PROCEED WITH CAUTION:
VETO PLAYERS AND ELECTORAL REFORM IN A FRAGILE CONSENSUS DEMOCRACY.
THE CASE OF BELGIUM.

Marc Hooghe
Katholieke Universiteit Leuven
Marc.Hooghe@soc.kuleuven.be

Kris Deschouwer
Vrije Universiteit Brussel
Kris.Deschouwer@vub.ac.be

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1. Introduction

Introducing a proposal for electoral reform is, at best, a hazardous enterprise. It can safely be assumed that political actors will not be inclined to change electoral rules that have brought them to power in the first place (Lijphart & Grofman, 1984). The obvious line of conduct for governing political actors, therefore, is to maintain the status quo with regard to electoral rules. Electoral reform therefore tends to be relatively rare in established and stable democracies and in most of the available literature it is assumed that reforms will be used as a means to maximize votes, influence, seats or other resources for political actors. To put it bluntly: the expectation is that electoral reform will be motivated mainly by the pursuit of self-interest (Taagepera & Shugart 1989; Benoit 2004; Blau 2008).

It is clear, however, that this very general statement needs to be qualified: in practice, numerous other considerations will also play a role, not only with regard to the decision to pursue electoral reform, but also with regard to the odds that an attempt for electoral reform will actually succeed (Katz 2005). To start with, one can question whether political parties have adequate knowledge about the likely consequences of intended electoral reform. In numerous cases, it is unclear how voters will react to reform, and political parties therefore are forced to make choices in a condition of uncertainty. They must also envision the possibility that voters might react negatively to reforms that are clearly seen as unjust or that provide an undue advantage to a single party.

Shugart (2003) has noted that there might also be an international dynamic to the process of electoral reform, as countries are inclined to learn from the experiences of other countries. In the 1990s, e.g., there has been a clear move toward mixed-member forms of representation, since these were seen as an ideal method to combine proportionality with a local embeddedness of members of parliament. These international trends might partly explain why political actors tend to follow the example of neighbouring or similar countries, even when this is not in their own short-term self-interest.

Furthermore, the likelihood that attempts at electoral reform will succeed are also strongly dependent on characteristics of the political system in general. Given specific
circumstances, majoritarian systems might be prone to change, as the party that is in a majority position might simply change electoral law as they see fit. In the 1980s, e.g., the ruling French socialist party switched to a representative system (and back again), without encountering too much obvious difficulties in Parliament. For proportional systems with coalition governments, however, it can be assumed that electoral reform will only take place if all coalition parties are convinced that they stand to gain from the attempted reform. Within a coalition context, electoral reform is only likely if all parties involved perceive some benefit in the reform (Katz 2005). Consociational democracies can be seen as an even more extreme case as in these democracies veto rights are being granted to all significant groups in politics as a mechanism to ensure pacification of social and political cleavages in divided societies (Lijphart 1994). Given the issues that are at stake, this might imply that electoral reform almost becomes impossible in some instances. Since electoral reform is usually a zero-sum game, some parties stand to lose as a result of the new rules and this might make it more difficult to obtain a consensus.\footnote{The most obvious example where reform does not amount to a zero-sum game, might be an enlargement of the number of available seats in parliament. This kind of reform, however, is rather rare as parties might expect a negative reaction of voters of this kind of proposal.}

We can also take the argument a step further. The presence of veto-players in consociational democracies will not make it more difficult to implement any electoral reform, it will also introduce a bias toward specific forms of electoral reforms that are more likely to pass muster with the ruling elite. Given the danger of instability that is inherent in this kind of democracy, political elites will be more likely to express a veto on proposals that might endanger the stability of the system. In most of the research, electoral systems are ranked on only one dimension: the degree of proportionality of the system. Self-evidently, this is a crucial dimension of any electoral system (Farell 2001), but by no means it is the only relevant dimension. More specifically we want to introduce a distinction between stability and volatility of electoral systems. Various electoral reforms do not have an impact at all on proportionality, but they could lead to a more stable political system – or on the other hand, create more openness for structural changes in the political system. Switching from a closed to an open list system, e.g., does not have an effect on the proportionally of the system, since the seats do remain allocated to political parties in the same manner. But such a change does have an impact on stability,
as closed lists make it easier for the political parties to control the composition of their parliamentary party group and to impose party discipline. As such, closed lists would lead to stability, or at least they would lead to more predictability from the viewpoint of the political party.

Another example might be to impose the requirement of a super majority instead of a simple majority. Such a change does not lead to more or less proportionality, but it could lead to more or less stability of the political system. Using various dimensions to describe (changes in) electoral systems, therefore makes sense.

In general, the aim of the study of electoral transformations is to detect patterns that can be generalized. If we assume, however, that much of the process is context-dependent, this implies that general patterns will be less obvious. What we do gain, on the other hand, is that the study of electoral change should no longer be considered as an independent subdiscipline, but can be connected in a theoretically informed manner to the comparative study of political systems as a whole. After all, electoral reform does not take place in a vacuum, but in a specific political system.

In this chapter, we will investigate one particular case to investigate the claim that electoral reform to a large degree is context-dependent. More specifically, we focus on (attempts at) electoral reform in the recent political history of Belgium. Since Belgium is a typical example of a consociational democracy, we can depart from two specific hypotheses:

H1: Attempts for electoral reform will most often not be successful because of the presence of veto-players

H2: Successful reform will have a bias toward stability and the avoidance of volatility.
2. Context dependency

It is striking to observe that the study of electoral reform has failed to incorporate one of the main ideas of the ‘founding father’ of this subdiscipline in political science, Arend Lijphart. Lijphart (1994) argues that cleavage structures in society inevitably will have an impact on the electoral system of a political system. We take the reasoning of Lijphart a step further. If the cleavage structure of a society has an impact on electoral systems, we assume it will also have an impact on the process of electoral reform. First it can be expected that in consociational democracies, veto rights will be granted to substantial minorities, especially with regard to issues that have a direct bearing on the structure of the political system itself. This would mean not just that a supermajority will be needed to implement electoral reform, but that in fact a full consensus is required if the reform will have to be successful. Second, we can also assume that in strongly divided societies, there will be an incentive to develop electoral system that support the stability of the political system.

The idea that the process of electoral reform should be studied within a specific national context self-evidently is not new. Katz (2005, 62) already suggested that political actors (i.e., governing parties) might not always be motivated purely by a narrowly defined self-interest, but that other considerations might also play an important role. Political parties might be more inclined to pay attention to the long-term functioning of the political system (and their role in that system), rather than to focus solely on maximizing their short-term party interests. Ensuring stability might override any short-term calculations by political parties. This will be especially the case if the long-term survival of the political system is no longer taken for granted. Even if we assume that political actors are rational beings aiming at the maximilization of their own interests, this still does not imply that they will only pursue their short-term gains. It is just as rational to pursue a Nash equilibrium: in the long run a party is better off with a stable political system in which it has a fair part of the power, rather than with a short-lived electoral success that could lead to long-term instability.
The simple expectation that political actors will pursue their own interests in a straightforward manner has been challenged in the literature on various grounds. To start with, political actors do not always have reliable knowledge on what the effects of an attempted electoral reform will be. Political decision makers are confronted with a large degree of uncertainty as they do not know how the electorate will react to certain forms of electoral reform. This might imply that even if there are various indicators that they stand to gain from an electoral reform, political actors might still opt for risk-avoiding behaviour, given the strong degree of uncertainty about the precise consequences of the reform. Given the professionalization process within political parties, risk-avoidance might be a more rational option than any (risky) effort to maximize benefits for the party.

Second, we should take into account that political decision makers are not always knowledgeable about the precise consequences an attempted reform might entail. While the main political parties will have access to polling data to have an estimate about the likely reactions of the voters, this is not always the case for smaller parties. Even if we would be able to predict the consequences of reform, some political parties still might not have access to this information.

Third, we assume the existence of a rational and well-informed actor, that is capable of weighing the likely pros and cons of its actions. This is possible, however, only if these consequences are commensurable. This is not always the case. Take, e.g., the case of a major coalition party, that most likely will gain seats as a result of an attempted electoral reform. Its preferred junior coalition partner, on the other hand, is more likely to loose its seats in parliament as a result of the reform. In that case, there is no easy rule of thumb to ascertain what is the most rational course to pursue. To complicate things further: this weighing process might not be the same in all political systems, as in some countries openly pursuing one’s self interest might be more legitimate as in other cultures.

Four, the options that are available to political parties might be strongly dependent on context characteristics. After the sounding electoral victory of president Mitterrand in
1981, his Parti Socialiste controlled both the executive and the legislative power in the country. The party could decide unilaterally to impose a rather radical reform of the French electoral system. There was no obligation at all to accommodate the wishes of the weakened right-wing opposition. The RPR and its allies did not have any veto power, and they even could not retaliate in case they would win the next elections. In the worst case, all they could do is simply restore the old system and so nothing would be lost for the Socialists. In a consociational system, on the other hand, veto players will always be plentiful, limiting the manoeuvring space of political actors. Even if there are not formally veto players, opposition parties might have a considerable retaliation power at some level, and this would imply that it would not be wise to provoke their ire. The weight a political elite actor should give to oppositional arguments, therefore, is strongly dependent on the specific context of the political system.

We, however, also assume that the characteristic of the system have an impact on what kind of reform is successfully pursued. Usually, no attention is being paid to the direction of electoral reform. Implicitly, it is assumed that the determinants of electoral change are more or less the same for all kinds of changes. One of the few exceptions to this rule can be found in the work of Shugart (2003), arguing that electoral reforms tend to converge to the centre. Extreme electoral systems (i.e., extreme with regard to proportionality or lack of proportionality) tend to adapt to a more moderate position on this continuum. Shugart too, however, assumes that this tendency will be present in all kinds of political systems, without taking into account specific features of societies or political systems.

In this paper we would like to explore to what extent the continuum between stability and volatility of an electoral system might be useful to explain the odds attempts at reform will succeed. The assumption would be that especially in consociational democracies, there will be a strong bias toward stability. Since in fragile and deeply divided political systems, political parties will not be inclined to endanger the stable equilibria that are present in a system of accommodation, they are more likely to opt for stability than might be the case in other political systems.
The case study we selected involves (attempts at) electoral reform in Belgium since 1970. In most of the available studies, Belgium is used as a typical example of a deeply divided society, with a matching form of consociational democracy (Deschouwer 2006). The Belgian political system has developed an elaborate system of veto players, first of all for political actors that are active on the linguistic divide, but also with regard to religious and socio-economic cleavages in the country. In these conditions, political elites are more likely to forego possible advantages for their own self-interest, because they want to avoid any form of risk-taking behaviour. The presence of veto players, even if they represent only a small part of public opinion, may act as a further hindrance to implement electoral reform.

Since the 1970s various attempts have been made to implement changes in the Belgian electoral system. The vast majority of these proposals, however, never made it to a final vote, or they were not approved by Parliament. Our main claim is that veto players within the Belgian political system is very reluctant to introduce changes that could endanger the fragile political status quo in the country. More specifically we want to investigate two ‘failed’ cases:

1. Already since the 1980s, various proposals have been put forward to abolish the system of compulsory voting in Belgium. Despite the fact that only the Socialist Party actively supports compulsory voting, not a single one of these proposals has ever been brought to vote in the Belgian parliament. Polls suggest that abolishing compulsory voting would lead to a drop in turnout of ca. 30 per cent, but it remains unclear what the precise consequences would be for strength of the various political parties. The ‘safe’ option, it seems, is not to change the current system.

2. Since 1963, attempts have been made to ensure that electoral districts follow the linguistic divide of the country. Most of the districts do, with the sole exception of the bilingual district surrounding the capital Brussels (“Brussels/Halle/Vilvoorde”). Since 1999, splitting up this district has been the main demand of Flemish nationalist parties, and even the Flemish regional parliament almost unanimously approved a resolution calling for such a decision. The French-speaking parties, however, thus far
have effectively blocked such a decision, out of fear that a split of the electoral district might make any future division of the country easier. Here too, veto-players were instrumental in enforcing a status quo.

The dynamics of these two failed cases will be contrasted with the only major successful example of electoral reform: the reform introduced by the Verhofstadt government in 2003.

3. Since 2003 Belgium applies an electoral threshold of five percent, thus rendering it more difficult for small parties to gain seats in Parliament. This reform was clearly motivated by the hope among the major parties in Belgium that they would be able to stem the rise of various smaller parties in the country. The 2003 electoral reform indeed seems to have strengthened the stability of the Belgian political and party system and it was designed in such a manner that veto-players were discouraged to use their veto rights.

It has to be remembered in this respect that during the 19th century, Belgium was considered as something of a pioneer with regard to electoral engineering. After all, Victor D’Hondt was a mathematics professor at the University of Ghent, and the campaign to achieve proportional representation was quite successful in 1893 and 1899. Since 1918, however, Belgium shows all the characteristics of a consociational democracy with strong minority protection. Especially with regard to electoral reform, this consociational system has been very slow in implementing electoral reform. Only in 1948 women were granted the right to vote in the country, despite the fact that the socio-economic status of women was not worse than in some of the neighbouring countries. With regard to compulsory voting, too, it can be observed that Belgium simply did not succeed in abolishing this system that was developed in the 19th century, in contrast to some other countries in Europe.
3. Elections in Belgium

In order to understand the current debate, it is useful first to sketch a brief outline of the Belgian electoral system, that is strongly proportional and rests on relatively small multi-member districts. The electoral rules in Belgium have gone through some major changes between 1894 and 1919. With the exception of the voting rights for women – introduced in 1948 – the basic principles of the system were not changed since then. First the reform of 1894 introduced voting rights for all male citizens, be it that elite voters had a second or a third vote, meant to moderate the possible effects of the participation of the working classes. That same reform also introduced compulsory voting for the same reason. Voters were at that time supposed to travel to the capital of their electoral district, and by obliging all voters to produce that effort the ruling elite wanted to avoid that especially the new enfranchised voters would turn out massively. In the same article that states that voting is compulsory, the secrecy of the vote was also introduced in 1894.

The second important change was introduced in 1899 and used for the first time for the election of 1900: proportional representation. Belgium was the first country to switch from a majoritarian system to list proportional representation, and the Belgian professor Victor D’Hondt provided the mathematics with which the seats would be distributed. The principle of proportionality is written in the Belgian constitution, which means that all elections at all levels until today need to adopt a proportional system (although the Imperiali divisors used for the local elections produce a much lower degree of proportionality). The idea of shifting (back) to a majoritarian system does pop up once in a while, but was never a proposal tabled by a significant political party.

The third change finally was the introduction of universal male suffrage in 1919 (and real universal suffrage for the local level). The electoral system of 1919 is still very much in place: list proportional representation with distribution of seats per province on the basis of the D’Hondt divisors. The provinces are used as a second tier to distribute remaining seats, after the first full seats have been allocated with a simple quota in smaller districts. The number of seats available per district – based on the number of inhabitants – is reallocated every decade on the basis of a census.
In 1979 an electoral system had to be put in place for the first direct election of the members of the European Parliament. This had to be of course a proportional system. Yet since only 24 seats would be available for Belgium, the election could not be organized in a proportional way in the existing districts used for the House. The districts had to be much larger. At some point the proposal was made to use one single national constituency. This was however rapidly excluded by the francophone political parties. At that time all the Belgian parties had fallen apart in two unilingual parties only competing for the vote in their own part of the country: Francophones in the south and in Brussels and Flemish in the north and in Brussels. With a Flemish demographic majority of some 60 per cent of the population and with a very strong Flemish Christian democratic party (always having the Prime Minister), the Francophone parties feared to be on the losing side. The solution found acknowledged the linguistic divide and introduced two electoral districts – a Flemish and a Francophone – with a fixed number of seats to be distributed in each of them: 14 Flemish and 10 Francophone. It is interesting to note – and also important for one of the cases of failed reform discussed below – that the two electoral districts are not purely territorial. They overlap in the Brussels area. For the election of the House of Representatives one electoral district is composed of the Brussels region and of 35 Flemish municipalities around Brussels. For the elections to the European Parliament the voters of that central constituency ‘Brussels-Halle-Vilvoorde’ (or BHV) actually have the choice between the lists competing for the 14 Flemish seats and the lists competing for the 10 Francophone seats. Outside of BHV voters can only choose for the lists of the language area where they live.

Belgium was again confronted with the need to put in place new electoral systems when in 1995 the parliaments of the regions had to be directly elected for the first time (actually the Brussels region has a directly elected parliament since 1989). That was however not seen as an opportunity to thoroughly rethink elections in Belgium. To the contrary: the electoral rules put in place perfectly reflect the basic (proportional) logic of the country and its more recent and increasing divide between two language groups. For the parliaments of Wallonia and Flanders, the same electoral districts were used as for the federal House. The number of seats in the federal House was reduced from 212 to 150, and to avoid a reduction in proportionality some smaller first tier district were merged.
into one single provincial district. For the Brussels region the voters have to make a choice between Francophone and Flemish lists, and seats are first distributed between the groups and then within the parties of each group. Since 2002 the number of seats for each language group is fixed: 17 Flemish and 72 Francophones. All this is not very surprising and does not move away from tradition.

The same goes for the election of the new Senate, now meant to be a house representing the language communities. It is composed of several types of senators, but for those directly elected the system of the European elections is used. There are two districts – overlapping in BHV – in which 25 Flemish senators and 15 Francophone senators can be elected. It goes without saying that the seats are distributed proportionally within each language group.

While the basic principles and formulae of the system remained in place, there is one clear trend to be observed along with the institutionalization of the linguistic divide: a gradual enlargement of the electoral districts. The introduction of proportional representation in 1899 obviously created larger districts, although the first tier districts remained fairly small. They were enlarged when the size of the federal House was reduced. Meanwhile the European and senatorial elections have in 1979 and in 1995 introduced quite large districts per language group, allowing top politicians of each language group to test their popularity beyond the narrow confines of their own home district.

The electoral reform of 2003 follows that same line. It removes the first tier districts and introduces larger provincial districts. In doing so it also does away with the first tier (except for BHV – see below) and allows politicians to mobilize voters in larger areas than before. We will discuss this reform as one of our cases below. The second case discussed is a direct consequence of the 2003 reform. It brought back on the agenda the old Flemish demand to split the BHV district into one for Brussels and one for the Flemish part of it. That demand is now high on the agenda since 2003, but the attempt to split BHV has so far failed.

2. The main argument of the Flemish nationalists is that, in general, Belgium is based on a strong geographical segregation of the two major communities. In the Northern provinces, only Dutch can be used as an official language, and the entire political life is only in Dutch; while the same goes for French in the southern provinces. The fact that BHV is a bilingual district, extending into the uni-
The same goes for the attempt to abolish the compulsory voting. Especially the liberal parties have been mobilizing for that during almost two decades now, but the proposal never even appeared in a coalition agreement. This discussion about compulsory voting is part of a broader discussion on the quality of democracy and of the search for devices to improve it. Since the breakthrough of the right extremist Vlaams Blok (now Vlaams Belang) in 1991 it has been generally accepted that the ‘gap’ between citizens and political decision-makers has to be closed. The introduction of referenda at the local level, the introduction of multiple preference votes, the increase of the weight of the preference votes were all attempts to answer the alleged demand of the citizens to have more to say and to reduce the power of parties to define who can become a member of the elected assemblies. The idea that voting should not be compulsory any more is part of that ‘package’ wanting to give the voters more choice, including the choice not to vote. But as said the latter was not implemented.

There is one recent change that will not be further discussed in this paper: the introduction of gender quota for electoral lists at all levels. These quota were gradually introduced since the late 1990s, but were not linked to or framed as attempts to give the citizens more to say and to restore trust in the political system (Meier 2000, 2004, 2005).

One final note about the origins of the demands for reform. While the gender quota made it to the agenda and finally also in a binding law as a result of mobilization and lobbying of the women’s movements, the other electoral reforms or attempts to realize them were all originating from either the necessity to introduce a new system (Europe and the region) or from demands originating within the political elite. They were however responding to electoral changes that were read and framed as a questioning by the voters of (aspects of) representative democracy.

lingual Flemish districts surrounding Brussels, seems to collide with that geographical segregation. It implies that inhabitants of these strictly unilingual municipalities (but some of them with a strong French minority) actually have the option to vote for a French-speaking party or politician, despite the fact that they live in an official uni-lingual Dutch municipality.
4. Decision-making in Belgium

As was already mentioned, we will present and discuss these cases explicitly within their specific domestic institutional setting. In particular the consociational devices built into the Belgian federation are a crucial institutional background against which the debates about electoral reforms can be understood. The consociational logic of the Belgium political system gives several actors a veto power, which means that attempts to change the rules of the game can be easily removed from the table. That reduces the chances of success of some proposals, but does not stop political actors from launching them. The Belgian consociation does indeed contain devices that oblige – in the long run – to either find a compromise or to simply take back the demand, but it does not offer incentives for pre-electoral moderation. Debates can be started easily and strong demands can be formulated easily, even if they are unlikely to be successful.

The classification of Belgium as a consociational democracy originally refers to the societal segmentation and pillarization along religious and economic lines (Lijphart, 1981; Huyse, 1981, Deschouwer, 2002). The more recent transformation of the country into a federal state however also displays the classic ingredients of a consociational system. This does not only refer to the spreading of power between levels of government, but to quite hard devices of power-sharing that have been entrenched into the federal system of decision making. The basic working principles of the country are first a neat division between the two language groups, which subsequently gives each a guaranteed presence in all crucial political decisions (Deschouwer, 2006; Swenden & Jans, 2006). These power sharing devices are actually older than the federal reform. They were introduced in 1970, when only very first and symbolic steps towards devolution were taken.

The constitution of 1970 introduces *mutual vetoes* in different ways. First all members of the House of Representatives (and of the Senate) are strictly divided into language groups. Each member of the representative assemblies is thus supposed to represent only the voters belonging to his or her language group. All MPs elected in a unilingual district automatically belong to that language group. Those elected in the mixed central district of
Brussel-Halle-Vilvoorde can make a choice by taking their oath in the preferred language. The division in language groups is needed for a number of protecting measures for the francophone minority. There are three of them. The first refers to the composition of the government. From 1970 on the Belgian government needs to respect the rule of ‘parity’ which means that there have to be an equal number of Flemish and Francophone ministers. The Prime Minister is not necessarily included in this parity. Since 1970 all Prime Ministers – except for two very short-lived governments – have been Dutch speakers.

The second measure is the ‘alarm bell procedure’. It states that when three quarters of the members of one language group declare that a proposal is being discussed that will harm their interest, the parliamentary procedure must be interrupted. The issue goes to the government in its fifty-fifty composition and the government has 30 days to come up with a solution. If there is no solution, there is no government any more. And to form a new government, an agreement between the two language groups is required.

The third measure is a new legislative technique. The Constitution creates a new type of laws called ‘Super Majority Laws’. These are actually constitutional laws, but do not have to go through the long procedure needed for a change of the Constitution. They can be used to further fill in the general principles laid down in the Constitution, like for instance the structure and competences of the regions and communities. For a Super Majority Law to be accepted or amended, special majorities are indeed needed. It requires a two thirds majority of all the members of parliament and a majority of the members of each language group.

This 1970 reform of the Constitution, meant in the first place to cool down the tensions between the two language groups and to reduce the pressure from the regionalist parties demanding a deep reform of the state, is a historical landmark. It marks the institutionalization of a power sharing logic for the managing of the linguistic tensions. It actually means that two types of actors have become a veto player. The first are the language communities. Forming a government or keeping a government alive requires the absence of a firm ‘no’ against policy proposals. A government needs only a simple majority to be formed and to survive, but the necessity to bring parties from the two language groups together normally leads to a government having a double majority, i.e. a
majority in each language group in the House of Representatives. And in any case whenever a proposal is seen by one language group – and by its media – as potentially harming, it cannot be realized without bringing the federal government in danger. To summarize: whenever a proposal – for electoral reform or for other policies – is confronted with the reluctance or simple refusal of the other language group, it cannot be implemented.

Related to this there is always another type of veto player: the largest party in each language group. Although it is mathematically and politically possible not to do so, governments at the federal level normally include the two ‘winners’ of the federal elections, i.e. the largest party on each side. In Flanders this has always been the Catholic and later the Christian democratic party, with only an interruption between 1999 and 2004. In Francophone Belgium it has been the socialist party, although it lost its number one position to the liberals for the first time in 2007. The split of the political parties and the obligation to form a ‘parity’ federal government thus always produces two party actors which are veto players in the Belgian system.

Power sharing is thus an institutional obligation. But that does not mean that Belgian elites do constantly display an accommodating attitude. The Belgian consociationalism is to a large extent a crisis management logic. Tensions between the language groups can build up quite high, with each of them mobilizing strongly for their own demands and with all parties on each side trying to be the best defender of the rightful cause. And when the system really blocks for a longer period of time, the elite has no other option but finding a – sometimes painful and always complex – compromise. Another way out of gridlock is agreeing to disagree and thus removing the demands that are facing a veto from the negotiation table (for the time being).

The separation of both the electorate and the parties in two language groups allows for a clear identification of each and for the devices giving each a guaranteed voice in the decision-making. But it offers no incentives for pre-electoral moderation. The moderation or prudent leadership is supposed to come after the elections, i.e. after the elites have solemnly promised that they would defend the demands of their own language

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3. The current government actually does not have a majority on the Flemish side, which is on the Flemish side perceived as being unfair and against the spirit of the system. The 1985-87 coalition had no Francophone majority. But these are indeed exceptions to the rule.
group (Deschouwer & van Parijs, 2010). It is therefore rather easy to launch proposals, to try out new ideas, to defend grand principles. It does not mean though that they will indeed be realized. If they encounter a veto, they are likely to be postponed.

This very concise presentation of the dynamics (or absence of them) of the Belgian federal consociation should suffice as a general background against which the debates about electoral reform can be understood. We would indeed like to show how proposals that face a veto by either one language group or by an important party of one language group is not likely to succeed. Reforms that do not activate a veto player are easy to realize, even if they are quite far-reaching.

In the following section we will discuss three debates: the failed attempts to abolish compulsory voting, the successful 2003 reform of the electoral districts and the failed attempt to split the central BHV district.

5. Compulsory voting

Already since 1893, Belgian has had a system of compulsory voting, that has not been changed since. While in various other countries in Europe, the legal obligation to cast a vote has been abolished in the course of the twentieth century, this has never happened in Belgium and it is now one of the few countries in the world where compulsory voting is still being applied in a rather effective manner (Birch 2008). Contrary to what has happened in countries like Greece of Italy, the application of the system has been quite effective, with stable turnout rates of approximately 91 to 92 per cent of all eligible voters. Since the 1950s turnout has declined somewhat from an all time high of 95 percent but this not necessarily indicates a lesser willingness to comply with the current legislation. Technically, there is no upper age limit for the obligation to vote, but in practice those that are less mobile due to high age will be less inclined to go out and vote. Since the percentage of the population that is above 80 has risen sharply since the Second World War, part of the explanation for the limited decline in turnout rates, will be due to the rise of the average age in Belgium⁴.

⁴ There is no real representative research on this observation, since voters’ lists are not made available for scientific research, due to the strict Belgian legislation on the protection of privacy. Anecdotal evidence
Since the 1990s, compulsory voting has been the topic of an intensive political debate, that started following the unexpected victory of the extreme-right party ‘Vlaams Blok’ in the 1991 general elections. Quite some politicians had the idea that this success could partly be explained by the fact that voters were obliged to go and vote, and that out of a sense of frustration, they ended up voting for the extreme-right party. Immediately following the 1991 elections, most proposals to abolish compulsory voting had the direct intention to curb the rise of extremist parties. It was assumed among various parties that quite some Belgian citizens had a sense of distrust toward the political elite, and that this distrust would lead to extremist and anti-system voting patterns.

Only later on, the liberal party also mentioned more ideological reasons. A number of liberal party leaders claimed that citizens should have the right to decide themselves whether they should go vote or not. The argument goes that it is not the state that should impose an obligation, since the decision to refrain from voting, can be seen as a politically motivated decision just as well.

Proposals to abolish compulsory voting has been going on for nearly two decades now, and the topic has never really disappeared. At the same time, however, it became clear that it would not be easy to develop a compromise on this topic. The socialist parties in Belgium are opposed to abolishing compulsory voting, while among the Christian-Democratic parties, too, opinions on the topic are divided. But the main problem for opponents of the legal obligation is that they somewhat never seemed to be able to communicate the topic effectively to public opinion. While politicians themselves refer to the topic at regular intervals, the salience of the issue among public opinion or the media is almost negligible.

Faced with this failure to increase the issue salience of the topic, in 2007 the liberal party opted for a new strategy. First, during the negotiations for the formation of a new governing coalition, the by now familiar proposal to abolish compulsory voting was on voters’ lists, however, suggests that the vast majority of those who do not show up – even in the major cities of the country – are aged above 75.

5. It has to be noted here that already from the start this assumption was highly problematical. While compulsory voting applies to the whole territory of the country, the extreme-right parties only obtained successes in the Northern, Dutch-speaking region. In the French speaking region, extreme-right parties are almost completely absent. This already hints at the fact that compulsory voting almost certainly cannot be a determining cause for extremist voting.
tabled again. Socialists and christen-democrats, however, made clear that they were not eager to change their long-standing policies on the matter. Later on, the liberal party introduced a bill in Parliament, trying to abolishing the sanctioning of compulsory voting, but this proposal was never even debated in Parliament.

So basically the effort to abolish compulsory voting is a clear example of a failed attempt at electoral reform. Despite the fact that the topic is on the political agenda for almost two decades now, no progress at all has been made, and it is very unlikely that this will the case in the years ahead. Therefore, Belgium, together with Australia, has become something of an exception, with an almost universal implementation of compulsory voting.

In this case too, it is striking to observe that leading politicians started the debate based on the wrong information, and not exactly realising what could be the consequences of abolishing compulsory voting. Nevertheless: policy learning would have been relatively easy in this case, since the Netherlands abolished compulsory voting in 1971 with familiar results: turnout dropped by something like 20 per cent, while the relative strength of the parties hardly changed since all political parties lost part of their voters (Irwin 1974).

The initial expectation that started the whole debate off was that compulsory voting was in some way responsible for the high score of extremist parties in Flanders. The hypothesis was that extremist voters were totally alienated from the political system, and that usually they would opt not to go out and vote at all. But given the system of compulsory voting, they were obliged to do so, and as an expression of anger toward the political elite, they would vote for an extremist party.

This idea, however, was mistaken. In a number of surveys Belgian voters have been asked whether or not they would continue to vote if compulsory voting would be abolished. On average, something like 30 per cent of all voters indicated that they would no longer bother to vote, and this is in line with the finding from other political systems. The results, furthermore, show that the strong decline in electoral turnout would not have an effect on the relative strength of the parties, since all parties would loose a substantial portion of their voters. Only the Green party, that caters mainly for a highly-educated
audience, would stand to gain from the transition (Hooghe & Pelleriaux 1998; Billiet 2001). Most of the studies that were published on this topic point to the same conclusion: the effect of abolishing compulsory voting on the results of political parties would not exceed one or two per cent. If the idea of abolishing compulsory voting was to have a substantial impact on electoral results, the move was clearly misguided.

Although ideological arguments, self-evidently, cannot be judged in the same manner, the argument that compulsory voting should be seen as a limitation of basic political rights has a number of drawbacks too. We will not expand here on the normative debate (Hill 2009; Engelen 2007). Rather, on an empirical level, one can observe that a vast majority of Belgian citizens does not seem to consider the obligation to vote as an infringement of their basic political rights. The Belgian is in a sense rather exceptional, since turnout is extremely high in the country. At the same time, however, an already overburdened legal system in practice does not spend any effort in order to get the law implemented. Only in a few rural districts, courts have initiated a limited number of prosecutions with regard to failing to comply with current legislation. In the main urban centres, citizens can be quite confident that their failure to show up, will have no consequences whatsoever. We can therefore readily assume that if the legal obligation to vote really was seen as a serious impediment of basic liberties, the Belgian population would have a stronger tendency not to obey this legislation, given the total absence of any effective enforcement procedure.

The second argument we want to make using this case, is that reform is biased toward stability and predictability. Since abolishing the system of compulsory voting would introduce a new element of unpredictability in the Belgian political system, support for the proposal was, at best, lukewarm.

First, the gains are very modest and unpredictable. The simulation studies that have been made, all show that the changes would be limited to a few percent. Given the margin of error inherent in these studies, however, only one party (the Greens) can be quite confident that they would actually gain as a result of this reform. For all the other parties, the net result could be that they could gain one or two per cent, or face a loss of the same magnitude (Chamber 2001). Since the risk of losing power is about the same as the odds
that a party will gain power, the cautious decision of course is not to change anything to the current system and to move on in exactly the same manner.

Another element pleading in favour of stability is the interplay between constitutional design and the balance of power between the major parties in the country. Since 1988 there has never been a pure center-right coalition in Belgium, as the Socialist Party has always been part of a governing coalition\(^6\). The Liberal parties therefore have never been able to override the Socialist opposition in order to abolish compulsory voting. This is especially the case since compulsory voting is enshrined in article 62 of the Belgian constitution, which implies that a parliamentary super-majority of two thirds of all seats in Parliament is required to change this system, plus a simple majority within every language group in Parliament. The liberal party explicitly hinted at this barrier for reform by proposing in 2008 to leave the constitutional provision unchanged, but to make sure that in practice no sanctions are being applied anymore. In May 2008, the president of the VLD even tabled a proposal, to ensure that those who would not vote, could not be pursued by court. The proposal explicitly argued that – for the time being – article 62 of the Constitution could not be changed. Therefore the president of the VLD proposed to remove the articles of the Electoral Code that define the possible sanctions for not voting. This would effectively create the rather ambiguous situation that the constitution would still mention the legal obligation, but that it would be clear for everyone that sanctions could not even be applied\(^7\). Here too, however, the liberal party, despite the fact that it belongs to the governing majority did not pursue this line as it was quite clear that this would antagonize its coalition partners in the current government. Ever since the late 1980s, therefore, the socialist parties have been able to function as a veto player, even if their representation in Belgian parliament is something like 20 per cent. The complicated Belgian system with (in total) six different governments\(^8\) implies that it is quite likely that socialist parties will continue to remain part of the governing coalition on at least some level.

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6. In the current government of prime minister Herman Van Rompuy, only the French-speaking Parti Socialiste participates in government, while the Dutch-speaking Socialist party is part of the opposition.
7. Proposal Vautmans, De Somer et al., Chamber of Representatives, Proposal 52/1216/001.
8. The Belgian Federal Government, regional governments for Wallonia, Brussels and Flanders, and community governments for the French and the German speaking community.
While compulsory voting used to be quite prevalent in the first half of the 20th century (Birch 2008), there are only a very limited number of countries where the obligation is still being practised in the present era. Despite various efforts to abolish the obligation, no chance has been implemented and it seems quite unlikely this will be the case in the near future. Given the delicate balance of the Belgian institutional framework, an elaborate procedure has been put in place to change the constitution itself. The procedure does not make constitutional change impossible, however. In the past twenty years major reforms have been implemented, and various modernizations of the constitution have been implemented (e.g., abolishing the death penalty, introducing social rights, allowing women the right to ascend to the throne...). These changes, however, are only possible if there is a wide consensus on the proposal. In the case of compulsory voting, this consensus does not exist. Only the Liberal party is in favour, while there is no consensus among all the other parties. Given the fact that it is totally unclear whether parties would gain or loose as a result of the change, and considering the consequences an abolishment might have on the way political campaigns are being conducted, most major parties have no vested interest in trying to get rid of this obligation.

6. Implementing an Electoral Threshold

A highly successful example of electoral reform, on the other hand, has been the introduction of an electoral threshold of five per cent. The introduction was quite remarkable, only because of the speed of the reform (Hooghe et al. 2005; Pilet 2007). While other attempts at reform lingered on for years and sometimes even decades, then Prime Minister Guy Verhofstadt succeeded very quickly in getting through his reform. Partly this is due to legal reasons: introducing the threshold did not require any constitutional reform, but could be easily be implemented by a change in the electoral law, and here an normal majority in Parliament is sufficient. Verhofstadt was also clever enough to frame the reform in such a way that except for the Christian-Democratic opposition party, all other parties stood to gain something from the reform. Since no
constitutional reform was necessary, the Christian-Democrats could not exert a veto power. On the other hand, it still has to be noted that at least in the short run, the consequences of the reform were exactly opposite to what the political elite had envisioned.

When the moderate Flemish nationalists of the ‘People’s Union’ split up in two parties in September 2001, the spectre of further fragmentation of the Belgian party system loomed wide (Deschouwer 2004, 196-198). Belgium already has one of the most fragmented party systems in the world with an effective number of parties of 8.5. It was feared that a further fragmentation would make the Belgian political system more unstable, by hindering the formation of stable governing coalitions. Already now, it usually takes five to six parties to form a government coalition in Belgium and as can be imagined this is not always conducive to government stability.

Only a month after the split-up of the Nationalist, Verhofstadt introduced a proposal to introduce a threshold, and already in April 2002 a global agreement was reached. First, a threshold of five per cent introduced. Following the German example, it was hoped that this threshold would make life impossible for the small parties, so that they would simply disappear. For the major existing parties, the threshold would have no effect at all, since their electoral support is spread quite evenly across the country. Second, larger constituencies were introduced, bringing down the number of constituencies from twenty to eleven. Here again, all major parties stood to gain from the reform. For Socialists and Liberals it meant that their best-known politicians could cash in on their popularity in a larger area, resulting in a larger part of the vote. Here, the measure was aimed explicitly at the Christian-Democrats, that are well-represented in the rural countryside. A lot of their MP’s are mainly locally known, and they often are mayor and MP at the same time. Larger constituencies for them meant that this form of political capital would become less important. Even the Green Party (at that time a member of Verhofstadt’s coalition) supported the proposal. The party at the time did not envision it would lose voters: the 1999 elections had been very successful for the Greens, with an all-time high of 14.4 per cent of the vote. The Green parties simply did not imagine that they ever would fall in the danger zone of a five per cent threshold. The larger
constituencies, however, were extremely important for the Green parties. It meant that in every constituency, they could be quite confident whom they would get elected. This was not the case in the previous system of small constituencies, with a second-tier division in order to ensure proportionality. The previous system indeed was very effective to make sure that the division of seats was proportional.

Only a month later, Prime Minister Verhofstadt announced that his government would take appropriate actions to halt the further fragmentation of the Belgian party system. Most notably, this would mean the introduction of a legal threshold in order to enter Parliament. The main disadvantage of the system, however, had nothing to do with numbers. All parties more or less obtained the seats they were entitled too, but the second-tier division did not allow them to control whom would be elected. The final remaining seats were usually distributed in a sort of random manner, so that candidates that did not have a chance to be elected in their own right, ended up in Parliament after all, thanks to the surplus of votes from candidates in completely different districts. Since the 1980s, the Green parties had had a number of these experiences. Their evaluation of the second-tier division was that in theory it could lead to large parliamentary party groups, but that the unpredictability of the system led to huge problems. Some of these ‘surprise MP’s’ obviously did not have the qualifications the party had hoped for. Second, it proved almost impossible these ‘surprise MP’s’ since they themselves of course realized that the odds they would ever get re-elected would be non-existent. A number of them simply tried to make the best of it during this one legislature, but without any added benefits for the party. So the Green party hoped that the reform would not have an effect on their number of seats, but it would increase their ability to control who would sit on these seats.

This by itself is an element that is usually neglected in this kind of research, since authors tend to focus solely on the number of seats in parliament as a criterion for success. For parties, however, it can be just as important to be able to decide who will get elected in Parliament, and to have the tools necessary to enforce party discipline in the parliamentary party group.
The only amendment the minor parties managed to introduce was the geographical level of the threshold. In the first proposal, it was mentioned that parties had to obtain five percent of the vote in an entire region of the country, and this would indeed curtail any hopes small parties might have to gain a seat after all. Partly as a result of negotiations within the Flemish regional government\(^9\), this was softened to a threshold for every constituency separately. If a party manages to gain five percent in one constituency, this is sufficient to obtain a seat, even if the average in the region is less than five percent. In this manner, the smaller parties hoped that they would still be able to obtain seats in the constituencies where their most well-known candidates lived, while they gave up hopes to obtain some marginal seats.

Again, however, assumptions about the future consequences of the reform proved to be completely wrong.

First, in the short run, the threshold did not succeed in reducing the number of small parties. Three minor parties formed a pre-electoral cartel with some of the major parties as a form of survival strategies. The major parties, from their side, were highly motivated to pursue the formation of pre-electoral parties for the simple reasons that the electoral strength of the three main parties in Belgium (Christian-Democrats, Socialists and Liberals) is roughly equal. Simultaneously, Belgian electoral law and practice offers various incentives for the ‘largest’ party\(^{10}\). Even if the junior coalition partner only could contribute a very small part of the electorate, these votes could be strategically important, since the function of prime minister (both at the federal as on the regional level) is usually reserved for the largest party, even if the difference with the second party is very

\(9.\) This by itself is a remarkable example of cross-level interaction in a multi-level political environment. Officially the regional governments are not involved at all in establishing the federal electoral law. In practice however, usually the same parties participate in the regional and the federal government. Within the Flemish government, the junior coalition partner Spirit asked the senior coalition partners to intervene on the federal level to soften the proposed threshold and this indeed duly happened. Given the fact that the Belgian party system only has national parties, the example shows that relevant policy makers are not just present at the federal level, but also in the regional governments and parliaments.

\(10.\) Although by itself there are no clear rules on what criterion should be used to decide what is the ‘largest’ party: the number of votes or the number of seats in the Chamber? Furthermore, sometimes it is argued that the ‘largest’ party should be based on the number of seats of the largest parliamentary party group, while others are inclined to take the ‘political family’ (e.g., the combined number of seats of the French and the Dutch-speaking Christian Democrats) as a unit. In any case: the largest political party usually can claim the position of the Prime Minister, not only of the Federal government, but also of the five regional governments in Belgium.
limited. The two nationalist parties that came into existence in 2001, therefore could continue to exist, despite the introduction of the threshold.

In fact it could even be argued that while the threshold was meant to ensure stability to the Belgian political system, the 2003 reform was partly responsible for the political quagmire that plagued Belgium in 2007-2008. In June 2007, elections were won by an electoral cartel composed of the Flemish Christian-Democrats (moderate) and the small radical Flemish nationalists. In fact, the alleged ‘victory’ of the pre-electoral cartel was not a victory at all: in 2003 the Christian-Democrats had already obtained 13.3 per cent of the vote on their own, while the radical nationalists obtained 3.1 per cent. In 2007 these two parties joined forces in a pre-electoral cartel, and jointly they obtained 18.5 per cent of the vote. Although they hardly gained votes (+1.9%), they could claim to be the largest party of the country.

The pre-electoral cartel introduced a completely new dynamic in the negotiations on forming a new government following the 2007 elections. Christian-Democrats and radical nationalists had entered the cartel with the explicit agreement that they would not just enter the campaign together, but that they also enter a coalition government together (or not). This did not mean, however, that the decision to enter a government would be together in a joint meeting, as this would always imply that the nationalists would be outnumbered by the much larger Christian-Democrats. It did mean that a joint decision-trap was created, as any agreement had to obtain a majority, both in the party conference of the Christian-Democrats and in the party conference of the radical nationalists. In this manner, the nationalists were granted veto power, despite their small scale. In fact, at a number of points during the negotiations, there was a majority among Christian-Democrats while the radical nationalists failed to approve a deal that was reached. Although the international media often portrayed the political crisis in Belgium as a consequence of the utter breakdown of Belgian institutions, partly the intensity of the crisis can also be explained as an unintended consequence of the 2003 electoral reform.

In the short run, therefore, the electoral threshold failed to reach its objectives as it did not reduce the effective number of parties in Belgium. This is clearly a case of
unintended consequences: the major parties voting for the introduction of a threshold at that point could not yet envision the formation of the pre-electoral cartels with the small parties.

Since 2008, however, it is extremely unlikely that all of the small political parties will continue to survive (Cox 1997). The three pre-electoral cartels have all ended by now, mostly because of strategic and ideological differences between the main and the junior coalition partner. Both the moderate and the radical Flemish nationalists now have to enter the electoral market on their own again, and at least for the moderate nationalists the polls predict it is highly unlikely they will enter Parliament again. The conclusion, for the time being, therefore is that Duverger’s classical law about the effect of electoral rules actually will work, but only after an adaptation period of six years. While the thesis of the ‘mechanical effects’ would imply that the small parties would disappear immediately following the reform, the experiment with pre-electoral coalitions in effect means they will only gradually disappear six years after the implementation of the reform.

It has to be noted, on the other hand, that the threshold did not prevent the introduction of a totally new populist party, that, according to the polls, will obtain more than 8 per cent of the Flemish votes in the upcoming regional elections of June 2009. Again, this does not seem like a factor that will strengthen the stability of the Belgian political system.

For the Green parties, too, however, the reform failed to provide them with the results they had hoped for. Apparently, during the talks about the reform in the Verhofstadt government, the Green parties failed to realize they would lose the 2003 elections, thus entering the danger zone for the application of the threshold. A careful inspection of the 2003 electoral results indeed shows that the Greens lost two seats that they would have gained without electoral reform.

The Green party, therefore, at first seems to contradict the expectation that parties will only support reforms if they are in their own benefit. The example, however, shows that:

- these benefits not always just mean more seats, but they can also entail other advantages;
- parties can also simply be mistaken with regard to their assessment of their future success
Looking back at the way the threshold was introduced, the most surprising element is how quickly Prime Minister Verhofstadt succeeded in getting his reform through so quickly. Parliament: less than two years. Self-evidently, this could partly by due by self-interest, since the major parties, obviously stood to gain from the seats lost by the small parties. But one of the reasons there was also that the advantages for stability were clear: one could hardly think of any scenario in which an electoral threshold of five per cent could lead to a loss of the major parties.

On the one hand, a threshold could lead to advantage for the ruling parties, but it also has an effect on the stability of the political system as a whole. Introducing a threshold does not fit a consensual logic, as Norris (2004, 69) would assume. The threshold actually bars a small, but clearly substantial minority of the population from gaining entrance to the country’s Parliament. Rather it will lead to party system stability, which in turn, should be conducive to ensuring the overall stability of the political system (Dunleavy & Margetts 1995, 16).

It is indeed striking to note that while the Christian-Democrats as an opposition party in 2003 sharply criticized the formation of larger constituencies, upon entering the governing coalition in 2007 totally abandoned the critique on the larger constituencies. Apparently the campaign staff of the Christian-Democrats too had learned to appreciate the extent to which larger constituencies allowed the party machine to control the campaign and the MP’s in a more effective manner.  

7. Splitting an electoral district

11. Another reason why the Christian-Democrats dropped their resistance against large constituencies might have to do with the intricacies of Belgian politics. The Constitutional Court has decided that the current system with large constituencies all over the country, except in the bilingual area surrounding Brussels where second-tier division is still being applied, violates the Constitution. The Christian-Democrats and the Flemish nationalists have used this decision to claim that the bilingual electoral district of Brussels should be separated according to linguistic lines, which has become a very sensitive topic. If the rest of the country, however, would also move back to smaller constituencies again, this decision of the Constitutional Court would no longer have an impact.
The electoral district of Brussels-Halle-Vilvoorde or BHV is centrally located (see Figures 1 and 2). It comprises the Brussels Region and 35 local municipalities of the Flemish Region. It is the only electoral district crossing the borders of the regions and thus the only one composed of areas belonging to two different language groups. The BHV district is of course not used for the regional elections, where Brussels is one single district for electing the Brussels regional parliament and the province of Flemish Brabant is a district for the election of the Flemish Regional Parliament. BHV serves as a district (with 22 of the 150 seats) for the election of the House of Representatives. It is also a district where for the election of the Senate and for the election of the members of the European Parliament the citizens can choose whether they cast a vote for the francophone or for the Flemish candidates.

Figure 1: The regional boundaries of Belgium

![Figure 1: The regional boundaries of Belgium](image)

Figure 2: The electoral district of Brussels-Halle-Vilvoorde (BHV)

![Figure 2: The electoral district of Brussels-Halle-Vilvoorde (BHV)](image)
Splitting that district along the language border and cutting off the bilingual Brussels from the unilingual Flanders is an old demand of the Flemish political parties. It was on the table in 1963, when after long and difficult negotiations a major compromise was reached about the language border. This border indeed defines language areas and thus the official language to be used for administrative matters and for education. Until 1963 the border was adapted every decade on the basis of a language census. The higher status of French did however make the border move up into Flanders and made especially the bilingual Brussels territory constantly expand into former unilingual Dutch-speaking territory. The Flemish parties thus asked to abolish the language census and to freeze the border where it was at that time. The agreement reached did indeed include the freezing of the border and thus the damming of the Brussels ‘oil stain’. To compensate for the non-expansion of Brussels to six local municipalities in the periphery of Brussels where in 1963 a significant minority of more than 30% of the inhabitants declared to speak French, a system of ‘language facilities’ was put in place in these six municipalities. They are and remain in Flanders where the official language is Dutch, but the inhabitants have the right to communicate with the public authorities in French. Other Flemish demands like the splitting of the Brabant province along the now fixed language border and the split of the BHV electoral district did not make it into the agreement. The splitting of the Brabant province into Flemish Brabant, Walloon Brabant and Brussels was however implemented in 1993.

This 1963 compromise did of course not fully satisfy each of the two language groups. It has ever since been the source of frustration. For the Flemish parties the granting of
language facilities and thus the acceptance of the fact that in Flanders the official language is not Dutch only, was not easy to swallow. The same goes for the survival of an electoral district that allows the Francophones to keep a clear link between Brussels and its Flemish periphery. For the Francophones the idea that the Brussels region would now be ‘locked up’ behind the hard language border and unable to expand into its ‘natural’ hinterland, was difficult to swallow. The request to split BHV (and to reduce the language facility rights) has come back several times, and was actually on the table whenever the state institutions were discussed and gradually changed from a unitary into a federal state based on the linguistic territories. But whenever the split of BHV was formulated as a Flemish request, the Francophone answer was a clear no, unless the boundaries of Brussels could be discussed again. And since the latter is unthinkable for the Flemish parties, the split of BHV remained an unfulfilled dream, just like a larger Brussels region.

Meanwhile the presence of BHV was reaffirmed in the electoral system for the election of the European Parliament since 1979 and for the election of Senate since 1995. For the election of the Flemish regional parliament the Francophone voters living in Flanders can of course not vote for lists presented in the Brussels regional elections. Ever since 1995 a list of Francophone defence ‘Union Francophone’ was able to secure one Flemish regional MP in the district Halle-Vilvoorde (and in 2004 in the larger provincial district of Flemish Brabant).

It is interesting to note at this point that the existence of BHV for the elections of the House has objective advantages for both language groups. That is: advantages in terms of seats obtained. For the Francophone parties BHV has the advantage that the Brussels-based candidates can be on the ballot paper in Flemish Brabant, allowing the Francophone voters the full choice between important candidates of all the Francophone parties. For the elections to the Senate and the EP this is even more important, since the candidates in these large districts are the real figureheads of the Francophone parties. Splitting BHV would mean for the Francophone parties a loss of one or two seats. Francophone parties could possibly unite their forces and present one single Francophone list in Flemish Brabant. That list could secure one or two seats, but it would have to present local candidates (based in Flanders), which would reduce the chances for getting
a good score and it would make the choice less attractive for the Francophone voters being obliged to vote for an identity-based list rather than for one of the ideology-based Francophone parties. These are exactly the arguments used by the Francophone parties to refuse the split of BHV. That split is sometimes even presented as an attempt to reduce the voting rights of the Francophones of the Brussels periphery.

On the Flemish side there is also an objective advantage. By pooling the votes of the small minority of Dutch-speakers in the Brussels region with the votes cast in Halle-Vilvoorde, the Brussels Dutch-speaking voters can be represented by candidates of all parties on the list for BHV. Splitting the district and creating a separate Brussels constituency would strongly reduce the chances for Flemish parties to win a seat in Brussels. Of the 11 seats available in the Brussels electoral district, only one would go to a Flemish party. The seat would go to the largest party, which is today the populist right wing Vlaams Belang.

Both language groups would thus lose something if the district were to be split. But this debate is not only about possible wins or gains at the polls. On the Francophone side the objective and rational reasoning is a bit stronger, but since the majority of the Francophone voters in Flanders vote for the liberal MR, there is nothing important to be lost by the other Francophone parties. It is a matter of principle. On the Flemish side the split of BHV is not at all about winning votes or seats, but a matter of principle. That also makes it quite difficult to accept yet another compromise that would fall short of a simple and pure split along the regional border.

The introduction of provincial districts in 2003 and thus the abolition of the first tier smaller districts, lead to a renewal of the request to split BHV. The demand to enlarge the electoral district and to introduce a 5 per cent threshold came from the Flemish parties. The Francophone parties did not oppose the reform (see above), but did not want BHV to be split as a result of this Flemish demand. A split would however have been the logic consequence of the introduction of provincial electoral districts. But since the split was out of the question a complex compromise was needed for the organization of the elections in Brussels, Flemish Brabant and Walloon Brabant. The idea was to give Flemish parties the possibility to present lists that would be the same in BHV and in the rest of Flemish Brabant, while Francophone parties would have a list for BHV only, and
with a second tier distribution of the seats in BHV and in Walloon Brabant. This agreement was annulled by the Constitutional Court, because it kept a district ‘Leuven’ (the rest of Flemish Brabant) without however guaranteeing that the voters of Leuven would be represented by seven MPs in the federal House of Representatives. The Constitutional Court considered this to be against the principle of equality. The annulment meant that the old system was restored: a district Leuven, a district BHV and a district Walloon Brabant, and no electoral threshold. Yet the Court added that this would also be a violation of the principle of equality, since the rest of the country would use provincial districts, and Flemish Brabant would be excluded of that principle. The Court issued a warning that the 2003 elections could be organized according to the old rules, but that these could not be used beyond June 2007.

The annulment of the 2003 compromise by the Constitutional Court was immediately seized by the Flemish political parties as an ideal opportunity to suggest an easy and perfectly constitutional way out of the problem: split BHV and introduce an electoral district Flemish Brabant. And the Francophone response was predictable and clear: no way, unless Brussels can be expanded to include the Francophones that would be electorally lost if BHV were split.

Although the electoral law is a federal matter, all Flemish parties promised solemnly at the 2004 regional elections in Flanders that they would now rapidly implement this old Flemish demand. Especially the Flemish Christian democrats, in an electoral alliance with the separatist N-VA blamed the liberals and the socialists (in power at the federal level) for not having done it already and declared that one needs only five minutes of political courage to do what is needed. This is a very striking example of the way in which the Belgian institutional setting allows political actors – parties and candidates in particular – to mobilize for change in a purely unilateral logic. Although power sharing is required at the end of the day, making promises as if no power sharing were needed is a normal practice.

Technically a reform of the electoral law – including the split of BHV – does not require a special or double majority. It can therefore be imposed by a majority of all Flemish parties against the Francophone minority. That also explains why in this case the (illusion of) unilateralism is so strong. In practice though it is impossible to force such a
symbolically important decision without negotiating with the Francophone parties. Even if the parliament approves a change of the electoral law, it has to be signed, published and implemented by the federal government. And even if the responsible minister would belong to the Flemish language group, the idea of publishing it against the will of the Francophones would mean the end of the government and a major institutional crisis. The power sharing is an essential and unavoidable device of the Belgian federation.

After the 2004 regional elections a Flemish coalition government was formed by Christian Democrats (and their separatist ally), the liberals and socialists. At the federal level a government of liberals and socialists of both language groups remained in power until the end of its term in 2007. The Flemish regional coalition agreement contained a sentence saying that the BHV should be split ‘immediately’. That meant that the Flemish liberal and socialist parties had to put it on the agenda of the federal government, or accept the risk of a collapse of the government if a Flemish majority would force the split through parliament. Federal Prime Minister Verhofstadt reluctantly accepted to start negotiations, but a complex compromise that tried to split the district for municipalities further from Brussels and to keep it for those closer to Brussels, while giving citizens the choice to register in one of both if they lived in-between, was finally torpedoed by ‘Spirit’, the small ally of the Flemish socialists and like the separatist N-VA one of the pieces of the former regionalist Volksunie. The failure to ‘bring home’ to the Flemish government a split of BHV caused some troubles in the regional coalition, but also an agreement not to raise the point any more before the federal elections of June 2007. But for the formation of a federal coalition after the 2007 elections the split of BHV was – again especially for Christian democrats and their ally – a condition sine qua non. The Francophone parties promised their voters – in also a unilateral illusion – that they would not even start talking about it anymore. And while the Flemish parties announced that they would also like the transfer of more competencies to the substate level (‘a normal further step in the reform of the state’), the Francophone parties promised their voters that they would protect their interests against the Flemish nationalist greed by – again – not even thinking of starting negotiations. The most direct consequence of these two unilateral strong and principled promises was that six months after the federal elections there was still no new federal government. Only the slow acceptance that talks could be
postponed and that talks would have to take place, lead to the formation of a transition government, that was succeeded by a new government that collapsed a few months later. The country found itself once more in a deep institutional crisis, where gridlock was the result of overpromising in a context where power sharing is the only way out. But power sharing then means a terrible loss of face. With new regional elections planned for 2009, nobody was too eager to move. And so far nobody has moved.

There was one quite spectacular event though, when in November 2007 the Flemish parties did vote in favour of the split of BHV in the parliamentary commission. Francophone parties subsequently started a number of procedures (declarations by the substate parliaments of French Community and Walloon Region that this was a conflict of interest) that each suspended the further treatment of the proposal for six months. Time was being bought to allow for the formation of a federal coalition. But sooner or later the issue will come back, among others because the Constitutional Court warned that federal elections – due for 2011 – with the old system would not be constitutional.

The split of BHV is thus a very typical example of an attempt to reform the electoral system in Belgium that faces the existence of both the written and unwritten rule that when one of the language communities really wants to use its veto, it can indeed avoid the reform to be implemented. The split of BHV along the lines requested by the Flemish parties is therefore very unlikely to be implemented, unless a Flemish veto – for instance with respect to the boundaries of the Brussels region or with respect of other major identity symbols – can be negotiated away in a big package deal.

8. Discussion

At first sight, the Belgian political system presents something of a contradiction. Despite all the political turmoil in the country, the electoral system itself has largely remained unchanged during the past century. List proportional representation in multi-member districts have remained the basic formula in Belgian elections. The main change seems to have been that this formula is not just being used on the national level, but also on the level of the regions and for the European elections.
In this paper, we reported on a first attempt to compare failed and successful attempts at electoral reform. Partly these attempts indeed can be explained by what one could call the standard repertoire of causal arguments in the field of the study of electoral reform. Nevertheless, it can be argued that these considerations receive a special status in the case of a fragile consociational democracy like Belgium. The ubiquitous presence of veto players renders it extremely difficult to change the electoral systems. Since usually electoral reforms are zero-sum games, there is always at least one party that stands to lose from the reform. If, because of institutional arrangements, that party receives a veto right, implementing reform is rendered virtually impossible. Simultaneously, the other parties lose their incentive to push for the reform as they know that violating the basic rules of consociational democracies could also work toward their own disadvantage.

The only successful attempt toward electoral reform during the past decade was the introduction of an electoral threshold. By itself, this threshold did not lead to more seats of more power for the parties that were instrumental in voting the reform. Some of the basic assumptions in this line of research therefore seem not to be valid in this case. What the parties did seem to gain, however, was stability and a limitation of (future) volatility. For all major parties involved, the advantage was not necessarily that they would gain more seats, but rather that election results would become better predictable and that it would become easier to form stable governing majorities. At least, that was the hope when introducing the reform, but the 2007-2008 political crisis in the country demonstrates that, at least in the short run, this goal was not achieved.

We have to acknowledge here the limitations of the present paper, that was just a first attempt to apply some of the general assumptions in the study of electoral reform on the very specific case of Belgium. What these case do seem to demonstrate however, is that the effects of the local context can override more general assumptions about the likely behaviour of ‘rational’ political actors.
References


