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FISCAL FEDERALISM IN BELGIUM

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Summary

Belgian federalism is an evolving federalism and any portrait of it is nothing more than the representation of a temporary, often precarious balance, on a course whose outcome is uncertain. It is, therefore, necessary to situate the present in this movement and I will begin this study with a necessary historic overview of the entities that now comprise this distinctive federation called Belgium. Next, I will present this original experience and examine the devolution of fields of jurisdiction and the elaboration of the means used.

1 I am very grateful to Philippe Cattoir and Christian Valenduc who provided me with valuable remarks and references. Those are mainly French-language, but usually with reference to Dutch-language sources, some of which are mentioned in the bibliography. I wish to thank Terrance Hughes who did a wonderful job translating this text from its original French version. My thanks also to the Vallée de l’Ubaye, which allowed me to combine writing and mountain strolls in August 2001.
Belgian federalism is an evolving federalism and any portrait of it is nothing more than the representation of a temporary, often precarious balance, on a course whose outcome is uncertain. It is, therefore, necessary to situate the present in this movement and I will begin this study with a necessary historic overview of the entities that now comprise this distinctive federation called Belgium. Next, I will present this original experience and examine the devolution of fields of jurisdiction and the elaboration of the means used.

Beyond its complexity, and perhaps because of it, Belgian federalism is an interesting, even fascinating experience, insofar as its profile changes depending on the question at hand: the federated entities that assume responsibility for cultural or personal matters do not exactly cover the geographic areas of the federated entities that are responsible for questions more directly related to the territory, such as the economy. Is this not an attempt, albeit an imperfect one, to recognize the multifaceted nature of humankind? Moreover, is it not an attempt to reflect in institutional mechanisms that belonging to a culture or the sharing of a language are not necessarily identified with rootedness within a clearly defined territory? An economist, theorist or practitioner of the public economy knows that relevant territory with respect to public property may vary depending on the property: the territory of a theatre differs from that of a centre for disabled workers, which, in turn, is not the same as that of a job-creation policy in an area experiencing negative growth.

1. A look at the present

As I indicated in the introduction, an examination of the present demands a brief look at history and some relevant contemporary data.
1.1. A bit of history…

Belgium\textsuperscript{2} is a hodgepodge resulting from the assembly, through marriage, conquest and treaty, of a series of geographic entities, vassals of the king of France or the German emperor, dotted with cities jealous of their privileges.\textsuperscript{3} In the 15th century, the same person was the prince of a series of earldoms and duchies that included, broadly speaking, in addition to other territories that are now part of France, such as Franche-Comté and Burgundy, the current kingdoms of Belgium and the Netherlands, excluding the episcopal principality of Liège, whose territory at the time covered a large part of Wallonia and the Flemish province of Limburg. It is his descendant, Charles V, who also became king of Spain, emperor of Germany and sovereign of part of Sicily and the Americas, who proclaimed in 1519 the indivisibility of the Netherlands, comprising 17 provinces.

The success of Protestantism in these territories, more so in the northern than the southern portion, threatened the unity of the 17 provinces and encouraged Philip II to engage in internal reconquest, which stopped just north of Antwerp. This boundary of the Catholic reconquest, attributable to the sovereign’s decision to turn his arms instead against England (in what became the Invincible Armada fiasco), determines even today the border between the Kingdom of the Netherlands (the United Provinces, which became independent in 1579) and the Kingdom of Belgium. The 10 southern provinces remained Spanish, then became Austrian in 1713 before becoming independent in 1790, very briefly as the “États Belgiques Unis,” or United Belgian States, i.e. several states, not just one state, in which central power was

\textsuperscript{2} See Comprendre la Belgique Fédérale, De Boeck and Larcier / La Ligue des Familles, Bruxelles, 1997; see also Perin (1988).

\textsuperscript{3} Charters recognized the cities’ privileges, especially their right to autonomous internal management. Upon his accession, the prince was asked to come and confirm the charter. At that time, he made his joyful entrance into the city.
absent. The Brabant revolution did not last long. Joined with the Principality of Liège, in 1792 these states became the “Belgian Provinces” of France, i.e. French Departments.

The Kingdom of the Netherlands was established in 1814 by prerogative of William of Orange, who was hardly receptive to the religious and linguistic originality of his southern subjects and the French-speaking bourgeoisie, which fomented the revolution that led, in 1830, to the establishment of the Kingdom of Belgium.

The result was a French-speaking state headed by a French-speaking bourgeoisie. While the official language of the Kingdom of the Netherlands was Dutch, French was the official language of the Kingdom of Belgium of 1830. French was the language of the bourgeoisie and of the governing class, the only voting one, both in Flanders and today’s Wallonia. The people in the Flemish part of the country did not understand French and people in Wallonia still did not master it: Flemish, Walloon, Picard and Lorraine are dialects. Since the inhabitants of Brussels were closer to power, they increasingly became French-speaking: in 200 years, the proportion of French-speakers and Dutch-speakers in Brussels was reversed (Dutch-speakers roughly account for 15% of the population today).

In Belgium, which was officially French-speaking but in which a majority of the population did not understand the language, it is easy to imagine what happened when the right to vote became widespread, first plural voting, then universal male suffrage and women’s suffrage in 1945. The Flemish movement obtained “language legislation,” i.e. the possibility of using

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5 The right to vote was extended to European Union nationals in respect of local elections, starting with the communal elections in 2000.
Flemish in the justice system in 1873, in the administration in 1878, in education in 1883, in the universities in 1932, and demanded “cultural autonomy.”

Until after World War II, Flanders, where a majority prevailed, was agricultural and relatively poor. However, Wallonia, to the south, where a minority prevailed, was one of the world’s most industrialized regions. Alas, such industry relied, by and large, on coal, a non-renewable resource, and the attendant iron smelting. It was in the hands of Belgian capitalism, which gradually withdrew from the Walloon industrial sector instead of reconverting its industries.

The Walloon movement shifted from defending a language in the first half of the century to demanding “economic regionalization” when, starting in 1958, coalmine closings, the prelude to a lengthy descent into economic hell, sounded the death knell for prosperity built on iron and coal. In light of Belgian capitalism’s detachment, Walloon leaders demanded “structural reforms” and the substitution of public initiative for faltering private capitalism. This occurred in the 1960s, which marked the apogee of ideologized Keynesian economics.

In the meantime, the Flemish Region discovered an industrial vocation centred on a network of small businesses, i.e. local capitalism, the attraction of the port of Antwerp and massive US investment in the 1960s. It also discovered that within the Belgian state it had become the wealthy and thus the “transferring” entity to the Walloon Region, without which it could manage very well.

Thus, Belgian federalism is the outcome of an “anti-French-speaking bourgeoisie” social movement, characterized in the north by solidarity in respect of a language, which would turn into jealousy over a territory when the French-speaking Brussels bourgeoisie swarmed out of
the city, and focused in the south on a mythical economic autonomy that was supposed to revive employment and preserve well-being.

One feature of that federalism was the introduction of a “language boundary.” Designed in the 1960s to determine exclusive language areas for administrative purposes, French in the South, Flemish in the North, and the bilingual area of Brussels as well, the border was further used to fix the territory of the Regions (see the appended maps) and received a constitutional status making it quasi definitive. As a consequence, the bilingual Region of Brussels-Capital has a territory clearly smaller than the one of the effective urban agglomeration of Brussels.

Today, Belgian federalism is part of a broader one more closely aligned with the European model. In certain fields, the Belgian federal entity is now little more than an intermediate, almost useless cog between the Belgian Regions and the European authorities. It is significant that, following the very recent Belgian institutional agreement in the spring of 2001, which completed, in particular, the transfer to the Regions of jurisdiction over agriculture, a field that is clearly under European responsibility, the federal minister of agriculture resigned, then promptly took up the same portfolio in the Flemish government.

1.2. …and some current data

Contemporary Belgium presents a number of contrasts.

In the heart of this small country of roughly 10 million inhabitants, “Brussels appears today like a large, highly internationalized metropolitan centre that is benefiting from European unification and economic globalization, but its development is obliterated by a political
framework that limits its territory and reduces its possibilities for financing. In contrast with the Flemish Region, Wallonia is experiencing a level of unemployment and economic development, measured by per-capita GDP, that is more similar to the one of Spain than to the one of Germany or the Netherlands’ (Gérard, 1999, translated), as indicated in Table 1, drawn from Capron (2000). Furthermore, “the dominant socio-economic web of Wallonia is rather unfavourable to growth” (Gérard, 1999, translated) since “a socio-political structure in which social struggles are rooted in tradition is hardly attractive to capital” (Van Hamme, 1998, our translation) and “this historic process explains that in the old industrial zones the pool of potential entrepreneurs has been eroded by premature salarization in big industries” (ibid.)

Table 1 – Per-capita GDP in the Regions of Belgium (European Union mean: 15 = 100)

<table>
<thead>
<tr>
<th>Year</th>
<th>Walloon Region</th>
<th>Flemish Region</th>
<th>Brussels-Capital Region</th>
<th>Belgium</th>
</tr>
</thead>
<tbody>
<tr>
<td>1955</td>
<td>103</td>
<td>92</td>
<td>155</td>
<td>103</td>
</tr>
<tr>
<td>1965</td>
<td>93</td>
<td>93</td>
<td>163</td>
<td>100</td>
</tr>
<tr>
<td>1975</td>
<td>90</td>
<td>106</td>
<td>161</td>
<td>107</td>
</tr>
<tr>
<td>1985</td>
<td>87</td>
<td>106</td>
<td>167</td>
<td>106</td>
</tr>
<tr>
<td>1996*</td>
<td>90</td>
<td>116</td>
<td>174</td>
<td>113</td>
</tr>
</tbody>
</table>

*1996 data include the new German Länder.

Source: Capron (2000).

However, Gérard (1999, translated) goes on to say that “the levels of well-being measured in terms of poverty and inequality are similar and place Wallonia and Brussels, like Belgium as a whole, among the least poor, most egalitarian countries in Europe and the world. In 1994, monetary poverty, i.e. the relative importance of households having at their disposal at best half of the median income, i.e. 37,815 BEF (937.4 €) monthly for a household with one child and 17,200 BEF (426.4 €) for an isolated individual, represented 4.7% of households. [...]  

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As for income distribution, it is often evaluated using an interquartile ratio of the income of the wealthiest quarter of the population and the poorest quarter. In 1994, the ratio stood at 3.31. A comparison of the Regions reveals rates of 3.3% in Brussels, 4.6% in Flanders and 5.5% in Wallonia and, based on 1995 fiscal data, 5.2% in Flanders and 5.9% in Wallonia. However, the interquartile ratio is higher in Brussels than in Flanders and in Wallonia, i.e. 3.44, 3.31 and 3.23, respectively. [...] These figures rank Belgium with the Scandinavian countries and the Netherlands, among the European countries with the lowest poverty rates.\(^7\)

The same is true with respect to inequality: Belgium and Sweden are the most egalitarian countries.\(^8\) [...] Belgian’s good performance, irrespective of Regions, stems from highly efficient social protection that provides substantial replacement income and quality health care services that are available to everyone at very low individual cost.”

Consequently, it is understandable that French-speaking, especially Walloon, political leaders especially value the unity of this social protection, especially social security, but also the centralized determination of salaries\(^9\) and a common perspective on the progressive graduation of income tax, while the Flemish representatives regularly propose its partial defederalization. Social security causes implicit transfers from the Flemish Region to the Walloon and Brussels-Capital Regions: “from the studies of Van Rompuy and Verheierstraeten (1979) up to the study by De Boeck and Van Gompel (1998),” writes Docquier (1999, our translation), “many studies have attempted to estimate the scope of interregional solidarity by breaking down public spending aggregates. [...] Substantial amounts have been put forward. [...] De Boeck and Van Gompel (1998) conclude that 186.5 billion BEF (4.6 billion €) were transferred in 1996 from Flanders to Wallonia.” Three main

\(^7\) On this point, B. Delhausse and S. Perelman refer to B. Cantillon, I. Marx and K. Van den Bosch, 1997.
causes can explain these transfers: differences in economic performance and, therefore, in
ability-to-pay, demographic structure (the population of Wallonia is older), and health care
spending habits (the Walloons spend more in respect of a given objective risk). Cattoir and
Docquier (1999, our translation) estimate these transfers at 68.9 billion BEF (1.7 billion €) to
Wallonia and 23.2 billion BEF (575 million €) to Brussels. These authors suggest that “most
of the implicit transfer stems from differences in ability-to-pay. Less than 20% of these
transfers are attributable to differences in spending.”

The following data, drawn from Docquier (1999), illustrate the foregoing observations. They
complete the data presented in Table 1 and also support the comments of the Conseil
Supérieur des Finances (1999).

Table 2 – Regional indicators (% of the total)

<table>
<thead>
<tr>
<th></th>
<th>Walloon Region</th>
<th>Brussels-Capital</th>
<th>Flemish Region</th>
<th>Belgium as a whole</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population, 1999</td>
<td>32.7</td>
<td>9.2</td>
<td>58.1</td>
<td>100</td>
</tr>
<tr>
<td>GDP, 1996</td>
<td>24.9</td>
<td>14.5</td>
<td>60.6</td>
<td>100</td>
</tr>
<tr>
<td>Taxable, 1996</td>
<td>30.4</td>
<td>8.6</td>
<td>61.0</td>
<td>100</td>
</tr>
<tr>
<td>Tax, 1996¹</td>
<td>28.9</td>
<td>9.1</td>
<td>62.0</td>
<td>100</td>
</tr>
<tr>
<td>65 and over, 1996</td>
<td>16.3</td>
<td>17.4</td>
<td>15.6</td>
<td>16.0</td>
</tr>
<tr>
<td>20 and under, 1996</td>
<td>24.9</td>
<td>23.1</td>
<td>23.7</td>
<td>24.0</td>
</tr>
<tr>
<td>GDP growth 85-96</td>
<td>1.58</td>
<td>1.28</td>
<td>2.47</td>
<td>2.03</td>
</tr>
<tr>
<td>GDP growth, 91-96</td>
<td>1.13</td>
<td>0.57</td>
<td>1.59</td>
<td>1.28</td>
</tr>
<tr>
<td>Unemployment, 98</td>
<td>13.3</td>
<td>16.5</td>
<td>5.3</td>
<td>8.9</td>
</tr>
</tbody>
</table>

¹ Personal income tax (impôt des personnes physiques or IPP).

Source: Docquier (1999).

9 Salaries in Belgium result largely from collective agreements negotiated between workers’ and employers’
representatives in a business, industry sector or the country overall and not the region. Sectoral and national
agreements, called “intersectoral” agreements, are imposed by law on all businesses.
10 According to some experts, including permanent Deputy Minister for Social Affairs M. Jadot, there are major
differences between Eastern and Western parts of the country than between Northern (Flemish Region) and
Southern (Walloon Region) parts.
For that latter agency, Belgian federalism cannot be studied without taking into account nine of the country’s characteristics: the open nature of its economy, its high indebtedness ratio, its high tax pressure, unequal distribution of added value among the Regions, changes in taxable income to the detriment of Brussels and in favour of Flanders, differences in the evolution of the real estate market (more at the level of the “arrondissements” than the Regions), more extensive and structural unemployment in Wallonia than in Flanders, the growing importance of the “language boundary” as a barrier to migration, and the greater intensity of economic relations between the Regions than population movements.

2. Twofold, changing federalism

Belgium maintains a twofold federalism, centred on cultural or linguistic Communities, on the one hand, and regional or territorial divisions, on the other hand, even though the territory of the Communities is also fixed. Indeed, since it was amended in May 1993, the Belgian Constitution begins with the statement that Belgium is a federal state which consists of Communities and Regions.

The Communities are organized on linguistic lines and are responsible for services pertaining to individuals, such as education, culture and health. There are three Communities, i.e. the Flemish Community, the French Community, now also called the Wallonia-Brussels Community, and the small German-speaking Community. The Regions are organized on territorial lines and are responsible for matters such as the economy, agriculture and

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11 See the maps in the appendix.
employment. There are three Regions, i.e. the Flemish Region, the Wallonia Region, and the Brussels-Capital Region.

*The territories of the Communities and Regions differ*, as Table 3 below illustrates. Each entity has a legislative and an executive body. However, the bodies in the Flemish Community and the Flemish Region have been merged, while in the territory of the Brussels-Capital Region, three bodies *de facto* integrated within the regional body, i.e. the French Community Commission, the Flemish Community Commission and the Two-Community Commission assume responsibility for Community fields of jurisdiction. Furthermore, since 1993, certain fields of jurisdiction of the French Community have been assumed, in Wallonia, by the Walloon Region.

**Table 3 – Breakdown of federated levels in Belgium**

<table>
<thead>
<tr>
<th>Federal level</th>
<th>Belgian state: 10 million inhabitants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community level</td>
<td>German-speaking</td>
</tr>
<tr>
<td></td>
<td>0.06 million inhabitants</td>
</tr>
<tr>
<td>Regional level</td>
<td>Wallonia</td>
</tr>
<tr>
<td></td>
<td>3.3 million inhabitants</td>
</tr>
<tr>
<td>Language used</td>
<td>German</td>
</tr>
</tbody>
</table>

*Source: Comprendre la Belgique Fédérale, op. cit.*
It should be noted that Belgium does not have regional or Community sub-nationalities. All Brussels voters may vote in regional, senatorial (and thus Community) and European elections for candidates from the French electoral college or the Flemish electoral college. Only candidates in the elections of the Brussels regional council must irrevocably choose their linguistic affinity.

_The jurisdictions for which these entities are responsible and the means at their disposal stem from a federalization process marked by various stages_, which in themselves represent as many compromises between the partners.

Cattoir (1988) summarizes the first four stages. A fifth stage must now be added, which has been adopted in the summer of 2001.

The first stage was the introduction in the Constitution of the concepts of Community and Region, on December 24, 1970. This decision gave Belgian federalism one of its defining characteristics, i.e. the twofold federalism mentioned earlier, which Cattoir calls “the coexistence, next to the federal level, of a dual federated one.”

The second stage allowed for the definition of the fields of jurisdiction of the Communities and the territories of the Regions, introduced the merging of the Flemish Community and the Flemish Region, and attributed financial means to the federated entities, through the so-called “special” laws of August 8-9, 1980, voting on which required a majority in each of the two linguistic groups in the federal parliament and an overall two-thirds majority. At that time,

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12 The fact that there is no Community sub-nationality is to be related to the fact that the territory of the Community is fixed; it could be expected indeed that Community belonging be independent of the location of the individual.
Cattoir has noted, the financing for the Regions was assured primarily by a transfer from the central government defined in light of three identically weighted criteria, i.e. population, revenues generated by personal income tax and surface area (the so-called “three-thirds” rule), and the financing for the Communities was based on a 45/55 rule, corresponding, by and large, […] to the relative demographic importance of the French and Flemish Communities.

The third stage, in 1988-1989, saw the establishment of the Brussels-Capital Region, with its specific bodies, including the Community commissions (under the special law of January 12, 1989), the transfer to the Communities and Regions of new fields of jurisdiction (nearly one-third of state spending, under the special law of August 8, 1988), and the organization of a modified financing system that placed greater emphasis on the principle of territoriality from the standpoint of tax collecting (under the special law of January 16, 1989).

The year 1993 marks a turning point in the history of Belgian federalism. It is then, writes Cattoir, that the State became federal and residual power was attributed to the federated entities: the so-called “Saint-Michel” and “Saint-Quentin” agreements (each referring to the saint’s day on which the agreement occurred) gave the Communities and Regions new means, attributed new fields of jurisdiction to the Regions, especially in the realms of agriculture and foreign trade, and transferred certain jurisdictions from the French Community to the Walloon Region and the French Community commission of the Brussels-Capital Region (under the special law of July 16, 1993).

The spring of 2001 saw a new round of negotiations among the political parties with a view to further broadening the fields of jurisdiction of the federated entities and their ability to gain

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13 Ph. Cattoir, 1998, Fédéralisme et solidarité financière, étude comparative de six pays. Brussels: Crisp, pages 23 et seq. I am quoting (and translating) pages 22 and 23 which clearly describe these first four stages.
broader control over the means at their disposal. Simply stated, the Flemish parties wanted broader fiscal autonomy, especially in order to reduce taxes, and the French-speaking parties wanted more extensive means to fund education, an endemic problem in the French Community, which had been bled white financially for many years. Valenduc (2002) has noted that the recent institutional or ‘Saint-Polycarpe’ agreement, radically modified the division between the federal and regional governments of jurisdiction over fiscal policy.

Thus, Belgium is a federal State comprising three Communities and three Regions, whose areas of jurisdiction and the means at their disposal I will examine later. As noted earlier, the exercising of such jurisdiction occurs against a backdrop of complicated institutional entanglement since some Community fields of jurisdiction are exercised by the Regions, and vice versa.

In its 1998 report, the Conseil Supérieur des Finances\textsuperscript{14} observed, first of all, that the Flemish Community simultaneously assumes responsibility for fields of jurisdiction attributed to the Community and those attributed to the Flemish Region. The merging of the Flemish legislative and executive branches has created asymmetry in the Belgian federal system, i.e. a Flemish government sitting in Brussels, which is located outside the Flemish Region but in an area where the Flemish Community exercises authority, but two French-language governments, i.e. the government of the French Community in Brussels and that of the Walloon Region in Namur – although its jurisdiction includes the territory of the small German-language Community, the Walloon government is \textit{de facto} French-speaking –.

As for the French Community, while it assumes responsibility for all of the fields of jurisdiction attributed to the Community, it has nonetheless transferred responsibility for some
of the fields to the Walloon Region, partly for budgetary reasons, and to the French Community commission of the Brussels-Capital Region.\textsuperscript{15}

Consequently, the Walloon Region and the Brussels-Capital Region assume responsibility for their regional fields of jurisdiction and certain fields of jurisdiction of the French Community.\textsuperscript{16}

3. The fields of jurisdiction of federated entities

Sections 127 to 129 of the Belgian Constitution stipulate that the Communities assume responsibility for the following fields of jurisdiction:

- cultural matters;
- education, except for determining the beginning and end of compulsory schooling, minimum conditions governing the granting of diplomas, and the pension plan;
- services offered to individuals (called in French “matières personnalâbles”);
- the use of languages in respect of administrative matters, teaching and contacts between employers and their staff;
- intra-Community and international cooperation, including the conclusion of treaties, in respect of cultural matters, teaching and services offered to individuals.

\textsuperscript{14} Conseil Supérieur des Finances (1999).
\textsuperscript{15} In 1993, the social and health-related fields of jurisdiction of the French Community were transferred to the Walloon region as regards exercising of such jurisdiction within the region’s territory, and to the French Community commission (Cocof) in the Brussels-Capital region (a sub-entity of the region, whose executive branch comprises members of the regional executive branch) with respect to the exercising of such jurisdiction within the territory of the Brussels region, which also assumed the French-speaking Brussels Community’s fields of jurisdiction in the realms of tourism, school transportation, vocational training, school buildings and sports infrastructure.
\textsuperscript{16} Moreover, the Brussels-Capital region assumes the former fields of jurisdiction of the agglomeration of Brussels and, from the standpoint of its territory, the fields of jurisdiction assumed by the former Province of Brabant.
Services offered to individuals include, in particular, health policy and policy governing the disabled, but not social security, which falls under federal jurisdiction, although this point is regularly called into question by some.

The Constitution does not specifically define the Regions’ fields of jurisdiction, which may be modified through legislation adopted by special majority. According to the list established by the Conseil Supérieur des Finances (1999), the Regions assume the following main fields of jurisdiction:

- economic policy, including assistance in respect of investment and employment;
- employment;
- transportation;
- public works;
- the financing of subordinate powers;
- scientific policy pertaining to their fields of jurisdiction;
- energy;
- wastewater treatment and the protection and distribution of water;
- policy governing waste and environmental protection;
- monuments and sites.

Since the conclusion of the 1993 accords, the fourth stage mentioned earlier, the following fields of jurisdiction have been added:

- foreign trade;
- agriculture;
- international relations from the standpoint of the Regions’ fields of jurisdiction.
The Conseil Supérieur des Finances notes that with regard to agriculture and foreign trade, in particular, these fields of jurisdiction are shared with the federal government. The reform of 2001 has altered this division of powers in favour of the Regions.

It should be noted that scientific policy is regional in areas that fall under the jurisdiction of the Regions. In concrete terms, basic research is the responsibility of the Communities and, partly, of the federal government, while applied research (or technology) is the responsibility of the Regions.

The report of the Conseil Supérieur des Finances mentioned earlier proposes a presentation of various fields of jurisdiction using fiscal federalism diagrams in the manner of Musgrave (1959) and Oates (1991), in particular the breakdown of allocative, distributive, stabilizing and incentive functions.

4. Financing of federated entities

The financing mechanism in respect of the Communities and Regions resulting from the special financing act of January 16, 1989 is a good illustration of the specific dynamic of Belgian federalism. This mechanism makes provision for a transitional phase, from 1989 to 1999, followed by a permanent phase, starting in 2000, although the “permanent” nature must be put in perspective at present, since it applied for one year only. The discussion that follows is based, in particular, on the report of the Conseil Supérieur des Finances (1999) and Pagano (1999) (Spinoy (1998) offers an alternative presentation), while the final subsection (4.3), devoted to the broadening of the fiscal autonomy decided in the spring of 2001, will centre
partly on Valenduc (2002) and the formalization of point 4.1.5. on Cattoir and Verdonck (1999).

First, as the Conseil Supérieur des Finances (1999, our translation) has noted, “Belgian federalism sanctions the principle of the financial autonomy of the federal entities, each of which receives the means necessary to exercise its fields of jurisdiction, thus ensuring the entity’s budgetary autonomy. Financial autonomy also includes the possibility of borrowing.” Then it specifies that “to transfer means does not necessarily mean to ensure fiscal autonomy.” According to Cattoir and Verdonck (1999, our translation), this system is “dominated by a concern for balance between the autonomy of the federated entities and the political and monetary union of the federation.” According to Spinoy (1998, our translation), “the system of financing the federated entities is characterized, in principle, by the entities’ financial responsibility and reversible solidarity.”

4.1. Financing of the Regions

The transfer of a portion of personal income tax underpins the financing of the Regions, which also benefit from own-source tax revenues and non-tax revenues.

Table 6 illustrates the importance of the Regions’ and the Communities’ different types of revenues.
4.1.1. Financing of the Regions through a transfer from the federal government and its link with the personal income tax

The law governing regionalization of August 8, 1988 transferred to the Regions fields of jurisdiction that represented in the federal budget preceding the transfer 234.7 billion BEF (5.8 billion €) out of a total excluding interest charges of 1517 billion BEF (37.6 billion €). It was decided to change the personal income tax into a tax shared between the federal government and the Regions and, consequently, to implement a transfer mechanism through which the federal government would transfer to the Regions a portion of proceeds from this tax, which stood in 1988 at some 836 billion BEF (20.7 billion €). Two questions arose at that time. First, how could the public finances of the federal government, then engaged in a sweeping deficit-reduction operation in order to comply with the criteria that would allow Belgium to join the euro zone, i.e. the Maastricht criteria, be preserved, and how could the amount relinquished by the federal government be apportioned among the Regions?

From the outset, two extreme solutions were possible. The first solution, which favoured the Walloon Region, centred on the share of the relative importance of the Regions in the amount transferred. The second solution, more favourable to Flemish Region, apportioned funds on

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17 Let us note that the Belgian personal income tax has not been properly turned into a shared tax as long as we understand a shared tax as a which generates unknown revenue ex ante and is allocated according to fixed proportions, say fifty percent for the regions or twenty percent for a given region; in Belgium the amount to be shared is predetermined and its allocation among regions evolves in line a.o. with the relative regional revenue of the personal income tax.

18 See, in particular, Spinoy (1998) and E. de Callataÿ and R. Savage (1998). It should be noted that the agreement concluded between the federal government, the Communities and the Regions on December 15, 2000 binds the federated entities to the attainment of fiscal objectives, i.e. achieve a financing capacity of 0.3% of GDP in 2001 and 0.1% of GDP between 2002 and 2005, under the surveillance of the Conseil Supérieur des Finances, and apportions this obligation among them (see Bulletin de Documentation du Ministère des Finances de Belgique, 61st year, No. 2, pages 161-167, 2001).
the basis of the Regions’ contributions to personal income tax revenues, applying the territoriality principle of *fair return*.\(^{19}\)

Table 4 below, drawn from Pagano (1999), illustrates the debate.

**Table 4 – Financing of the Regions in Belgium**

<table>
<thead>
<tr>
<th>Region</th>
<th>Expenditure transferred (billions of BEF)</th>
<th>Income tax revenues (%)</th>
<th>The same relating to the budget transferred</th>
<th>Difference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Flemish Region</td>
<td>121.1</td>
<td>58.57</td>
<td>137.5</td>
<td>16.3</td>
</tr>
<tr>
<td>Walloon Region</td>
<td>87.3</td>
<td>30.07</td>
<td>70.6</td>
<td>-16.7</td>
</tr>
<tr>
<td>Brussels Region</td>
<td>26.3</td>
<td>11.36</td>
<td>26.7</td>
<td>0.4</td>
</tr>
<tr>
<td>Total</td>
<td>234.7</td>
<td>100</td>
<td>234.7</td>
<td>0</td>
</tr>
</tbody>
</table>

(€ 1 = BEF 40.3399)

At the beginning of the transitional period (1989-1999), the duly regionalized budget transferred served as a basis, i.e. column (a) in the table. Over ten years, the breakdown were to gradually shift to a breakdown based on the criterion of the regional yield of personal income tax, i.e. column (c), according to a linear combination (the weight of column (a) declines 10% each year and the weight of column (c) increases at the same pace). While the initial breakdown favoured the Walloon Region, it gradually shifted in favour of the Flemish Region (with the application of the principle of fair return), but accompanied by a remedial mechanism, the national solidarity measure (in French: *Intervention de Solidarité Nationale* or *ISN*), which I will examine later.

\(^{19}\) It should be noted that the latter apportionment method centred on the principle of the taxpayer’s place of residence; only later was the sore point raised of the apportionment according to the principle of the source –
The central government’s budgetary interests were satisfied since the amount thus allocated to the Regions only increased by the rate of inflation, i.e. zero growth in real terms. However, starting in 1994, a gradual link to real growth in GNP appeared, limited to 10% of such growth in 1994, 15% in 1995, 20% in 1996, 70% in 1997, 75% in 1998 and 97.5% in 1999. Moreover, the federal government retained a portion of the amount to be transferred to the Regions in the form of a loan from the Regions to the central government, remunerated at the market interest rate and repaid by means of annual repayments of up to 85.7%.

The permanent phase, starting in 2000, calls for the allocation of the shared portion of personal income tax based on the regional yield of the tax and the increase in the amount at the same pace as inflation and growth in GNP. The national solidarity measure is now in effect and the Regions are no longer bound to lend money to the federal government.

4.1.2. Inter-Region equalization: the national solidarity measure

Since 1990, a Region whose per-capita revenues from personal income tax are lower than the national average receives each year a 468-BEF (11.6 €) indexed transfer per inhabitant per year per percentage point difference between such revenues and the national average. In other words, the shift from a breakdown that favoured the Walloon Region to a breakdown favourable to the Flemish Region described earlier has been offset by the national solidarity measure, the Belgian version of inter-Region equalization. This has led to a transfer in favour of the Walloon Region that reached 20 billion BEF (0.5 billion €) in 1993 and also, since


See, in particular, Boadway and Hobson (1993) concerning the economics of equalization.
1997, to a transfer in favour of the Brussels-Capital Region on the order of 600 million BEF (14.9 million €).

That the Brussels Region – as usual in Belgium we use the terms Brussels Region and Brussels-Capital Region without distinction – benefits from equalization illustrates a trend-setting development that cannot be overlooked since it illustrates a ground swell in respect of the characterization of the Regions of Belgium. In the mid-1960s, for a mean taxable income of 100 in Belgium as a whole, the figure for Flanders was 93, for Wallonia, 97, and Brussels, 138. Three years later, in 1969, the figure stood at 96 for Flanders and Wallonia and 129 for Brussels. In 1979, Flanders stood at the national mean, Wallonia below the mean at 96, and Brussels above the mean at 110. In 1991, Flanders caught up to Brussels, both of which stood at 101, leaving Wallonia at 95. Since 1993, Brussels and Wallonia have been below the national mean in terms of mean taxable income and, since 1997, the latter has also benefited from equalization.

4.1.3. The fiscal autonomy of the Regions: own-source revenues

The Regions have at their disposal own-source tax and non-tax revenues. Non-tax own-source revenues include, among other things, hunting and fishing fees and forestry operation fees.

The Regions’ own-source tax revenues stem from:

- formerly federal taxes, proceeds from which and legislative jurisdiction over which have been partially or wholly transferred to the Regions and are now called regional taxes;
- personal income tax, discussed earlier, which has the status of a joint tax;\(^ {21}\)
- new taxes adopted by the Regions.

Before pursuing the matter, it would be useful to make a distinction, with the Conseil Supérieur des Finances (1999), whose report written in 1998 also bears examination in order to ascertain to what extent the Regions have made use of their autonomy, and Valenduc (2002), in respect of the aforementioned taxes, between complete autonomy, autonomy in respect of rates, autonomy in respect of margins, and the absence of autonomy. These distinctions are noteworthy in light of the 2001 reform.

\(a\) Regional taxes

Regional taxes, formerly national taxes, from which the proceeds, collected by the federal government, are entirely attributed to the Regions, initially numbered eight under the law of January 16, 1989.

A first group of taxes, i.e. the tax on gambling and betting, the tax on coin-operated amusement devices and the tax on the opening of drinking establishments, were previously refunded to the Regions. As the Conseil Supérieur des Finances (CSF) has noted, “the 1989 law respecting the financing of the Communities and Regions in this respect confirmed the current situation.” On these taxes, “the Regions enjoy complete autonomy and may freely determine the taxation base, exemptions and tax rates” (Conseil Supérieur des Finances, 1999, our translation).

\(^{21}\) This term, used in Belgium, is however misleading since it actually means that Regions are allowed to levy extra tax or grant rebates with respect to the federal government tax.
The second group comprises the real estate tax and transfer duty upon death and inheritance tax. In this instance, the fiscal autonomy of the Regions is no longer complete since the federal government is empowered to determine the taxable base. The Regions enjoy autonomy solely with respect to tax rates.

The real estate tax, which stands at 1.25% in the Walloon and Brussels-Capital Regions and 2.5% in the Flemish Region, is a levy on rental value, i.e. an imputed value called the cadastral income, of real estate, which federal authorities may decide to partially or totally charge on corporation tax or personal income tax. According to the CSF (our translation), “the discussion of the grounds for the law respecting financing justify as follows the choice made with regard to the real estate tax:

- to establish the tax base [...] requires a vast administration and to regionalize it would lead to an impressive extension of this administration which, in particular, would increase the cost of collecting the tax;
- cadastral revenue intervenes in respect of the administration of several national taxes [...]”

As for inheritance taxes, in respect of which Flanders has reduced the marginal rates, the government confined itself, in 1989, according to the CSF, to “mentioning that, in relation to 1980, autonomy has been broadened since the Regions may determine the exemptions.”

As for registration fees on the transfer for payment of real property, autonomy is even more restricted. Here, it is a question of autonomy in respect of margins in that the federal government is empowered to set the tax base, exemptions and rates, and the Regions may only establish additional taxes (tax levies) or grant refunds.
There is an *absence of autonomy* with regard to the *tax on vehicle use*, for fear of encouraging fictitious registrations in the Region with the lowest taxation.

Moreover, the CSF has noted that “from the standpoint of taxes in respect of which the fiscal autonomy of the Regions is not complete, a general principle has been established whereby modifications in the tax base and, as the case may be, the rates and exemptions, require the agreement of the regional governments.”

To the foregoing observation, it must be added that, since 1993, *environmental taxation has been reserved for the Regions*. This is true of so-called *ecotaxes*, actually excise taxes levied on consumer goods likely to harm the environment, e.g. because of their containers, of *water* and *waste taxes*, except for radioactive waste (the Walloon Region levies a tax on waste water and another tax on waste, while revenues from the Flemish Region’s environmental taxes are directly paid to a specialized body, the *Mina – Fonds* (Spinoy, 1998)), and of the *Eurovignette* on vehicles and combinations of vehicles with a maximum weight of under 12 tonnes.

In addition, since 1993, the Regions may levy *additional duties on radio-television fees*, which, as we will see later, are a Community tax. The Regions may cede back proceeds from the fees to the Communities or assume certain of their expenditures.

*b) Additional levies and rebates on the personal income tax*

According to the CSF, “the Regions also have the possibility of establishing additional taxes or granting rebates on the portion of personal income tax attributed to them as a joint tax.”
Under the law of January 1989, doing so was subject to prior agreement between the different levels of power and could not lead to greater overall fiscal pressure during the first three years. Subsequently, the King, i.e. the federal government, may decide the maximum amount of the additional taxes. Within the same maximum limits, rebates could only appear starting in fiscal 1995 in respect of 1994 revenues.

The Regions have not actually made use of this provision, which was substantially altered in 2001.

c) New taxes

In light of provisions in the Belgian Constitution and a general taxation principle applied in Belgium, embodied in the Latin expression *non bis in idem*, the Regions may levy a tax on any matter provided that there is no federal tax on this matter or that the federal government has not shown the need to levy such a tax.

This means, in particular, that the Regions could not levy a tax on added value or an excise tax (two taxes that are coordinated throughout Europe), a corporate income tax or personal income tax, outside their autonomy in respect of margins in the latter domain.

4.1.4. Other non-tax revenues of the Regions

These include two types of revenues, i.e. federal transfers and own-source non-tax revenues. In the Walloon Region, a transfer must also be added from the French Community.
Cattoir and Verdonck (1999, our translation) have noted, with respect to federal transfers, that they are, first and foremost, a ‘right of withdrawal on the federal budget intended to finance programs aimed at putting the unemployed to work. An amount equivalent to unemployment compensation is granted to each Region concerned for each full-time equivalent job for which the Region assumes responsibility.” There is also a special form of aid, called mortmain, granted to the City of Brussels to offset the costs that it assumes as a federal and international capital, especially since it does not collect the property tax on buildings used for this purpose.\footnote{On the cooperation mechanisms between the federal government and the Brussels-Capital Region, see also the}

Furthermore, the Walloon Region receives aid from the French Community in order to assume the fields of Community jurisdiction transferred to it in 1993, especially in the social and health sector, which engender in the Walloon Region expenditure in excess of the aid received from the French Community (17 billion BEF or 0.42 billion € in spending in 1998 as against 13.8 billion BEF or 0.34 billion € in aid).

4.1.5. Summary and remark

Cattoir and Verdonck (1999) have proposed a formalization that clearly summarizes the system described in this section. I have modified it somewhat in order to highlight the criterion for determining whether a Region is eligible to the national solidarity measure or not. The revenues, $R_j$, of a Region comprise the Region’s tax revenues and non-tax own-source revenues, $R_{0j}$, its share of the personal income tax revenues transferred, noted $X$, and, as the case may be, aid in conjunction with the national solidarity measure. Thus, in a given Region $j$, where $IPP_j$ and $IPP_{0j}$ denote the personal income tax revenues of the Region and
Belgium as a whole, respectively, and $POP^j$ and $POP^{tot}$ the population figures and $p$ the inflation rate, in the year $t$ subsequent to the implementation of the transitional phase but included in the permanent phase:

$$R^j = R_0^j + X \frac{IPP^j}{IPP^{tot}} + 468(1 + p)^t 100 \max \left[ 1 - \frac{IPP^j}{IPP^{tot}/POP^{tot}} \right] 0 \] POP^j$$

An event that subsequently marginally increases the personal income tax revenues of the Region concerned, e.g. in the wake of an employment-support initiative undertaken by the Region, will affect the Region’s revenues depending on the tax revenues of the other Regions and the total population, expressed as follows:

$$\frac{\partial R^j}{\partial IPP^j} = X - 468(1 + p)^t 100 POP^{tot} \frac{IPP^{tot} - IPP^j}{IPP^{tot}^2}$$

or simply

$$\frac{\partial R^j}{\partial IPP^j} = X \frac{IPP^{tot} - IPP^j}{IPP^{tot}^2}$$

depending on whether or not the national solidarity measure comes into play. It is readily apparent that a Region benefiting from the national solidarity measure is less well paid than another in respect of a budgetary effort that generates an increase in local tax revenues.

Moreover, changes in the personal income tax revenues in a Region affect the means at the disposal of the other Regions. This externality can assuredly not be overlooked in a federation comprising only three federated entities. Indeed,

$$\frac{\partial R^j}{\partial IPP^k} = -X - 468(1 + p)^t 100 POP^{tot} \frac{IPP^j}{IPP^{tot}^2}$$

analysis of the cooperation agreement proposed by Poirier (2002).
where $k$ denotes the Region in which personal income tax revenues have changed, where the term in square brackets is limited to $X$ if the Region $j$ does not benefit from the national solidarity measure.

The sign of this term between square brackets is obviously crucial to a comparative statics exercise. In the comparison conducted by Cattoir and Verdonck, it is negative in the two Regions that benefit from the national solidarity measure, i.e. the Walloon and Brussels-Capital Regions. This makes it possible to establish Table 5 below, for the permanent phase of the application of the law respecting financing of 1989, i.e. the year 2000.

<table>
<thead>
<tr>
<th>$\Delta^+ \text{IPP in reg. } j$</th>
<th>$\Delta R$ in W. Reg.</th>
<th>$\Delta R$ in Fl. Reg.</th>
<th>$\Delta R$ in Br. Reg.</th>
<th>$\Delta R$ federal level</th>
</tr>
</thead>
<tbody>
<tr>
<td>$\Delta^+ \text{IPP in W. Reg.}$</td>
<td>-</td>
<td>-</td>
<td>+</td>
<td>+++</td>
</tr>
<tr>
<td>$\Delta^+ \text{IPP in Fl. Reg.}$</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>++</td>
</tr>
<tr>
<td>$\Delta^+ \text{IPP in Br. Reg.}$</td>
<td>+</td>
<td>-</td>
<td>-</td>
<td>+++</td>
</tr>
</tbody>
</table>

Source: Cattoir and Verdonck (1999) (I have simplified the presentation).

As the authors have noted, it is clear that “the federal government is the biggest winner when personal income tax revenues increase at the regional level.” This situation arises, first and foremost, because the federal government returns only part of the personal income tax that it collects to the Regions and because, if the increase occurs in a Region benefiting from the national solidarity measure, the transfer in this respect to the Region diminishes. This explains why the effect on the means of the federal government is more important (+++) if the increase in personal income tax revenues occurs in the Walloon or Brussels-Capital Region than in the Flemish Region (++). For the rest, we can conclude, as do the authors cited, that “aside from a
paradox concerning revenues, i.e. an inversion of per-capita revenues relative to the Regions following the implementation of equalization, the inter-regional equalization system also leads to poverty traps that are especially important for the Regions benefiting from equalization. […] In other words, any economic catching-up that leads to an increase in taxable income in one of the two Regions is immediately punished by a loss of tax revenues in these Regions.” (our translation)

4.2. Financing of the Communities

The funding base of the French-speaking and Flemish Communities is, even more so than for the Regions, centred on a transfer from the federal government related to three taxes, i.e. the radio-television fee, personal income tax and, above all, the value-added tax (VAT). According to the typology used earlier, there is an absence of fiscal autonomy since the financing of the German-speaking Community relies on aid that is not connected to a tax.

The radio-television fee is refunded according to the location of the appliance. Some 80% of the fees on radios and television in Brussels are refunded to the French Community and 20%, to the Flemish Community. It should be noted that the special law respecting financing of July 16, 1993 made this tax, until then a shared federal tax, a Community tax: the fee is fully refunded to the Communities.

The link with personal income tax revenues closely resembles the situation with respect to the financing of the Regions, i.e. initially 47.7 billion BEF (1.18 billion €) and 37.7 billion BEF (0.93 billion €) respectively, for the Flemish Community and the French Community. It should be noted that the link with growth in GNP is accompanied by a guaranteed result by
2005 (based on 2% in annual growth for the period 1993-2004 (see Spinoy (1998) for more details)).

The transfer related to the VAT originally amounted to 167.4 billion BEF (4.15 billion €) for the Flemish Community and 129 billion BEF (3.20 billion €) for the French Community. These amounts are indexed and thus reflect inflation but not growth in real terms, including after the end of the transitional period, and are adapted according to the number of inhabitants under the age of 18, which, in practice, gives a regressive character to financing since this proportion is diminishing. The Conseil Supérieur des Finances (1999) has quite judiciously noted (our translation) that “reference to tax here is purely notional, since the amounts attributed are not even a function of revenues generated by the tax. A funding system would reach an identical result, without giving the illusion of a fiscal autonomy that does not exist.”

The total amount thus obtained was, during the transitional period, divided between the two main Communities using a 57.55 – 42.45 rule.\(^{23}\) During the permanent period, the rule must, according to the special law respecting financing, “be adapted according to objective criteria set by the law.” A law enacted in 2000 stipulated that the breakdown would be prorated according to the number of young people between the ages of 6 and 17 regularly attending elementary and secondary schools.

As is true of the Regions, the Communities benefit from own-source tax and non-tax revenues. The Communities could levy taxes under the same conditions as the Regions (see point (c) above), but in reality the Communities have never exercised this power, essentially for want of being able to determine who is a taxpayer of either the French-speaking or the

\(^{23}\) The mechanism is, in reality, more complex since a transitional correction had to be introduced to reflect that French-language education initially represented not 42.45% but 43.51% of the cumulative expenditures of Dutch- and French-language education (see Spinoy (1998)).
Flemish Community in the Brussels-Capital Region. As for non-tax own-source revenues, mention should be made of the tuition fee paid by higher education students.

Table 6 – Budgetary revenues and expenditures of the Communities and Regions, 2000

<table>
<thead>
<tr>
<th></th>
<th>Walloon Region</th>
<th>French Community</th>
<th>German-speaking Community</th>
<th>Flemish Region and Community</th>
<th>Brussels-Capital Region</th>
<th>CoCOM¹</th>
<th>CoCOF²</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Shared tax revenues</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Personal income tax</td>
<td>129.5</td>
<td>59.2</td>
<td>-</td>
<td>338.8</td>
<td>36.7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>VAT</td>
<td>-</td>
<td>159.8</td>
<td>-</td>
<td>213.1</td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Radio-TV</td>
<td>-</td>
<td>10.6</td>
<td>0.2</td>
<td>18.0</td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Own-source tax revenues</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Estates</td>
<td>9.9</td>
<td>-</td>
<td></td>
<td>19.7</td>
<td>6.4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Registration</td>
<td>6.3</td>
<td>-</td>
<td></td>
<td>16.3</td>
<td>4.1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Property</td>
<td>0.7</td>
<td>-</td>
<td></td>
<td>3.9</td>
<td>0.6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Environment</td>
<td>5.9</td>
<td>-</td>
<td></td>
<td>-</td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>2.0</td>
<td>-</td>
<td></td>
<td>3.1</td>
<td>3.9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Non-tax revenues</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Job-market integration</td>
<td>4.7</td>
<td>-</td>
<td></td>
<td>6.8</td>
<td>1.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aid to French-speaking com.</td>
<td>11.6</td>
<td>-</td>
<td></td>
<td>-</td>
<td></td>
<td>4.3</td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>14.2</td>
<td>12.2</td>
<td>4.5</td>
<td>9.7</td>
<td>7.9</td>
<td>2.1</td>
<td>4.3</td>
</tr>
<tr>
<td>4. Total</td>
<td>184.8</td>
<td>241.8</td>
<td>4.7</td>
<td>629.4</td>
<td>60.6</td>
<td>2.1</td>
<td>8.6</td>
</tr>
<tr>
<td>5. Expenditures</td>
<td>194.5</td>
<td>246.3</td>
<td>4.8</td>
<td>619.5</td>
<td>65.9</td>
<td>2.1</td>
<td>8.8</td>
</tr>
<tr>
<td>6. Balance</td>
<td>-9.7</td>
<td>-4.5</td>
<td>-0.1</td>
<td>+9.9</td>
<td>-5.3</td>
<td>0.0</td>
<td>-0.2</td>
</tr>
</tbody>
</table>

¹ Two-Community Commission, ² French Community Commission (1999 figures).


(€ 1= BEF 40,3399)
4.3. The spring 2001 agreements

The so-called Lambermont or Saint-Polycarpe agreements, reflected in legislative terms in the *special law of July 13, 2001 transferring various fields of jurisdiction to the Regions and the Communities* and the *special law of July 13, 2001 respecting the refinancing of the Communities and the extension of the fiscal jurisdiction of the Regions*, extended regional jurisdiction, especially in the realms of agriculture, foreign trade and authority over local powers, broadened the means of the Communities (means that were increased, indexed to inflation and, starting in 2007, partially to growth, and the apportionment of which between the French Community and the Flemish Community will, from now on, depend not only on the number of students but also on personal income tax revenues) and the Regions, especially with regard to the latter, through the attribution of broader fiscal autonomy.

With reference to Valenduc (2002) and the legislation, we can reexamine the fate of personal taxes and personal income tax. Another useful reference is Van der Stichele and Verdonck (2001).

First, the fate of the Communities demands brief examination. The additional means attributed (assuming a constant 3% inflation, a 2% real growth and stability in the proportion of young people in the population under the age of 18) would rise, according to my calculations, from

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24 Vincent Vanden Berghe, a Louvain-la-Neuve economist, summarized the situation in an interview to Belgian daily newspaper *La Libre Belgique*, in May 2001: “If the agreements are approved, federal government aid to the Communities will increase significantly starting in 2002 and will be tied to growth in Belgian GNP starting in 2007. The French Community will then be in a position to face ‘normal’ growth in its expenditures. However, it should be emphasized that these agreements alter the distribution rule governing federal government aid to the Communities. Gradually and fully starting in 2012, the additional means, which will grow over time, will be apportioned according to the local personal income tax revenues in the regions” (our translation).
8 billion BEF (0.20 billion €) in 2002 to almost 123 billion BEF (3.05 billion €) in 2012, i.e. an increase in means of 2% at the beginning of the period to 23% at the end of the period. However, these additional means will be gradually apportioned more extensively according to the so-called principle of fair return, i.e. to personal income tax revenues, 80% of Brussels’ revenues being allocated to the French Community and 20% to the Flemish Community. This will mean a reduction in the distribution of means based on needs (supposed to be in line with the number of students). The French Community accounts for 43% of students but only roughly 36% of tax revenues and its share of the additional means would decline from 40% to 36% in 10 years and its share of overall VAT financing, from 42.8% to 41.6%. It should be noted that the personal income tax portion of the financing of the Communities is already divided according to territorial personal income tax revenues.

Let us now examine the financing of the Regions and their broader fiscal autonomy.

a) Regional taxes: almost complete autonomy

The list of regional taxes comprises taxes on gambling and betting, the tax on coin-operated amusement devices, the tax on the opening of drinking establishments, transfer duty upon death and inheritance tax, the real estate tax, registration fees on the transfer for payment of real property, mortgage fees, registration fees on inter vivos donations of personal property and immovable property, the radio-television fee, the taxes on the use of vehicles, the vehicle registration tax and the Eurovignette, while ecotaxes “are no longer regulated by the special law governing financing but fall under federal jurisdiction” (our translation).

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25 It will become a regional tax but the Communities will receive compensatory annual aid, from the Regions but through the federal government.
The Regions enjoy *complete autonomy* with respect to most of these taxes. The Flemish government has already decided to eliminate the radio-television fee within its territory. However, there are a few exceptions. The establishment of cadastral revenue, on which the real estate tax is based, remains under federal jurisdiction. The establishment of the tax base of the tax on the use of vehicles and the vehicle registration tax is the responsibility of the Regions but the exercising of such jurisdiction is subordinate to a cooperation agreement between Regions and the federal level, on leasing firms. The Regions are also responsible for the Eurovignette tax but they must conclude a cooperation agreement in respect of vehicles registered abroad.

Inheritance taxes and registration fees on inter vivos donations are payable where the inheritance was opened or where the donation was made. However, if the testator or the donor was established successively in several places during the five preceding years, the place of the lengthiest stay prevails.

The federal government continues to ensure free of charge the collection of taxes but federated entities may decide to directly collect certain groups of taxes.

*b) Personal income tax: broader autonomy in respect of margins*

As Valenduc writes (our translation), “the power of the Regions to establish additional taxes or rebates has been broadened and the preliminary agreement procedure has been replaced by an obligation to first communicate with the Minister of Finance and a specific mission of advice giving assigned to the Court of Accounts.”

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However, the autonomy of the Regions must reflect a framework guided by a number of principles. The Regions may not modify either the tax base or the tax calculation established by the federal government and they continue to operate on the margins, although this margin has been broadened through additional taxes or rebates, in the form of proportional or lump-sum tax credits that may or may not be differentiated by income bracket. These additional taxes or rebates may not, however, reduce the progressive graduation of the tax, bearing in mind the array of provisions that determine it up to the basis for calculating additional taxes. The legislation states (our translation) that “the principle of progressive graduation must be understood as follows: as taxable income increases, the ratio of the amount of the reduction and the amount of personal income tax due, before the reduction, may not increase or, as the case may be, the ratio between the amount of the increase and the amount of the personal income tax due, before the increase, may not diminish.” Moreover, they may not exceed 3.25% until the 2003 taxation year, and 6.75% starting on January 1, 2004. The Flemish government is expected to make use of its authority to grant rebates. The special law stipulates that “the Regions exercise their jurisdiction in respect of general tax reductions or increases, additional taxes or tax reductions without reducing the progressive graduation of personal income tax and at the exclusion of any unfair tax competition” (our translation).

c) Other taxes

The new law governing financing invokes the principle of non bis in idem when it stipulates, in section 4, that “the exercising by the Regions of fiscal jurisdiction […] must comply with the principle aimed at avoiding double taxation.”
5. Conclusion: Have we reached the end of the federalization of Belgium?

Have we reached the end of the federalization of Belgium? We can examine this question from the standpoint of jurisdiction and that of taxes.

5.1. Jurisdiction

First, from the standpoint of jurisdiction, it should be noted that until very recently, i.e. 1998 or 1999, the French-language parties were unanimous in refusing any new Community-based discussion, essentially out of a concern for protecting the federal nature of inter-individual solidarity from which French-speakers benefit. The main issue, as noted earlier, is social security, but also the progressive graduation of income tax and the method of establishing salaries. The Commission for State Reform of the Flemish Parliament adopted five avenues for concrete reform (Docquier, 1999, page 20; Van Den Brande, 1988, pages 4-5):

- reduce Belgium to two federated entities, i.e. Flanders and Wallonia, with a special status for Brussels and the German-speaking Community;

- place the Flemish and French-speakers on an equal footing at all levels of power in Brussels;

- transfer new fields of jurisdiction to the Regions, including the health insurance and family allowance sectors in the realm of social security, railway infrastructure and the operation of the railways, scientific policy and foreign trade;

- transfer to the Flemish Region administrative supervision over municipalities with special language status on the outskirts of Brussels and in the small Fourons (in Dutch: Voer) region;
- broaden fiscal autonomy through the complete or partial regionalization of personal income tax.

In exchange for broader means for the Communities, i.e. for education in the French Community, a number of the Flemish demands mentioned earlier were met in the Spring of 2001: guaranteed participation in all levels of power in Brussels (or at least financial incentive for that purpose), new transfers of jurisdiction over foreign trade and agriculture, administrative supervision over municipalities with special language status on the outskirts of Brussels and in the small Fourons (in Dutch: Voer) region, and the broadening of fiscal autonomy.

However, no component of interpersonal solidarity has been transferred: the progressive graduation of tax has remained largely intact, and social security continues to fall under federal jurisdiction, including health insurance and family allowances. One might think that the Flemish parties will go back onto the offensive in this respect. In early August, the press, for example, mentioned Walloon laxity concerning exclusion from the right to unemployment benefits. The Walloon agency in charge of managing the unemployed appears to be less prompt than its Flemish counterpart in denouncing to the federal agency that pays unemployment benefits jobless individuals who refuse jobs that satisfy predetermined criteria. This is one of the paradoxes of the Belgian system in that the management of the unemployed is part of employment policy, which is regionalized, while the payment of unemployment benefits is part of social security, which falls under federal jurisdiction. Similarly, health policy is regionalized but the funding of health care relies, by and large, on social security, …which is federal.
5.2. Taxes

*The autonomy in respect of margins* of the Regions has become effective from the standpoint of personal income tax. However, the Regions enjoy no fiscal autonomy with respect to corporation tax or value-added tax (VAT).

As for VAT and excise tax, a European framework is imposed on Belgium and revenues from VAT are already apportioned among the Communities, although the reference of Community allotment to the tax is rather artificial. Given the size of the country, it is easy to imagine that differentiated taxes would give rise among individuals to trans-regional purchases, as is now the case in border areas. This would not have any impact on trade between persons liable for tax for whom the principle of taxation at the rate of the place of destination would undoubtedly apply as it does in respect of trade between entities of different member states of the European Union.

The foregoing paragraph raises two, more general questions concerning *tax competition between jurisdictions* and the *place of taxation*.

a) *Tax competition between jurisdictions: personal income tax and corporation tax*

*The limited mobility of residents between the Walloon and Flemish Regions means that the autonomy in respect of margins of these Regions with regard to personal income tax generates little tax competition*, thus dissipating any fear of the harmful consequences of recent agreements in this respect. *However, mobility is much greater between Brussels and its*
Flemish periphery\(^{27}\) (see Table 2, which indicates that Brussels accounts for 14.5% of GDP but only for 8.6% of the tax base, those figures reflect at once the delocalization of wealthy inhabitants of Brussels toward the periphery of the city located in Flemish territory, and the phenomenon of commuters). \textit{In this instance, the risk of tax competition is serious.} It demands a solution, without which the financial paralysis of the Brussels-Capital Region is to be feared.

The mobility of economic activity also causes hesitation with respect to the introduction of an \\textit{autonomy in respect of margins regarding corporation tax}. At present, the Regions may grant direct assistance to investment, for example, through \textit{capital premiums}, provided that this is acceptable to European authorities, but not tax assistance such as \textit{investment tax credits}. This means that \textit{fiscal autonomy is non-existent from the standpoint of the nominal taxation of companies but not as regards the effective taxation of companies}, which in turn demands deciding \textit{how to apportion among Belgium’s Regions the taxable income of a company that has establishments in more than one Region}. Is the solution to “fall into line with the rules recommended by the OECD in respect of international fiscal conventions and with the practices of big federal countries, and recognize permanent regional establishments of Belgian companies and levy corporation taxes at the geographic level?” (Gérard 1999, translated). Moreover, problems concerning \textit{transfer prices} would inevitably arise. At a time when the European Union is examining corporate taxation, with particular emphasis on obstacles to convergence in this respect, Plasschaert (1999) maintains that fiscal autonomy in this field would be rather inefficient.

\(^{27}\) All of the municipalities surrounding Brussels are located in Flemish territory. Even in the south and the east, i.e. toward the territory of the Walloon Region, there is always at least one Flemish municipality between Brussels and Wallonia. The majority of residents in the circle of Flemish municipalities around Brussels, where
b) Place of taxation and the situation of the Brussels-Capital Region

Charles, Deschamps and Weickmans (1998), quoted by Gérard (1999), have questioned the effect on the financing of the Regions of the charging of personal income tax at the place of work instead of the place of residence. “This is not a purely hypothetical change but a realistic hypothesis from the standpoint of broader fiscal autonomy for the Regions, thus bringing into line Belgian interregional practice and that recommended by the OECD in respect of international tax treaties and largely adopted by countries. Such a change would engender a marked increase in the portion of personal income tax allocated to the Brussels Region” (Gérard, 1999, translated). Precisely because of this highly symbolic reference to international treaties, Valenduc (2002) rejects this suggestion but proposes an alternative mechanism offering similar characteristics in favour of Brussels.

It is clearly a question of finding a solution to the problem of financing Brussels. The means used are hardly important: more extensive aid from federal authorities, a contribution from the other Regions at the expense of a capital whose administrative territory, “permanently” confined and delineated, reflects neither a residential, cultural nor an economic area, or a different breakdown of shared personal income tax revenues that takes into account the place of its production and thus its source.

To conclude this study of Belgian federalism with Brussels’ situation is to conclude by evoking its most sensitive point.

Le Pied de la Maure


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Appendix: Communities and Regions of Belgium

Source: Belgian federal government Web site (www.fgov.be).