiebout model' (2012) 96 *Journal of Public Economics* 1063.

<sup>22</sup> BR Weingast, 'Second generation fiscal federalism: The implications of fiscal incentives' (2009) 65 *Journal of Urban Economics* 279.

<sup>23</sup> In a sense this debate comes down to tracing the origins of the economic gap between Flanders and Wallonia – the assessment of Brussels' situation proving even more controversial. Does this situation stem from Francophone leaders' inappropriate choices or is this rather the result of economic, social, historical, and demographic trends largely beyond their field of intervention?

## D. Sixth Institutional Reform (2011–15)

After 18 months of negotiations, a new institutional agreement was agreed upon in October 2011. The sixth institutional reform considerably altered the relative weight of Belgium's federated entities, by transferring substantive competences worth more than €20 bn to the Communities and the Regions in areas such as family allowances, parts of healthcare, elderly care, labour market policy, tax rebates or deductions, etc. When it stepped into force in 2015, Communities' and Regions' expenditures respectively increased by approximately 50 per cent and 20 per cent. Logically, and similar to earlier reforms, this broad devolution of competences went hand in hand with a thorough revision of their financing system. Indeed, whenever new competences are decentralised, the way these are financed will have to be specified, hence the SFL had to be revised.

However, and importantly, this reform of the SFL did not only organise the funding of newly decentralised competences, but also revised the parameters used to fund the federated entities and amended the equalisation scheme to rule out the (theoretical) possibility of setting the wrong incentives. Besides, a temporary transition mechanism was introduced to mutually compensate for the positive or negative consequences of the new funding system (Title V/1 SFL). At the end of the bargaining process, an additional mechanism was eventually introduced to involve the Communities and the Regions in public finance consolidation (see also section IV below).

The biggest parameter shift under the sixth institutional reform on the revenue side was a further decentralisation of taxing powers and increased regional tax autonomy. Concerning the financing of the Regions, the previous system of PIT grants, optionally complemented by surcharges and relieves on the PIT, was replaced by a system of regional piggy-back PIT (Title III/1 SFL). In practice, the Regions currently levy so called 'extended proportional surcharges' of 33.257 per cent on the federal PIT – which was reduced accordingly. In other words, about a quarter of overall PIT revenue was thus transferred to the Regions. Depending on their fiscal margins and tax policy goals, they are now allowed to define the rate of their surcharge autonomously and without any quantitative limit, as well as to implement reductions on their proportion of the PIT.<sup>24</sup> They can even increase, but also decrease, the progressivity of the PIT – under given conditions. Besides, the Regions obtained exclusive taxing powers over a series of tax rebates/reductions related to their competences, including property taxation (see also section III).

However, this widening of regional tax autonomy also comes with a contradiction, as it among others creates interference between federal tax policies and regional resources. Indeed, the 'reduced federal PIT' is the sole basis for the calculation

<sup>24</sup> K Algoed and F Denil, 'Fiscal Federalism: The Transition to a New Model of Fiscal Relations' in E de Callataÿ and F Thys-Clément (eds), *The Return of the Deficit: Public Finance in Belgium over 2000–2010* (Leuven, Leuven University Press, 2012) 241, 249–55.

of regional surcharges. As a consequence, federal PIT reforms directly affect PIT surcharges actually collected by the Regions – which is one of their main revenue items.<sup>25</sup> Through this channel, *federal* decisions thus directly impact (ie, increase or decrease) *regional* financial resources, a setting unseen since the creation of the SFL in 1989. The Regions willing to compensate for adverse fiscal consequences of federal tax policy are indeed entitled to increase their surcharges. Yet, this does not alter the actual primacy of the federal government in the field of direct taxation. Other features of this new ‘inter-federal’ PIT management framework support this assertion. An example thereof is that the collection of the PIT – including regional surcharges – is kept at the federal level, as a competence of the federal administration. Moreover, the latter is also entrusted with estimating down-payments to be made to the Regions and calculating budgetary settlements between the federal and regional governments (Art 54/1 SFL).

Despite these limits, the growing regionalisation of the PIT nevertheless represents a noticeable step towards larger regional tax autonomy, on top of the wide range of regional taxes already decentralised during earlier reforms. Consequently, regional authorities are nowadays endowed with significant tools to consolidate their own tax system, as well as their administrative capacity in this field. We will discuss these in more detail in section III(A).

### III. Fiscal Mechanisms and the Distribution of ‘Substantive’ Competences

Summing up the gradual institutional evolution of Belgium’s fiscal framework laid out in the previous section, we now describe the current situation in more detail.

As in most other federations, a considerable amount of substantive competences has been decentralised to a subnational level of government, in between the central and the municipal level. Unlike other federations, and for reasons explained above, Belgium has two types of subnational government covering distinct, yet partially overlapping territories, namely the ‘Regions’ and ‘Communities’. The ‘Regions’ competences are ‘territory-related’, and primarily concern the socio-economic sphere. Examples are inter alia, employment, economy, agriculture, energy, water, environment, town and country planning, housing, foreign trade, transport and public works. The ‘Communities’ are competent for ‘person-related’ matters relating to culture, education, audio-visual media, parts of health-care and welfare. As a result, there are three Regions – Flanders, Wallonia and

<sup>25</sup> Such regional spill overs of federal tax policy are far from purely theoretical, as illustrated by the ‘tax shift’ reform implemented by the federal government led by Charles Michel (2014–18). This policy reduced social security contributions and PIT for about €3.45 bn by 2020 to support employment. In practice, the federal government unilaterally transferred about a quarter of this bill to the Regions, corresponding to the share of this tax that they have received since the sixth Institutional reform.

Brussels – which are territorially distinct. There are also three Communities – the Flemish Community, the French Community and the German-speaking Community – yet the two main Communities, ie the Flemish and the French Community both have jurisdiction over certain institutions in the Brussels Region.

The financing of these federated entities, as spelled out in the ‘Special Financing Act’, is therefore also slightly more complex than in other federations, but not too substantially different as the main pillars are always the same: tax autonomy, federal grants, borrowing autonomy and solidarity. We discuss the former two in this section, and the latter in sections IV and V.

First, the Belgian federated entities enjoy a considerable degree of tax autonomy, comparable to Spanish or Scottish levels, which we define as the extent to which a government can collect the revenue to finance its expenditures through its own taxes. As described above, the ‘Special Financing Law’ (SFL) defines which taxes are considered decentralised, with the main revenues deriving from the shared personal income tax, registration taxes of real estate transactions, inheritance taxes and the road tax. We will flesh out the application of tax autonomy in Belgium further in section III(A), also explaining why only the Regions currently raise their own taxes.

Second, federated entities receive part of their resources from the federal level. These are ‘federal grants’, the amounts of which are not fixed, but indexed to inflation and often also to economic growth. As stipulated by the SFL, these grants are allocated by the federal government to the Regions and Communities by use of fixed formulas, based on regional information that can vary over time. In what follows we will call these ‘allocation criteria’. Once allocated, however, the federated entities are free to use these funds to finance any of their competences at will. The lion’s share of the federal grants is hence not ‘earmarked’, ie not conditional on being spent on specific public services.

Zooming in on the allocation itself, two distinct types of criteria are used. A first subgroup of allocation criteria is based on the tax revenues collected within each region, more specifically on PIT revenues. This is called the ‘fiscal capacity’ of a region. The tax allocation criterion itself is then the region’s share in the total revenue of the PIT raised by the federal government. As already mentioned in section II.B., this criterion has also been coined the ‘fair return’ criterion, since a region indirectly gets back what it contributed via the federal taxes paid by its inhabitants. The higher its contribution to total tax receipts, the more favourable its allocation criterion is, and the larger the share of the grant to which it is entitled. Because of the link with the personal income tax, grants to which this criterion applies are simply called ‘PIT grants’. We will discuss why this type of criterion is used in section III(B).

Second, needs-based criteria consider population numbers of all kinds, such as the number of pupils, elderly or young people within a region. For example, the more pupils within a community, the higher the need for education funding. By allocating the grant – which was introduced when education was decentralised – according to a community’s share of the total, national pupil population, such a

need is met. In section III(B) we explain why this type of financing is only applied to grants financing the Communities and why we disagree with the interpretation of this type of allocation as ‘consumption federalism’.

## A. Degree of Tax Autonomy

The degree of tax autonomy is usually measured by calculating the share of own, regional tax revenue in the total amount of regional income streams, including federal grants and user fees. Table 1 illustrates this approach for the SFL in place before the sixth institutional reform of 2015 (pre-2015 SFL) described in section II(D), and the new SFL installed in 2015 (2015 SFL), both computed for the year 2019.

The first line of this table shows the grants that the regions and communities received from the federal government under the pre-2015 SFL. The second line shows the revenue the regions collected out of own taxes in that same setting. The sum of the federal grants and own tax revenues yields total regional revenues on the third line, with which we calculate on the fourth line the extent of the tax autonomy under the old system. The second part of this table shows the same calculation, but for the post 2015 SFL amendments.

In the rightmost column of the table, we show the result for all Regions together. The first observation is that tax autonomy in the current system (2015 SFL) has been increased considerably compared to the pre-2015 SFL, namely by €12.6 billion (bn). The total of €10.8 bn in regional tax revenues under the pre-2015 SFL increases to €23.4 bn under the current financing law. If we express tax autonomy in terms of the method described above, then tax autonomy for the Regions increased from 44.2 per cent to 79.4 per cent. This increase of 35.5 percentage points constitutes an increase of more than two thirds (the 80 per cent increase in the bottom line of the table). In other words, and focusing only on the Regions, tax autonomy is very high in the current system: the Flemish region obtains no less than 82.8 per cent, and Wallonia and Brussels 74.1 per cent and 74.8 per cent respectively from their own taxes.

This significant increase was achieved by bringing the PIT within the scope of subnational taxation for the first time. In the new system, and although the federal government remains responsible for determining the tax base, it has reduced all PIT rates by about a quarter. The freed-up fiscal space is then occupied by the Regions, by levying a surcharge (or piggy-back tax) on the tax revenues paid to the federal level. For example, suppose a citizen living in Flanders would have to pay 10,000 € in PIT to the federal government in the pre-2015 system. In the new system, the federal government would then lower its rates so that the same individual would only have to pay 7,500 €. The Flemish Region then occupies the freed-up fiscal space, by taxing the 7,500 € of federal tax revenues at a rate of 33 per cent, resulting in a regional tax bill of 2,500 € for this citizen. Overall, the same citizen pays the same amount of taxes in both systems, being 10,000 €, of which 25 per cent is now raised by the Region.

Of course, the Regions do not have to stick to the initial surcharge of 33 per cent equalising the pre-2015 outcome to the new setting and have the full autonomy to change this initial tax rate. The regional surcharge can moreover be modulated across different brackets of the newly created tax base, for example by splitting up the 7,500 € up in three parts and setting a rate of 20 per cent for the first bracket and 30 per cent for the richest. The SFL does impose restrictions in terms of possible erosion of the progressivity of the PIT, as well as in terms of harmful tax competition, but these still leave much leeway for the Regions to design their own PIT tax system. Interestingly, and although the call for tax autonomy was very loud in Flanders, nothing has so far been done with this newly gained autonomy.

**Table 1** Fiscal autonomy in the pre-2015 SFL and SFL in operation since 2015 (comparison for 2019 in billion €)<sup>26</sup>

pre-2015 SFL	Flemish Region	Flemish Comm	Flanders (Reg + Comm.)	Walloon Region	French Comm.	Brussels Region	Total (Regions)
Grants	7,8	16,0	23,8	4,6	10,1	1,4	13,8
Own taxes (a)	6,6		6,6	2,8		1,5	10,8
Total revenues (b)	14,4		30,4	7,4		2,9	24,6
Fiscal autonomy (a)/(b) in %	45,5%		21,5%	37,6%		52,6%	44,2%
2015 SFL							
Grants	3,0	23,5	26,6	2,2	14,4	0,8	6,1
Own taxes (a)	14,6		14,6	6,3		2,5	23,4
Total revenues (b)	17,7		41,2	8,5		3,3	29,5
Fiscal autonomy (a)/(b) in %	82,8%		35,5%	74,1%		74,8%	79,4%
change caused by the move from pre-2015 SFL to 2015 SFL							
in percentage points	37,3%		14,0%	36,6%		22,2%	35,5%
in percentages	82,0%		65,2%	97,2%		42,2%	80,7%

<sup>26</sup> We leave out the budget of the German Community, as it is proportionally negligible compared to the other budgets.

Another interesting political consideration is the fact that the Flemish (nationalist) call for more tax autonomy has not subsided since 2015. Given the high percentages of tax autonomy for the Regions calculated in Table 1, this at first sight is hard to explain.

The reason lies in the Belgian federal framework itself, and its hybrid features identified above. Because the territorially defined Regions are interwoven with person-defined Communities in Brussels, raising taxes in this area becomes rather complex. Whilst for the Regions it is easy to identify taxpayers based on their residence, this is not the case for the Communities. Indeed, since the Flemish and the French Communities have overlapping territory in Brussels, the question becomes which citizen can be taxed, and which citizen does not enjoy Community services and should be exempt. According to an old opinion of the Council of State,<sup>27</sup> it is impossible for the Flemish and the French communities to identify a taxpayer in Brussels in the absence of a 'sub-nationality', which would go against the constitution.<sup>28</sup> The Council also declined the option of exempting Brussels residents of the obligation to pay Community taxes, considering this discriminatory.

However, the Council ignored that Communities have no legal jurisdiction over persons in Brussels to begin with, but only over unilingual *institutions*, which are easy to identify. As a result, it would be legally impossible for the communities to tax persons in Brussels, but it could tax users of its institutions. Also, the merger on the Flemish side of the Region and the Community implies that Brussels' residents indirectly benefit from regional taxes raised in Flemish territory, which would violate non-discrimination as defined by the Council. The Council's opinion nevertheless deeply impacted fiscal practice, as to this day the Communities do not raise any taxes, even though legally speaking they perfectly could.<sup>29</sup>

Crucially, this legal interpretation and political practice have far-reaching consequences for any tax autonomy calculations. As illustrated in Table 1, the tax revenue cells in the second and sixth rows remain empty for the Communities. As they do not raise any taxes of their own, they are financed via grants only, printed in italics in the table. This immediately explains the widely differing appreciations by different political actors of the degree of tax autonomy. When, under the pre-2015 SFL, we express the Flemish tax revenues of 6.6 bn compared to the total regional revenues of 14.4 bn, the tax autonomy of Flanders already amounted to 45.5 per cent. If, on the other hand, we express it in terms of the combined

<sup>27</sup> The Council's opinion did not concern the German Community as there is no issue of overlap of Community competences in this case. Also, the German Community has never raised taxes.

<sup>28</sup> Arts 127–129 Const stipulate that Communities have jurisdiction over their 'own' competences, which was interpreted by the Constitutional Court as applying to their territory, ie regarding the Brussels Region as strictly limited to unilingual Community institutions (GwH nr 90/94, 22 December 1994). The person-based principle advocated by French-speaking political parties has as a result never been constitutionally underpinned, as the territoriality principle was upheld.

<sup>29</sup> Given that the Communities exercise jurisdiction over the unilingual institutions, user fees could be charged to citizens in Brussels for use of their services. However, this would not work for education, as here the national objective of equal access to education would apply.

income of the Flemish Region and Community (6.6 out of 30.3 bn), it is only 21.5 per cent. Someone referring to a percentage of 'only 20 per cent' is therefore not wrong, but it is clear that this is not a discussion about numbers, but about a different (political) frame of reference.

The sixth institutional reform did not change the federal frame of reference of Regions and Communities. So, whoever wants to, can still produce a figure that points to a much lower fiscal autonomy for Flanders. Add the grants to the communities in the denominator, and the fiscal autonomy for Flanders is now 35.5 per cent (which is still a considerable increase of two thirds compared to the former 20.6 per cent). Only: whoever takes this position would make the discussion easier by not using these figures. It would be better to openly explain why the Communities are not using their tax powers, how taxes should be levied on a community-basis in Brussels, or why the direction of a classical territorially defined federalism with non-overlapping regions was never opted for. As we will show below, moreover, the philosophy of financing the communities via grants has always been 'needs-based', which does not always fit well with real tax autonomy.

Apart from the size of the tax autonomy, the transfer of about a quarter of the income from the PIT to the Regions is also an important element for other reasons. Because of the progressivity of the PIT (richer people pay proportionally more taxes), revenues from this tax grow faster than GDP. For example, if GDP grows by two per cent, the PIT revenue may increase by 2.6 per cent. This ratio (in this case 1.3) is called the elasticity of PIT revenues with respect to GDP. The estimate of this elasticity is uncertain, yet the federal government transferred a quarter of this 'elasticity bonus' to the regions. Hence, the size of the elasticity plays a crucial role in the picture of winners and losers in the long run (ie when the economy grows). The higher the elasticity, the more beneficial the new SFL will turn out for the Regions, and the less for the federal government. The lower the elasticity, the better it looks for the federal government. This was discussed extensively in earlier works.<sup>30</sup>

In any case, by transferring only a quarter of the PIT to the regions, the viability of the federal state and the preservation of its fiscal prerogatives are assured, also with respect to the elasticity bonus.

## B. Degree of 'Responsibility' versus Needs

The demand for more responsibility was a second point that was particularly emphasised by the Flemish parties during the 2011–13 negotiations leading to the current SFL. In the media, the term quickly degenerated into a 'buzzword', and was often poorly or sloppily defined if at all, because it was assumed equivalent to fiscal

<sup>30</sup> See A Decoster and W Sas, 'Feiten en cijfers over de nieuwe financieringswet' in P Popelier et al (eds), *België, Quo Vadis?* (Antwerp, Intersentia, 2012) 311; Decoster and Sas (n \*).

or tax autonomy. However, responsibility can be interpreted in a much broader sense, whereby tax autonomy need not even be present as a precondition.

In a best-case scenario, responsibility includes every possible instrument that holds governments accountable for the consequences of their policies. The reasoning here is that regional governments feeling the (positive) consequences of a good policy may also be more inclined to govern better. After all, if we follow the theory of economic federalism, regional governments are better placed to meet local needs and preferences. Effective empowerment then ensures that such welfare-enhancing and adapted policies are indeed implemented. What we mean by such a good policy, how it manifests itself in practice, and how we can reward it, however, depends on the entity or jurisdiction in question. For this reason, responsibility will be interpreted differently depending on whether we look at the Regions or the Communities.

### *i. Regions*

As mentioned earlier, the regions were granted economic powers since their creation in 1980. The idea was to tackle the different economic conditions in the three parts of the country, assuming that regional authorities are better positioned to assess differences in needs or preferences. This concerned powers such as employment, agriculture, the economy, public works, energy, transport (except for the national railroads), town and country planning, foreign trade, etc. The newly transferred powers in the sixth institutional reform concerning the labour market and fiscal policy (tax exemptions/rebates) follow a similar logic. Thanks to the decentralisation of targeted labour tax reductions, for example, it will be easier to target employment policy to the actual labour market in each region (Flanders has a greater number of older and a lesser number of younger jobseekers than the other regions). In short, given such competences, good regional policy can be defined as all government policy that supports and stimulates the regional economy.

This notion of good policy as stimulating regional economic growth was indeed enshrined in the pre-2015 SFL during the third institutional reform in 1989. Moreover, it was argued that economic growth is reflected in the growth of incomes, and thus of tax revenues. And so, it was further argued, per capita personal tax revenues are a good indicator of 'good policy'. That indicator is called regional fiscal capacity, as defined above. Rewarding good policy then simply boils down to making regional revenues dependent on the fiscal capacity of the regions. This was done by putting more weight on the criterion which allocates grants according to a Region's share in the total income from PIT (the 'fair return' criterion as described above). An increase in fiscal capacity reflects higher regional growth and is rewarded with a higher allocation of federal grants, while a decrease in fiscal capacity is 'punished' with a lower allocation. The underlying reasoning also implies that 'responsibility' in this sense consists of both tax autonomy on the one hand and the 'fair return' allocations on the other.

The basic assumption that good policy automatically leads to regional growth and tax income raises many questions. Are all the changes in regional growth really the result of policies under the regional government's own control? After all, globalisation largely limits regional governments' grip on their economies. Also, is our understanding, both theoretical and empirical, of how a government behaves sufficiently well-founded to reliably estimate the magnitude of the incentive effect on government policy? Is PIT revenue the most appropriate indicator of regional growth? Regional employment or participation rates or job/start-up creation might be better measures of regional growth, and above all, they are much easier to link to actual policies. Unfortunately, such questions are beyond the scope of this text, but we refer to Bell et al for a thorough discussion.<sup>31</sup>

Sizing up the fiscal framework under the post-2015 SFL using the fiscal capacity link as a proxy for responsibility as explained above, Figure 1 shows that the increased tax autonomy has had no direct effect on overall responsibility.

**Figure 1** Overview of the pre-2015 and current SFL (comparison for 2019 in bn €). Own representation by the author based on publicly available Belgian budget data

	Pre 2015		Since 2015	
<b>Total Revenues</b>	3 Regions 24.6	3 Communities 26.1	3 Regions 29.5	3 Communities 39.3
<b>Tax autonomy</b>	34.1 bn – 67%		38.1 bn – 55%	
Grants				
→ PIT criterion	12.3	11.0	5.0	9.7
→ Needs-based criterion		15.0		29.6
→ Solidarity	1.5		1.1	

As can be seen in the grey quadrants, in relative terms, the amount of PIT grants and tax autonomy decreases from 67 per cent of total revenues to 55 per cent. This is because the regionalised PIT replaces the regional grants that already followed the 'fair return' rule, of about 12 bn €. An increase in responsibility is, therefore, to be sought in the resources that finance the newly transferred powers for the Regions in 2015. This new allocation, amounting to €5.3 bn in 2019 and representing, alongside the revenues from tax autonomy, the major source of revenues for the Regions, is indeed distributed according to the 'fair return' criterion. Thus, also for the new competences, the regional funding is largely linked to regional growth,

<sup>31</sup> D Bell, W Sas and J Houston, 'Starting from scratch? A new approach to subnational public finance' (2021) 55(4) *Regional Studies* 617.

which will lead to a 5.3 bn increase in responsibility in *absolute* terms. In Table 2, we show this sharp increase in responsibility in a different way. The first line shows the amounts per capita that are currently spent on the newly transferred labour market competences. The second line shows the grant allocation (again in € per capita) based on which the regions must finance the transferred competences in the new system.

Since the new allocation is distributed based on fiscal capacity ('fair return'), it is higher per capita for the Flemish Region (€415) than for Wallonia (€338) and Brussels (€298). However, lower economic growth and the resulting higher unemployment rate mean that current expenditure is higher in Wallonia and Brussels. In other words, the Regions were forced to 'face facts' from 2015 onwards. For those regions where the current expenditure on labour market policy is higher than what they contribute to the federal treasury, the budgetary scope will be significantly reduced under the new system. If the Brussels and Walloon regions fail in getting their regional economy on track from 2025 onwards, when the transition mechanism compensating for these differences starts phasing out, they will consequently be held 'responsible'.

**Table 2** Fiscal autonomy in the old and new SFL (comparison for 2019 in €/capita)

	<b>Flemish Region</b>	<b>Walloon Region</b>	<b>Brussels Region</b>
I. Current expenditures	II. 382	III. 450	IV. 515
V. Grant allocation	VI. 412	VII. 338	VIII. 298
IX. Difference	X. 30	XI. -112	XII. -217

## *ii. Communities*

As we explained earlier, and in contrast to the Regions, the Communities have been person-based since their establishment in 1970. Language not being linked to a territory but to a person, the competences of the communities were hence interpreted from a different angle. Competences such as education, the use of languages, health policy (curative and preventive medicine), assistance to persons (youth protection, social assistance, family assistance, reception of immigrants, etc.) and culture (theatre, libraries, audio-visual media, etc.) have been gradually transferred to the communities. The sixth institutional reform adds a large amount to these. Child benefits, but also aspects of elderly and healthcare were transferred, amounting to €12.9 bn in 2019.

We explained above how difficult it is for the Regions to define 'good' policy, let alone measure it. For the policies of Communities, this exercise seems to be even more difficult. For each competence, it is fairly easy to think of several factors that constitute good policy and that, moreover, have little to do with regional growth. For example, the extent to which healthcare is cost-effective, or adapted to local needs, cannot be measured simply by regional growth rates. In the long run,

education may have an impact on growth, but again this does not seem to us to be a direct measure of the quality of education which, for example, also offers equal opportunities. How to measure and subsequently reward good education or health policies has never really been considered within the SFL. Indeed, from 1989, one quarter of the community grants were even allocated according to the 'fair return' criterion. The remaining funds are distributed according to so-called 'needs-based' criteria. As also explained above, the latter allocate federal grants based on population numbers of all kinds, such as the number of pupils, elderly people, young people, or the total population of a community.

There is a good reason to emphasise needs when considering the financing for the Communities. After all, the use of such a criterion expresses the political choice that an inhabitant of a federal country is entitled to the same services for certain things, regardless of the Region he or she lives in or the Community he or she belongs to. The economic theory of fiscal federalism classifies this as the principle of 'horizontal equity'. If a Dutch-speaking child deserves the same access to education as a French-speaking one, education should be financed based on student numbers. A Community with relatively more school-aged children will then receive a larger share of federal grants. Since this principle of horizontal equity is most often associated with person-based competences, it is therefore not surprising that needs-based criteria, such as population numbers, are used as allocation criteria for federal grants financing the Communities.

Lastly, and even if we allow for more clearly defined output factors of good Community policies as also discussed in Bell et al,<sup>32</sup> it is a widespread misunderstanding that needs-based criteria are at odds with responsible policies. Indeed, such criteria do not reduce grant finance to the practice of 'consumption federalism', where Communities could ramp up spending with the federal government bearing all the costs. On the contrary, the Communities are financed per head and cannot expect a cent more.

#### IV. Control of Financial Stability across Levels of Government

Of course, and due to unexpected shocks or political priorities, standard revenue streams may not suffice to cover all public expenditure. This goes for regional governments just as well as for national governments. For this reason, and to varying degrees depending on the country, subnational governments are given the autonomy to finance deficits by issuing debt. The borrowing constraints set around such subnational autonomy to raise funds on financial markets will be crucial to maintain financial stability *across* levels of government, as well as coordination towards this goal. In this light, two non-majoritarian institutions born

<sup>32</sup> *ibid.*

out the federalisation of the country play a central role in Belgium's fiscal consolidation and stability: the 'Public Sector Borrowing Requirements' Section of the High Council of Finance (referred to as 'the Section' below) and the Constitutional Court.

## A. The High Council of Finance

The Section was created in 1989 because the third institutional reform, by quadrupling the federated entities' financial resources, deeply altered the balance of fiscal power. The federal government – heavily dependent as it was on financial markets – feared trouble in consolidating Belgium's public finance due to potential shortage of budgetary coordination. It, therefore, created the Section to ensure intergovernmental fiscal coordination and protect fiscal orthodoxy. This advisory body is made up of twelve members, appointed by virtue of 'their special competence and experience in the financial and economic field' (Art 49(6) SFL) and distributed according to linguistic and institutional parity. The Section is thus composed of an equal number of Dutch-speaking and French-speaking members. Besides, six of them represent Entity I (made up of the Federal Authority and the Social Security), while six others sit on behalf of Entity II (made up of the Communities, the Regions and Local Authorities).<sup>33</sup>

The Section is responsible for issuing an annual opinion on the distribution of fiscal targets among governments. It proposes a budgetary trajectory, which serves as a starting point for negotiations between representatives of each component unit of the Belgian federation. This takes place within the Inter-ministerial Conference on Finance and Budget, an informal coordination forum bringing together federal, regional and community Ministers of Finance and Budget. The agreements reached in this forum are subsequently ratified by the Consultative Committee.<sup>34</sup> On its own initiative or upon request by the federal Minister of Finance or Budget, the Section can also issue an opinion on the advisability of restricting the borrowing capacity of one or more public authorities to 'preserve the economic union and monetary union' and avoid 'a structural deterioration of the borrowing requirements' (Art 49(6) SFL).<sup>35</sup> However, it does not seem to have

<sup>33</sup> OECD, 'Belgium' (2015) 2 *OECD Journal on Budgeting* 65.

<sup>34</sup> D Piron, 'Rôle et influence de la section "Besoins de financement des pouvoirs publics" du Conseil supérieur des Finances' (2013) 25(1) *Pyramides* 123.

<sup>35</sup> More specifically, this procedure is stipulated in Art 49 of the 'Special Financing Law' as follows: 'The conditions and issuance calendar of each public loan shall be submitted to the Minister of Finance for approval. If such approval is refused by the Minister of Finance, the government concerned may request that the matter be submitted to the Council of Ministers for decision.' ... 'After having received the opinion of this department, the King may, on the proposal of the Minister of Finance and by a decree deliberated in the Council of Ministers, limit for a period not exceeding two years the borrowing capacity of a Community or Region for a maximum period of two years. This decision is taken after consultation with the Executive concerned.'

implemented this competence so far, probably because of the ‘massive political turmoil’ this would undoubtedly create.<sup>36</sup>

The Section has played a fundamental role in fiscal coordination within the Belgian federation. In the 1990s, it strongly supported the orthodox budgetary strategy which enabled Belgium to meet the ‘convergence criteria’ set out in the Maastricht Treaty to join the Eurozone. Even though its influence waned during the first decade of the twenty-first century, it nowadays assumes the role of translating European budgetary requirements within an ever more federalised Belgium. This is partly due to the closer monitoring of both national and regional fiscal policies carried by European institutions in response to the European public debt crisis.<sup>37</sup>

The Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (TSCG, aka ‘Fiscal Compact’), which was transposed in Belgian law by a cooperation agreement of December 2013,<sup>38</sup> transformed the Section into an independent fiscal Council. In addition to its tasks related to fiscal coordination, the Section is now also in charge of overseeing compliance by the federal and the federated entities with the fiscal path they agreed upon and transmitted to European institutions. In the event of ‘significant observed deviations’ from either the medium-term objective or adjustment path towards it, a correction mechanism is automatically triggered to eradicate it within 18 months. In such cases, the Section assesses whether this gap stems from exceptional circumstances, determines the extent of the corrective action to be undertaken, and overlooks its effective implementation.<sup>39</sup>

## B. The Constitutional Court

With respect to the revenue side of the budget, Art 1ter(1) SFL currently imposes five restrictions upon regional tax autonomy: (1) compliance with the general framework of the economic and monetary union; (2) the principle of federal loyalty; (3) the prohibition of unfair tax competition; (4) the free movement of persons, goods, services and capital; and (5) the prohibition of double taxation.<sup>40</sup> The Constitutional Court enforces respect for these principles and is another

<sup>36</sup> I. Coene and G. Langenus, ‘Belgium: Promoting Fiscal Discipline in a Federal Country’ in G. Kopits (ed), *Restoring Public Debt Sustainability: The Role of Independent Fiscal Institutions* (Oxford, Oxford University Press, 2013) 142.

<sup>37</sup> Piron (n 34).

<sup>38</sup> Art 4(1) Cooperation agreement of 13 December 2013 between the federal government, the Communities, the Regions and the Community Commissions concerning the execution of Art 3(1) of the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (O.G. 18 December 2013). See also the Royal Decree of 23 May 2018 on the High Council of Finance (O.G. 31 May 2018).

<sup>39</sup> Conseil Supérieur des Finances, *Trajectoire budgétaire en préparation du programme de stabilité 2014–2017* (Bruxelles, Conseil Supérieur des Finances, 2014) 21–25.

<sup>40</sup> The last principle, which is directly aimed at protecting taxpayers, differs from the first four principles, which regulate relations between the various component units of the Belgian federation.

non-majoritarian institution closely linked to Belgium's transformation into a federal state. It was created in the wake of the second institutional reform to resolve potential disputes between the federal, regional and community legislatures on the allocation of powers. This 'arbitrator' role is explicitly displayed in its initial name: 'Court of Arbitration'. It was only afterwards that its jurisdiction was also extended to the protection of individual rights and freedoms (set out in Part II Const).

Peeters and Mosselmans stress the crucial role played by the Constitutional Court (also 'the Court') in enforcing the principles governing the relationships between the federal government, the Communities, and the Regions.<sup>41</sup> According to them, the Court 'supports a broad interpretation of the community and regional powers', as it has tended to take the autonomy of the federated entities 'as its starting point'. Yet, this general approach has not prevented it from imposing a major limitation on the constitutional power of the regions to impose tax, namely the economic and monetary union. This illustrates the balanced position the Belgian Constitutional Court has proven to hold in federalism disputes.<sup>42</sup> The requirement to respect this general framework emerged as early as 1986 in the case law of the Belgian Court of Arbitration, before being systematised in a landmark decision rendered two years later. Reviewing a case related to a Walloon tax levied on water export to the other two Regions, the Court ruled that it ensues from the 1970 and 1980 institutional reforms that

the new structure of the Belgian state is vested in an economic and monetary union, by which is meant that the institutional framework of an economy is built on constituent units and is characterised by an integrated market (the so-called economic union) and a single currency (the so-called monetary union).

Concerning economic matters, Belgium's constituent units are required to guarantee the free movement of goods and factors of production between them. Any rule likely to hinder this freedom of movement – such as internal customs duty – is deemed incompatible with the economic union and, consequently, contrary to Belgium's federal structure.

This seminal decision of the Belgian Constitutional Court was directly inspired from the Court of Justice of the European Union case law.<sup>43</sup> It indeed transposed the requirements applying to interstate relations within the European Union to intrastate relations within the Belgian federation. The audacity of this – now broadly accepted – position should be appreciated: at the time, institutional legislation did not contain such principle, which nevertheless drastically limited

<sup>41</sup> P Peeters and J Mosselmans, 'The Constitutional Court of Belgium: Safeguard of the Autonomy of the Communities and Regions' in N Aroney and J Kincaid (eds), *Courts in Federal Countries: Federalists or Unitarists?* (Toronto, University of Toronto Press, 2017) 69, 91.

<sup>42</sup> P Popelier and S Bielen, 'How courts decide federalism disputes: Legal merit, attitudinal effects, and strategic considerations in the jurisprudence of the Belgian Constitutional Court' (2019) 49(4) *Publius: The Journal of Federalism* 587.

<sup>43</sup> See *ibid*; Popelier and Lemmens (n 5).

the exercise, by the federated entities, of their economic and tax competences.<sup>44</sup> During the 1988-1989 institutional reform, the principle of economic and monetary union was officially enacted in Art 6(1) Special law on institutional reform and in the SFL. Since the sixth Institutional reform, this principle explicitly applies to all regional tax powers.

Legal scholarship regularly likens the general framework of the (internal) economic and monetary union to a specific application, in economic and tax areas, of another guiding principle of Belgian (fiscal) federalism: the principle of federal loyalty. The Constitutional Court has regularly claimed jurisdiction over this principle – enshrined since 1993 in Art 143(1) Const. It does so ‘in conjunction with the principles of reasonableness and proportionality’.<sup>45</sup> According to the Court, federal loyalty implies ‘the obligation not to alter the balance of the whole federal construction when exercising one’s own competences’. The Court’s judicial overview of this term is not limited to the ‘sole exercise of competences’ but extends to the ‘spirit’ in which the latter ought to be implemented: when exercising its exclusive competences, each legislature should avoid rendering ‘the exercise of their competences by other legislatures impossible or extremely difficult’. This case law was confirmed on the occasion of the sixth institutional reform, which expressly extended the jurisdiction of the Constitutional Court to the federal loyalty principle. Moreover, this principle was also inserted into Art 1ter SFL, which circumscribes regional tax autonomy. Just like the federal government, the Regions are thus required to comply with this principle when exercising their powers. However, the concrete impact of this legal requirement has so far remained unpredictable. It usually comes down to an obligation to consult the other entities.

When it comes to taxing powers, compliance with the principle of federal loyalty seems redundant with another restriction on regional tax autonomy, namely the prohibition of unfair tax competition. This provision was inserted in the SFL during the fifth institutional reform in 2001 to restrict the use of regional surcharges and relieves on the PIT. On the occasion of the sixth Institutional reform, it was even extended to all regional tax prerogatives. However, the concept of ‘unfair tax competition’ is neither defined in the SFL nor in its preparatory works. The legislator, therefore, implicitly delegated this task to the Constitutional Court.

To summarise, the Constitutional Court nowadays has large room for manoeuvre to interpret the legal safeguards of Belgium fiscal federalism. This is partly due to its judicial activism, as it creatively interpreted some of the main principles circumscribing regional tax autonomy. For instance, the principles of (internal) economic and monetary union and federal loyalty were first laid down in the Court’s case law, before being enacted in the SFL. When not acting on its own initiative, the Constitutional Court might also be called upon to fill in vacuums

<sup>44</sup> M Bourgeois, ‘La régionalisation partielle de l’impôt des personnes physiques après la sixième réforme de l’État: Analyse juridique’ (2014) 4 *Revue de Fiscalité Régionale et Locale* 247.

<sup>45</sup> Peeters and Mosselmans (n 41) 99.

in (special) legislation, as illustrated by the example of unfair tax competition. The Court's power of interpretation is further bolstered by the vagueness of many key concepts – which are sometimes neither mentioned in the Constitution nor in special laws. Through its case law, the Constitutional Court has put itself in a position to define the extent to which Regions can effectively engage in tax competition. Overall, while courts in federal system tend to take a centralist position, the Constitutional Court, as mentioned, has taken a more balanced position.<sup>46</sup> However, no firm conclusion can yet be drawn regarding its stance on competition. The stakes are nevertheless far from being low, as its case law could starkly impact how federal and regional government exercise their taxation powers.

## V. The Role of Solidarity

Until the third institutional reform of 1989, federal grants were distributed based on a criterion that was a weighted average of population (to the advantage of Flanders), fiscal capacity (at that time still to the advantage of Brussels) and surface area (to the advantage of Wallonia). When the SFL was introduced in 1989, and at the request of Flanders, this '1/3rd, 1/3rd, 1/3rd criterion' was abandoned in favour of the PIT criterion, ie to fiscal capacity. Crucially, this was partly compensated by introducing a fairly standard equalisation mechanism, which provides an additional grant to regions with a fiscal capacity that is lower than the federal average.

In this sense, such a mechanism again expresses the principle of horizontal equity in a federation. According to this principle, citizens in the same circumstances can count on the same (quality of) public service, regardless of inter-regional differences in fiscal capacity. The name of the mechanism in Dutch, being the 'solidarity mechanism', is, therefore, rather unfortunate. It has nothing to do with vertical redistribution between rich and poor citizens (as in the progressive PIT or social security), but with horizontal equity between individual and comparable citizens within the same federation.

The formula below determines the 'solidarity' grant a region can count on under the new SFL when its fiscal capacity is below the national average:

$$SOL_{region} = 0,8 \times (POP_{region} - PIT_{region}) \times B \quad (1)$$

Where  $POP_{region}$  represents that region's population share of the total, national population, and  $PIT_{region}$  represents the region's share of federal PB revenues (the new PIT criterion). Thus, 80 per cent of the difference between a region's population share and its PB share in the federal total is compensated.

<sup>46</sup> Popelier and Bielen (n 42).

The reasoning is as follows. When more people live in a region in percentage terms than contribute to the federal PIT revenues, the fiscal capacity of that region (measured as PIT revenues per capita) is lower than the national average. We show below the shares in population and PIT revenue for the three regions.

**Table 3** Share in population and PIT revenues for the three regions

Share in	Flemish Region	Walloon Region	Brussels Region
Population	57.5%	32.2%	10.3%
PIT revenues	63.5%	28.2%	8.3%
Difference	-6%	4%	2%

For Wallonia and Brussels,  $POP_{region}$  is larger than  $PIT_{region}$ , so the difference in the above formula becomes positive. Only in this case, a solidarity grant is provided.

Finally, the solidarity grant is also partly determined by the basic amount to which the percentage is applied. This is the  $B$  in the formula above. In the new SFL that amount is set at €20.09 bn. It is the sum of the newly granted fiscal autonomy (10.74 bn), the new regional allocation (5.25 bn), and half of the PIT community grant (4.1 bn). Multiplied by 80 per cent of the difference from the last row of Table 3, this results in an additional allocation for Wallonia and Brussels of €676 million and €264 million respectively in 2015. Compared to the solidarity mechanism from the old SFL, this represents a decrease of €180 million for the Walloon region and €72 million for the Brussels region. An important difference with the old solidarity mechanism under the pre-2015 SFL is that, under the new system, the basic amount is not only indexed to inflation but also to economic growth. In time, this can cause the initial difference in solidarity grant between the old and new SFL to be closed, or even reversed.

## VI. Merits and Deficiencies of Belgian Fiscal Federalism

If we compare the Belgian fiscal framework to an ‘ideal’ blueprint as derived by the economic theory of fiscal federalism and described in eg Bell et al,<sup>47</sup> the result of six institutional reforms is reasonably positive. Needs-based financing and ‘responsibility’ elements are fairly well balanced, even though both could be better tailored to reward good policies. Fiscal autonomy could be even higher, but only on the condition that the regionalised PIT does not have too many unwanted effects in the future, such as harmful tax competition, and if the position of Brussels is made clearer. This remains to be seen and requires empirical research as well as political effort. The lack of borrowing constraints or fiscal rules may prove to be a problem

<sup>47</sup> Bell et al (n 30).

in the future. However, as the EU Fiscal Compact has shown, rules in itself a rarely sufficient. What is needed is political cooperation.

In short, there is room for well-considered improvement, but certainly not for a seventh institutional reform in which – as some political parties envisage – the federal level is all but eliminated. In an economy as highly integrated as the Belgian economy, which covers a small area, the disadvantages of a further split are simply too great. Missed economies of scale, competitive and spill-over effects of all kinds resulting from such a ‘confederal’ model would undermine prosperity. The Achilles’ heel of Belgian federalism and its fiscal framework does not lie in the vertical division of powers and their financing, but rather in two other weaknesses.

First, the system is undermined by its complex design, with the interwoven Communities and Regions as its most important feature. As we have seen, both the Flemish and French Communities decide on policies conducted within the boundaries of the Brussels Capital Region, which inevitably means that federated entities will end up in each other’s (fiscal) manoeuvring space as well. The advantages of decentralisation resulting from the increased transparency of regionalised policy linked to devolved tax autonomy are, thus, undercut, as decision-making is tied up in a Gordian knot too intricate to understand, let alone untangle.

Second, and related to this, the position of the Brussels Region in a widely cast net of ‘spill-overs’ is becoming increasingly untenable. In many ways the Region is too small for its own good, as it is trapped in its own economic hinterland. How then to integrate the Brussels economy and labour market with its hinterland in Flanders and Wallonia? How to give the hundreds of thousands of low-skilled young people in Brussels the opportunity to find work in the rest of the country? How to ensure that mobility to and from Brussels improves? Coordination of fiscal and economic policies should be the norm in this case, yet the system is not geared towards overcoming coordination failures and harmful (tax) competition. On the contrary, it even strengthens these processes, as regional governments are only inclined to consider the welfare of their own constituents, and coordination mechanisms are weak.

From a strictly economic perspective, the solutions are obvious. By simply expanding the Brussels Region, so that its borders coincide with, for example, the province of Brabant of old, many of the ‘spill-overs’ and coordination problems would automatically disappear. If we also turn the Brussels area into a full-fledged member state – ie, with its own education policy, its own healthcare system, and its own cultural policy – we reinforce this process, and streamline policies even further.

Of course, there are many other motives at play than just economic ones. Politically, such an ideal image does not stand a chance, certainly in the short term. Nonetheless, some of these utopic elements can serve as inspiration for a workable solution. For one, introducing a more standard form of federalism with equivalent and territorially defined federated entities would already be a step forward. It would make political decisions more transparent for voters and provide the

necessary equivalence for politicians to work together as partners. Prosperity in the future will depend to a large extent on cooperation agreements and voluntary coordination mechanisms. But cooperation is only possible if everyone's motives are clear, and everyone's levers and bargaining power is more or less the same. And if cooperation is strategically undermined, at least voters know who is to blame and why, strengthening political accountability.

## VII. Dos and don'ts: What the EU can Learn from Fiscal Federalism in Belgium

### A. Deficiencies – Negative Examples

The lack of transparency of the Belgian system both in terms of power sharing and the allocations of competences across levels of government shows in two important ways, as explained above. First, the layered system with Regions and Communities operating at the same subnational level. This undermines the advantage of improved accountability of decentralised expenditure and taxation. It almost completely undercuts the argument that yardstick competition improves policy making, where voters can compare outcomes in each region and punish or reward politicians accordingly. Second, the way in which special laws applying to the decentralised entities (such as the SFL) are decided on in the federal parliament, requiring not just a two-thirds majority, but also a majority in both the Dutch-speaking and French-speaking language groups in the federal parliament. This means that any attempt to improve existing institutions lacks transparency and gets easily bogged down in political opportunism. This also shows in the way the SFL is designed and perceived by voters. It has a reputation of being completely incomprehensible, and grants are interpreted as subsidies for low-growth regions rather than tools incentivising them to do better. As we have seen this is untrue, although there is room for improvement on that front as well.

Both points are relevant for the EU in the sense that it also lacks transparency. The trilogue decision-making process is highly complex, as are the overlapping jurisdictions of the EEA, EU, Eurozone, EU customs union, etc. In the discussion on how revenue raising power should be centralised, the lesson should then be not to succumb to the temptation of letting institutional complexity hijack the process. It should be organised in a transparent way and explained properly at every stage.

A second lesson relates to the management of spill-overs. If regions are too small for their competences (such as Brussels), externalities will lead to coordination failure, as each region's politicians ignore the effect of their policies on other constituencies. This can be solved via either asymmetric formulas or by keeping certain competences central, which goes for tax autonomy as well.

In the case of the EU, it is an argument to centralise those taxes that have a lot of spill-overs, ie a tax base that is very mobile and hence susceptible to the race to the bottom of harmful tax competition. Corporate taxation being the obvious first candidate, where the recent steps towards a uniform minimum rate of 15 per cent and a harmonised tax base are encouraging. The same goes for the recently approved Carbon Border Adjustment Mechanism, essentially an import tariff preventing carbon leakage. The expansion of the EU emissions trading system to include more aspects of transport and construction, as proposed by the European Commission, would also be a welcome reform. All these taxes concern very responsive and mobile tax bases and are hence textbook candidates for coordination failure. Centralising these at the EU level prevents that.

Third, as explained in section II, Belgian institutional reform has always followed one direction: further decentralisation. This one-sided perspective, meant to placate and pacify political pressure from all sides, has overlooked the need to build in centripetal forces at the federal level as well. For this reason, federal politicians often do not necessarily put national objectives first and tend to focus on their own regional constituency. On the revenue side this has often surfaced as stressing the importance of keeping or reclaiming own tax revenues. This can lead to extreme or strategic voting for the central level of government, putting in place politicians that are even less likely to seek out a compromise, and will be even more protective of regional interests. Daniele et al find similar trends for the EU, showing that extreme voting for the European Parliament is more pervasive in member states that perceive themselves as winners *or* losers of the EU.<sup>48</sup> They stress the need for federation-wide constituencies, where at least part of the members of parliament of the highest level of government are elected nationwide. This breaks the regional ties of at least some federal representatives, thus ensuring their electoral incentives and concerns are nationwide.

## B. Achievements – Positive Examples

In Belgium the bulk of social security mechanisms – healthcare, pension and unemployment schemes – as well as its funding are kept at the federal level of government. This has shown to be both a strong stabiliser and a source of cohesion. Yet increasingly it has also fomented discord, for the reasons described above. Any debate in the EU on federation-wide stabilising elements such as an unemployment scheme is, therefore, to be encouraged. Again, transparency will be key, also regarding its funding mechanisms. The ‘Support to mitigate Unemployment Risks

<sup>48</sup> G Daniele, A Piolatto and W Sas, *Does the winner take it all? Redistributive policies and political extremism*, CESifo Discussion Paper 8214 (April 2020).

in an Emergency' (SURE) system put in place during the pandemic was a step in the right direction in that respect.

Second, keeping the main levers of taxation at the central level, as is still the case in Belgium, ensures a certain 'spending power' as defined by Boadway and Tremblay for the federal government.<sup>49</sup> However, and increasingly so, as described in this chapter, most of these revenues are earmarked for either social security programs or precisely the SFL. Nonetheless, an EU version of Art 170 Const giving the federal government some leeway on imposing the primacy of federal taxation, could be a valuable idea.

## VIII. Conclusion

Belgian federalism and its regional and local public finance system are highly complex, mimicking a miniature version of the EU. The Belgian aim of blending constituent elements which have historically often diverged on cultural or economic dimensions is as daunting as the European objective. The fact that Belgium has always been more on the 'keeping together' track of federalism – managing centrifugal forces – marks the biggest difference with the European project, which has a 'coming together' orientation. However, it is precisely this difference which allows us to draw some important lessons for the EU, as the European process of integration already seems to show the very centrifugal elements Belgian institutional reform was meant to tackle.

In that sense both systems are almost meeting in the institutional middle, and both systems need the same reforms which can install more centripetal elements at the heart of their workings. Transparency and an open and informed debate on the advantages of centralisation should be put front and centre in this respect. Such a debate should also be held on the revenue side of federalism, as it can often be the most controversial part. This marks the importance of a principle-based approach to design a fiscal framework, to 'start from scratch' so to speak. The EU should allow for widespread citizen participation in all its ways on what the trade-off between the national objectives of responsibility and compensation/horizontal equity really entails, and on which criteria it should be based. These criteria could then even be asymmetric and decided on unilaterally by each member state within certain bounds, as suggested by Bell et al.<sup>50</sup> The road is long, for both Belgium and the EU and much will depend on external as well as internal (geo-) political and economic dynamics.

<sup>49</sup> Boadway and Tremblay (n 21).

<sup>50</sup> Bell et al (n 30).

## References

- K Algoed and F Denil, 'Fiscal Federalism: The Transition to a New Model of Fiscal Relations' in E de Callataÿ and F Thys-Clément (eds), *The Return of the Deficit: Public Finance in Belgium over 2000–2010* (Leuven, Leuven University Press, 2012) 241.
- B Bayenet, M Bourgeois and D Piron, 'Le fédéralisme financier, vecteur de renforcement de la légitimité de la gestion des finances publiques en Belgique ?' in C Husson-Rochcongar (ed), *La légitimité en finances publiques* (Paris, Mare & Martin, 2022) 521.
- D Bell, W, Sas and J Houston, 'Starting from scratch? A new approach to subnational public finance' (2021) 55(4) *Regional Studies* 617.
- R Boadway and JF Tremblay, 'Reassessment of the Tiebout model' (2012) 96 *Journal of Public Economics* 1063.
- M Bourgeois, 'La régionalisation partielle de l'impôt des personnes physiques après la sixième réforme de l'État: Analyse juridique' (2014) 4 *Revue de Fiscalité Régionale et Locale* 247.
- L Coene and G Langenus, 'Belgium: Promoting Fiscal Discipline in a Federal Country' in G Kopits (ed), *Restoring Public Debt Sustainability: The Role of Independent Fiscal Institutions* (Oxford, Oxford University Press, 2013) 142.
- Conseil Supérieur des Finances, *Trajectoire budgétaire en préparation du programme de stabilité 2014–2017* (Bruxelles, Conseil Supérieur des Finances, 2014).
- G Daniele, A Piolatto and W Sas, *Does the winner take it all? Redistributive policies and political extremism*, CESifo Discussion Paper 8214 (April 2020).
- A Decoster and W Sas, 'Feiten en cijfers over de nieuwe financieringswet' in P Popelier et al (eds), *België, Quo Vadis?* (Antwerp, Intersentia, 2012) 311.
- A Decoster and W Sas, *De nieuwe bijzondere financieringswet van de 6de staatshervorming: werden de beloften ingelost?*, FLEMOSI Discussion Paper 28 (2013).
- A Decoster and W Sas, 'De Economische Theorie van het Federalisme: Was de 6de Staatshervorming een Schot in de Roos?' (2015) 57(3) *Belgisch Tijdschrift voor Sociale Zekerheid* 561.
- K Deschouwer, *The Politics of Belgium: Governing a Divided Society* (Basingstoke, Palgrave Macmillan, 2012).
- M Installé and M Peffer, 'Le financement des communautés et des régions dans l'accord gouvernemental de mai 1988' (1988) 1209–1210 *Courrier Hebdomadaire du CRISP* 3.
- W Moesen, D Heremans, P Van Rompuy and M Eyskens, 'Bedenkingen bij de nieuwe financieringsvoorstellen voor gewesten en gemeenschappen' (1988) 47 *Leuvense Economische Standpunten* 1.
- OECD, 'Belgium' (2015) 2 *OECD Journal on Budgeting* 65.
- P Peeters and J Mosselmans, 'The Constitutional Court of Belgium: Safeguard of the Autonomy of the Communities and Regions' in N Aroney and J Kincaid (eds), *Courts in Federal Countries: Federalists or Unitarists?* (Toronto, University of Toronto Press, 2017) 69.
- D Piron, 'Rôle et influence de la section "Besoins de financement des pouvoirs publics" du Conseil supérieur des Finances' (2013) 25(1) *Pyramides* 123.
- D Piron, *Gouverner les régions par les finances publiques – Européanisation, fédéralisation et néolibéralisme en Belgique* (Bruxelles, Larcier, 2019).
- P Popelier and S Bielen, 'How courts decide federalism disputes: Legal merit, attitudinal effects, and strategic considerations in the jurisprudence of the Belgian Constitutional Court' (2019) 49(4) *Publius: The Journal of Federalism* 587.

- P Popelier and K Lemmens, *The Constitution of Belgium: A contextual analysis* (London, Bloomsbury Publishing, 2015).
- V Van Rompuy and E Heylen, *Openbare financiën in de deelgebieden van federale landen* (Leuven, Acco, 1986).
- BR Weingast, 'Second generation fiscal federalism: The implications of fiscal incentives' (2009) 65 *Journal of Urban Economics* 279.