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Sixth State Reform – A Belgian Copernican Revolution or a Missed Opportunity?

Keywords: Belgium, Sixth State Reform, federalism

Słowa kluczowe: Belgia, Szósta Reforma Państwa, federalizm

Abstract

The article attempts to analyze the significance of the Sixth State Reform in the context of the evolution of the federal system in Belgium. The origins and the assumptions of this reform are analyzed, its main areas are presented, and then the systemic changes are evaluated. The deliberations, which took a broad account of the statements of representatives of the Belgian science of public law, lead to the conclusion that the reform, on the one hand, may be regarded as a kind of Copernican revolution in politics, but on the other hand, it is a missed opportunity to unravel the complicated paths of the Belgian federalism. The conclusions also indicate possible projections of the directions of the evolution of the political system in Belgium, concluding that the reform does not settle the directions of further development and the changes in this extremely sublime, though not necessarily clear, territorial structure of the country. However, it seems to be certain that this is not the last reform.

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Streszczenie**Szósta Reforma Państwa – belgijski przewrót
kopernikański czy stracona szansa?**

W artykule podjęto próbę analizy znaczenia Szóstej Reformy Państwa w kontekście ewolucji ustroju federalnego Belgii. Przeanalizowano genezę oraz założenia tej reformy, przedstawiono główne jej obszary, a następnie dokonano oceny przeprowadzonych zmian ustrojowych. Rozważania, przy których uwzględniono szeroko wypowiedzi przedstawicieli belgijskiej nauki prawa publicznego, prowadzą do wniosku, że reforma z jednej strony może być uznana za swoisty ustrojowy przewrót kopernikański, ale z drugiej strony jest niewykorzystaną szansą na rozplątanie skomplikowanych ścieżek federalizmu belgijskiego. W konkluzjach wskazano również możliwe projekcje kierunków ewolucji ustroju politycznego Belgii, wnioskując że reforma nie przesądza kierunków dalszego rozwoju i zmian w tej niezwykle wysublimowanej, choć niekoniecznie czytelnej strukturze terytorialnej tego państwa. Wydaje się jednak przesądzone, że nie jest to reforma ostatnia.

Another modernization of Belgian federalism – commonly referred to as the Sixth State Reform (*La sixième phase de la réforme de l'Etat*) – was carried out in the context of an extremely long and acute political crisis in 2010–2011, which was a direct, but certainly not the only, reason for the constitutional reform. The purpose of the article is to determine the significance of this reform from the standpoint of the evolution of Belgium's federal system. Therefore, the paper analyzes the origins of this reform, presents its main areas and assumptions, and then attempts to assess the systemic changes, primarily from the point of view of the complex territorial structure of the country. The conclusions also indicate possible future directions of the evolution of the political system in Belgium.

The starting point and an absolutely crucial issue for the evolution of the Belgian system is the social, political, and cultural (linguistic) bipolarization of the country's society. Belgium is home to two large linguistic groups – the Dutch-speaking community inhabiting the region of Flan-

ders (around 6.5 million people) and the French-speaking community in the region of Wallonia (around 3.6 million people) – and the much smaller German minority (only around 75,000 people). In addition, the complex structure of the Belgian society is made even more convoluted by the officially bilingual capital region of Brussels (around 1.2 million people)². Subsequent reforms of the political system have therefore been aimed at adapting the system to the current expectations of the linguistic groups, thus becoming the driving force behind the evolution of the Belgian consociational federalism³.

The Sixth State Reform was a response to a situation of the prolonged political tension that had escalated after the federal parliamentary elections held on June 13, 2010. The most important areas affected by this crisis were the differences between the two linguistic groups concerning the directions of the reforms of the state, the issue of the Brussels-Halle-Vilvoorde district, and the difficulties implied by these issues in the formation of a parliamentary majority and the formation of a government⁴.

² In addition, an important polarizing factor in Belgium is the fact that belonging to a particular linguistic community is strongly correlated with the national identity of individual Belgian citizens. P. Popelier, B. Cantillon, *Bipolar Federalism and the Social Welfare State: A Case for Shared Competences*, "Publius. The Journal of Federalism" 2013, No. 4 (43), pp. 628–630; J. Billiet, B. Maddens, A.P. Frogner, *Does Belgium (Still) Exist? Differences in Political Culture Between Flemings and Walloons*, "West European Politics" 2006, No. 29, pp. 912–916; C. Romainville, *Dynamics of Belgian Plurinational Federalism: A Small State Under Pressure*, "Boston College International and Comparative Law Review" 2015, No. 38 (2), p. 229.

³ Successive modifications to the constitutional system were the result of difficult negotiations between the linguistic groups. Changes in the scope of mutual relations were then reflected in institutional changes, such as the division of the members of the House of Representatives into linguistic groups and the so-called alarm procedure. W. Swenden, M. Brans, L. De Winter, *The Politics of Belgium: Institutions and Policy Under Bipolar and Centrifugal Federalism*, "West European Politics" 2006, No. 29/5, pp. 863, 869–871; C. Romainville, *Dynamics of Belgian Plurinational Federalism: A Small State Under Pressure*, "Boston College International and Comparative Law Review" 2015, No. 2 (38), p. 228; P. Popelier, B. Cantillon, *Bipolar Federalism and the Social Welfare State: A Case for Shared Competences*, "Publius. The Journal of Federalism" 2013, No. 4 (43), pp. 626–629. The statistical data comes from the website of the Belgian Statistical Office. <https://statbel.fgov.be/en/themes/population/structure-population> (31.10.2019).

⁴ E. Kuźelewska, *Status ustrojowy władzy wykonawczej w Belgii*, "Przegląd Politologiczny" 2017, No. 1, p. 29.

The immediate basis for the long-term political crisis was a fragmented and internally divided the House of Representatives⁵. The process of formation of a parliamentary majority took 541 days⁶. It is considered to have been completed on October 11, 2011, with the conclusion by eight political parties of an agreement on the institutional reform of the state⁷. The compromise that was reached is usually referred to as the butterfly agreement (*Dutch: Vlinderakkoord; French: Accord papillon*), which took its name from the bow tie that was worn by Prime Minister Elio Di Rupo who announced the success of the negotiations. This agreement was subsequently implemented by way of adoption of amendments to the Constitution and of laws defined as the Sixth State Reform⁸.

What should also be pointed at is the extraordinary procedure for constitutional amendments that was used in order to reach the “butterfly agreement”. In the Belgian constitutional system, there is only one procedure for amending the constitution, also referred to as the “revision” of the constitution⁹. Pursu-

⁵ The frequent fragmentation of the political scene is the result of the electoral system. Competition takes place separately, because Walloon parties compete against each other in Wallonia and Flemish parties compete against each other in Flanders. Cf. R. Klepka, *Parlament w państwie federalnym na przykładzie Austrii, Belgii, Niemiec i Szwajcarii. Analiza porównawcza*, Warsaw 2013, p. 166.

⁶ What is considered an “unofficial world record” that previously belonged to Cambodia, where, between 2003 and 2004, a government could not be formed for 353 days. P. Peeters, *Reflections on the Belgian federal state*, [in:] *Multinational federations*, eds. M. Burgess, J. Pinder, Abingdon 2007, p. 36; Y. Lejeune, *Droit constitutionnel belge: Fondements et institutions*, Brussels 2017, p. 697; K. Prokop, *Odpowiedzialność członków Rządu Federalnego w Belgii*, “Przegląd Prawa Konstytucyjnego” 2018, No. 2 (42), pp. 46–47.

⁷ K. Deschouwer, M. Reuchamps, *The Belgian federation at a crossroad*, “Regional & Federal Studies” 2013, No. 3 (23), pp. 261–270.

⁸ More information can be found in: D. Caluwaerts, M. Reuchamps, *Combining federalism with consociationalism: Is Belgian consociational federalism digging its own grave? “Ethnopolitics”* 2015, No. 3 (14), pp. 277–295; C. Devos, D. Sinardet, *Governing without a government: the Belgian experiment*, “Governance” 2012, No. 2 (25), pp. 167–171; R. Klepka, *Kryzys polityczny lat 2010–2011 w Królestwie Belgii – geneza i możliwe następstwa*, [in:] *Na tropach twórczości i czasów minionych. Księga jubileuszowa ofiarowana Profesorowi Damianowi Tomczykowi*, eds. M. Cetwiński, A. Czajkowska, Częstochowa 2012, p. 453; A.L. Verbeke, *Belgium, A Broken Marriage*, [in:] *Federalism and Legal Unification: A Comparative Empirical Investigation of Twenty Systems*, eds. D. Halberstam, M. Reimann, Dordrecht 2013, pp. 124–125.

⁹ F. Delpérée, *The Process for Amending the Belgian Constitution*, “Canadian Parliamentary Review” 1991, No. 3 (14), p. 19; *La Chambre des représentants. La Constitution belge*. Information

ant to the Article 195 sentence 1 of the Constitution, a revision of certain provisions of the Constitution may take place following a declaration¹⁰ that reasons for making certain constitutional amendments have arisen¹¹. The declarations contain an indication of the specific provisions that should be amended with a justification of the need to revise the Constitution¹². Following the publication of the declarations, the two chambers are dissolved. Only the newly elected chambers decide on the revision of the Constitution, and the scope of permissible changes cannot go beyond those provisions that are indicated in both declarations at the same time¹³. The procedure itself is therefore very demanding and requires agreement on a political consensus in this area that would go beyond the framework of a single term of the parliament¹⁴.

In the analyzed case, it was therefore necessary to revise those provisions of the Constitution that were not declared to be subject to revision during the previous parliamentary term. In view of the fact that the constitutional provisions that could be amended in the light of the previous declarations included Article 195, the decision was made to supplement this article of the constitution with transitional provisions, which only applied during the current parliamentary term. These provisions made it possible to amend the provisions of the constitution indicated therein without the need for a declaration on the revision of the constitution and the holding of elections¹⁵. The transitional provisions introduced on March 29, 2012 contained a list of fifteen consti-

materials of the House of Representatives of June 1, 2014, No. 04.00; W. Skrzydło, *Zasady zmiany konstytucji Królestwa Belgii*, [in:] *Zasady zmiany konstytucji w państwach europejskich*, eds. R. Grabowski, S. Grabowska, Warsaw 2008, p. 41; R. Klepka, *Parlament...*, p. 194.

¹⁰ In practice, these are two so-called constitution revision declarations, one of which is adopted by the House of Representatives and the Senate, and the other is signed by the King.

¹¹ R. Grabowski, *Zasady zmiany Konstytucji Królestwa Belgii w świetle postanowień przejściowych z 2012 r.*, "Przegląd Prawa Konstytucyjnego" 2013, No. 4 (16), pp. 44–45.

¹² Y. Lejeune, *op.cit.*, p. 86.; F. Delpérée, *op.cit.*, p. 19; Ch. Behendt, *The process of constitutional amendment in Belgium*, [in:] *Engineering Constitutional Change: A Comparative Perspective on Europe, Canada and the USA*, ed. X. Contiades, New York 2013, p. 9.

¹³ Y. Lejeune, *op.cit.*, p. 85.

¹⁴ X. Delgrange, H. Dumont, *Le rythme des révisions constitutionnelles et l'hypothèse de l'accélération du temps juridique*, "Administration publique trimestrielle" 1999, p. 212; J. Goossens, P. Cannoot, *Belgian Federalism after the Sixth State Reform*, "Perspectives on Federalism" 2015, No. 2 (7), p. 32.

¹⁵ J. Goossens, P. Cannoot, *op.cit.*, pp. 32–33.

tutional matters that could be revised immediately. Despite the fact that the new – “transitional” – mode required adoption of amendments in enumerated regulations with a majority of two thirds of votes, in the presence of at least two thirds of the members of each chambers of the parliament (which conforms to the standard requirements set forth in Article 195), this solution was adopted in the doctrine of Belgian constitutional law as extremely controversial and, although formally acceptable, it was incompatible with the *ratio legis* of the Article 195 of the Constitution¹⁶.

As a part of the Sixth State Reform, on July 19, 2012, the Articles 63 and 160 of the Constitution were amended and Articles 157 bis and 168 bis were added. On January 6, 2014, the Articles 5(2), 11a, 23, 41, 43, 44, 46, 56, 57, 64, 65, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82, 100, 117, 118(2), 119, 123(2), 142, 143, 144, 151(1), 162, 167, 170(3) and 180 of the Constitution were amended and Articles 39 bis, 39 ter, and 135 bis were added. Both revisions also resulted in the adoption of a number of laws implementing the butterfly agreement¹⁷. The political implementation of this pact focused on the following issues: reform of the Senate, transfer of competences to communities and regions and the associated changes in the public finance system, as well as on a compromise on the Brussels-Halle-Vilvoorde (B.H.V.) district.

Although from a political standpoint this does not seem to be the most important, the key to the butterfly agreement was to solve the problem of the B.H.V. district¹⁸. The unique characteristics of this district was that its borders were not appropriate for the provincial distribution of seats that was introduced in 2002. The division into constituencies based on municipal boundaries was thus abolished, while in one of the provinces, Brabant, two constituencies were left: B.H.V. and Leuven. The B.H.V. district comprised territories that belonged to two regions and thus to two linguistic areas: 19 municipalities in the bilingual Brussels capital region and 35 municipalities in the Flemish Brabant province (Dutch language). This enabled French-speaking candidates from Brussels to win votes in the Flemish municipalities of the Flemish Brabant, while Dutch-speaking candidates were able to run not only

¹⁶ C. Romainville, *op.cit.*, pp. 241–243. A different opinion is expressed in: R. Grabowski, *op.cit.*, p. 48.

¹⁷ A.L. Verbeke, *op.cit.*, pp. 124–125.

¹⁸ J. Goossens, P. Cannoot, *op.cit.*, pp. 35–38.

outside the capital, but also in Brussels, thus achieving better results (thanks to votes won outside of Brussels)¹⁹. Despite this, a part of the Dutch-speaking community considered such a mechanism to be an attempt to Frenchify the Dutch-speaking areas around Brussels, and the complicated situation in the B.H.V. district became a symbol of the polarization of the Belgian society.

In 2003, in case No. 73/2003, the Belgian Constitutional Court ruled that the law in question treated candidates in the province of Brabant differently from candidates applying for seats in other provinces²⁰. This led the Dutch-speaking community to raise its demands for the separation of the B.H.V. constituency and for respect for the principle of separate constituencies for both linguistic groups, which was not recognized by the French-speaking side, which preferred to maintain the status quo. The parliament elected in 2007 failed to find a satisfactory solution and the issue remained at the epicenter of political disputes, even causing the collapse of the second government of Prime Minister Yves Leterme and the elections in 2010. They were held again on the basis of the original regulation that maintained the division of Brabant into two constituencies, which raised doubts from the point of view of their constitutionality. However, it has become clear that the B.H.V. issue needed a new solution²¹.

It was not until September 14, 2011 that an agreement was reached on the B.H.V. district. The Dutch-speaking part of the province of Flemish Brabant became a separate constituency that included Halle-Vilvoorde and Leuven. A separate capital-city constituency was created in Brussels. This was a solution that Dutch-speaking voters had wanted for a long time and, as a compensation for this, the French-speaking voters obtained “special conditions” in six suburban municipalities around Brussels²². The agreement was imple-

¹⁹ J. Velaers, *De Zesde Staatshervorming, Eerste Fase: BHV, de Randemeenten, Brussels en de Democratie – Deel I*, “Rechtskundig Weekblad” 2012, No. 76, pp. 1007–1008.

²⁰ However, the Court decided to keep the Act in force for four more years. P. Patrick, J. Mosselmans, *Belgium, The Brussels-Halle-Vilvoorde Question: A Linguistic Trap*, “European Public Law” 2009, No. XV (1), pp. 5–15; C. Romainville, op.cit., p. 240; J. Velaers, *De Zesde Staatshervorming, Eerste Fase: BHV, de Randemeenten, Brussel en de Democratie – Deel I*, “Rechtskundig Weekblad” 2012, No. 76, pp. 1007–1008.

²¹ C. Romainville, op.cit., p. 241.

²² These “special conditions” consist in maintaining the right of French-speaking citizens living in these six municipalities to vote for candidates in the Flemish Brabant district or in

mented by Chapter II of the Act of July 19, 2012, which amended the federal electoral law²³.

As far as the Senate is concerned, first of all, the revision of the Belgian constitution changed the way in which this house is formed. Apart from the fact that the Senate become smaller and now consists of 60 senators (instead of 71), there are no more directly elected senators. Fifty senators are now appointed by the parliaments of the communities and regions, within the framework of a constitutionally defined parity. The distribution of individual seats concerns the results of the elections to these assemblies²⁴. The ten remaining seats are for senators who supplement the composition of the house on the basis of the co-opting technique already in use. However, there is no shortage of critical opinions about this technique²⁵ and the general concept of shaping the composition of the Senate²⁶.

Secondly, the Sixth State Reform seriously limited the Senate's political position due to the fact that the basic legislative procedure is now unicameral and takes place in the House of Representatives. It applies to all matters for which the Constitution does not expressly provide any other procedure.

the Brussels district. They can therefore vote for candidates in Brussels, even though they are considered when calculating the number of seats allocated to Flemish Brabant. This was enshrined in Article 16a of the Special Act on institutional reform, which means that changes to this system require a majority of votes cast in both linguistic groups in each house of the parliament, as well as a general majority of two thirds of the votes cast in each house. J. Goossens, P. Cannoot, op.cit., p. 36.

²³ As a side note, it can be added that the butterfly agreement also ensured the reform of the B.H.V. judicial district, introduced by the Law of July 19, 2012 on the reform of the Brussels judicial district. F. Gosselin, *La réforme de l'arrondissement judiciaire de Bruxelles*, [in:] *La sixième réforme de l'Etat (2012–2013). Tournant historique ou soubresaut ordinaire?*, eds. J. Sautois, M. Uyttendaele, Limal, 2013, pp. 375–396.

²⁴ Cf. Article 42 of the Constitution; J. Goossens, P. Cannoot, op.cit., pp. 38–41.

²⁵ K. Muylle, *De hervorming van de Senaat en de samenvallende verkiezingen: een processie van Echternach naar de federale (model)staat?*, [in:] *Het federale België na de Zesde Staatshervorming*, eds. A. Alen et al., Brugge 2014, pp. 103–124.

²⁶ C. Romainville, op.cit., pp. 244–245. Initially, the reason for the cooptation was the desire to make sure that the composition of the house included experts, i.e. senators with specific knowledge of the subject matter supporting the debate and the law to be passed. It turned out that this was a way of bringing unpopular politicians to the Senate, who could not count on a mandate in direct elections to the federal parliament or the parliaments of components of the federation.

As a result, the Senate, which represents the interests of the federation's entities, lost its influence on current legislation, while gaining full control over institutional matters, such as e.g. amendments of the constitution and adoption of the so-called special (organic) laws indicated in the constitution. Given this, and the fact that the Senate is now a body that holds plenary sessions only eight times a year, the dominant opinion is that the position of the Senate has been weakened, its role has not been clearly defined, and the house itself does not ensure participation of the constituent parts of the federation in the decision-making process at the federal level²⁷.

An important element of the Sixth State Reform was the transfer of certain competences of the federation to the level of its constituent parts. As Céline Romainville writes, this has deepened the process of federalization of the state by creating a “homogeneous” package of competences transferred to communities and regions, as well as strengthening the autonomy of these entities²⁸. Communities received a number of powers related to so-called personal matters (including social assistance, health care, legal aid, and criminal law on minors)²⁹ and regions were given responsibility for some of the labor market and road safety matters³⁰. Moreover, competences were transferred in the field of tourism from communities to regions. The scope and significance of the reform in this respect is illustrated by the estimated value of expenditures related to the transferred matters, which is equal to approximately EUR 20 billion, which justifies considering it as one of the most important reforms since 1970. According to Jurgen Goossens and Pieter Cannoot, the transfers justify a paradigm shift in the distribution of power, as it can be argued that the majority of power is now at the level of the component parts of the Belgian

²⁷ G. Van Der Biesen, *De nieuwe wetgevingsprocedure*, [in:] *Het federale België na de Zesde Staatshervorming*, eds. A. Alen et al., Brugge 2014, p. 132; P. Popelier, *Het kaduke masker van de Senaat: tussen deelstaatsfederalisme en multinationalaal confederalisme*, [in:] *De Zesde Staatshervorming. Instellingen, bevoegdheden en middelen*, eds. J. Velaers et al., Antwerpen 2014, p. 90.

²⁸ C. Romainville, op.cit., pp. 245–246.

²⁹ As the part of the powers transferred to the communities, the competent institution in Brussels is the Joint Community Commission, composed of the members of the Regional Parliament of the Capital City of Brussels.

³⁰ C. Romainville, op.cit., pp. 245–246.

Federation³¹. Belgian Prime Minister Elio Di Rupo, referring to the statements made by the Prime Minister of Flanders Kris Peeters³², even described the reform as a Copernican revolution³³.

However, there is no lack of criticism of such a transfer of competences, mainly due to potential conflicts of competence that may arise in the sphere of the so-called overlapping competences. An example is the fight against unemployment, where control tasks have been delegated to regions, but legislation has remained at the federal level³⁴. In other spheres, the existing inconsistencies and ambiguities were not eliminated. The transfers are characterized, on the one hand, by a high degree of fragmentation and interlacing of competences and, on the other hand, by commitments to cooperation and increased interdependence. In addition, the analysis of transfers made shows that in practice the federal authorities often maintain influence in areas where powers have been transferred to communities or regions, and transfers are characterized on the one hand by a high degree of fragmentation and on the other hand by obligation to cooperate and increased interdependence. The transfer of competences thus carried out seems to be contrary to the idea of exclusive competences that clearly divide powers in particular matters between specific entities³⁵.

The Sixth State Reform also included a reform of public finances, closely linked to the transfer of described competences. According with the butterfly agreement, on January 6, 2014, the system of financing for communities and regions was reformed by amending the Special Finance Act. Most importantly, this change broadened the fiscal autonomy of the regions, mainly by allowing these entities to impose additional tax burdens related to personal income tax (an increase of this tax by a certain percentage compared to a standard federal tax), which replaces the previous

³¹ J. Goossens, P. Cannoot, op.cit., pp. 44–46.

³² W. Van Driessche, *On a mission. Kris Peeters sells Flanders to American investors and politicians*, "Flanders Today", July 6, 2011, p. 5.

³³ W. Pas, *Algemene beschouwingen over de bevoegdheidsverdeling in het kader van de zesde staatshervorming*, [in:] *Het federale België na de Zesde Staatshervorming*, eds. A. Alen et al., Brugge 2014, p. 343.

³⁴ C. Romainville, op.cit., pp. 245–246.

³⁵ W. Pas, op.cit., p. 353; J. Goossens, P. Cannoot, op.cit., p. 45, C. Romainville, op.cit., p. 246.

system of subsidies from personal income tax revenues. In addition, regions have other instruments to influence the amount of federal personal income tax (e.g. tax breaks). However, the subsidy scheme has not been abandoned because, irrespective of the mechanisms put in place, known as regional personal income tax, it should also be noted that the powers transferred to the regions under the Sixth State Reform are financed by new subsidies³⁶. The subsidy scheme also covered financing of tasks delegated to communities which, due to the unique nature of bilingual Brussels and potential allegations of unfair treatment of persons living in the same territory, were not equipped with fiscal autonomy instruments analogous to those granted to regions. In addition, the reform introduced changes to solidarity mechanisms, introduced transitional periods (mainly due to the possibility of reduction of budget revenues in Wallonia), provided for mechanisms of adequate additional financing for Brussels (however, it cannot exceed 0.1% of the GDP), and announced a progressive increase in the burden on communities and regions with regard to the pension system and in favor of the costs of financing of the federation³⁷. An interesting novelty introduced by the reform is the mechanism of climate responsibility of communities and regions, which consists in additional funding or penalties imposed on these entities in line with their progress in achieving reduction of greenhouse gas emissions³⁸.

Undoubtedly, the Sixth State Reform brings significant changes to these areas. The question remains whether this change deserves being called a Copernican revolution. However, the expectation that this or another reform of the system will miraculously stabilize the state seems unfounded, because the Belgian model of linguistic and socio-political bipolarization is in itself a source of tensions at these levels, and thus a threat to the integrity of the state. Re-

³⁶ J. Goossens, S. Van Belle, *Institutioneel akkoord over de Bijzondere Financieringswet ontsluit*, "Rechtskundig Weekblad" 2012, No. XXVII, pp. 1190–1208.

³⁷ Salaries of many people are not taxed in Brussels because many of them are commuters from other regions. Moreover, Brussels loses significant tax revenues due to the presence of many international and national public institutions which benefit from property tax exemption, and the status of Brussels as the capital and seat of many international institutions entails additional tasks and costs.

³⁸ W. Pas, op.cit., p. 360; J. Goossens, P. Cannoot, op.cit., pp. 43–44. *Loi spéciale relative au financement des Communautés et des Régions* of January 16, 1989, M.B. No. 1989/021010, p. 850.

searchers of federalism point out that such a configuration in a federal state, in which more than a half of the population identifies with one group, becomes “almost always a source of instability” and a source of political change, which justifies the belief in a dynamic nature of such federations. According to Ronald Watts, such federations have a problematic tendency for a balance of powers and an a priori setting of different parities, because in practice it is not possible to change alliances between individual federal entities (representatives) on an ongoing basis on particular issues. The author also points out that another possible source of instability is a sense of constant threat in the smaller entity and a sense of harm in the larger entity due to the restrictions (burdens) imposed on it to compensate for the position of the weaker entity³⁹. It is therefore difficult to imagine a form of political regulations that would remedy the social tensions in question. It can only be expected that the introduced regulations will provide mutually acceptable rules of the game, allowing at the same time to mitigate these antagonisms and create conditions for coexistence within one country.

The complex factors generating the potential for political change and thus implying the Sixth State Reform mean that Belgian federalism is still changing and Belgium has not yet reached the final stage of institutional evolution⁴⁰. This justifies the supposition that the seventh state reform is very likely⁴¹. Although the tendency of the political evolution to date is quite clear, it does not mean that the end of the road must be the breakup of Belgium. This is because it is possible both to limit this evolution to deepening of the federal structure and⁴² to change the concept of Belgian federalism to symmetrical federalism⁴³, which would involve elimination of communities and re-

³⁹ R. L. Watts, *Multinational Federations in a Comparative Perspective*, [in:] *Multinational Federations*, eds. M. Burgess, J. Pinder, Abingdon 2007, pp. 233–234; C. Romainville, op.cit., p. 229.

⁴⁰ J. Velaers, *The Belgian federalism/confederalism debate in light of classic constitutional theory*, [in:] *(Con)federalism: Cure or Curse?*, eds. K. Deschouwer, J. Poiriers, Brussels 2015, pp. 17–26.

⁴¹ J. Goossens, P. Cannoot, op.cit., pp. 49–51.

⁴² Cf. J. Velaers, *Quel avenir pour la Belgique*, [in:] *La sixième réforme de l'Etat (2012–2013). Tournant historique ou soubresaut ordinaire?*, eds. J. Sautois, M. Uyttendaele, Limal, 2013, p. 571.

⁴³ M. Verdussen, *La Belgique appartient-elle à l'avenir ou au passé?*, [in:] *La sixième réforme de l'Etat (2012–2013). Tournant historique ou soubresaut ordinaire?*, eds. J. Sautois, M. Uyttendaele, Limal, 2013 p. 575. Hendrik Vuye is of an opposite opinion: he believes that the evolution of

gions⁴⁴ and establishment of a structure of a confederation⁴⁵. Therefore, loss of integrity of contemporary Belgium seems unlikely, particularly in view of the coexistence of the two linguistic communities in Brussels and its indivisibility, as well as the existing – despite the bipolarization – economic ties and other jointly implemented projects. The fact that, despite strong centrifugal tendencies, the Belgians have found a common solution to an extremely acute political crisis in the form of the Sixth State Reform is an excellent proof of this. However, this does not change the opinion that the *spiritus movens* of Belgian federalism is not a desire to cooperate, but rather mutual distrust and unwillingness to cooperate.

Certainly, the Sixth State Reform did not straighten out the complicated paths in the labyrinth of Belgian federalism, and in this sense, it is a missed opportunity for the political system. The question that has not been answered is whether this is at all possible and necessary in Belgium. The reflection related to the political crisis of 2010–2011 seems to be quite symptomatic in this respect. Of note is the fact that the Sixth Reform did not change much in terms of Belgian problems formation of a parliamentary majority. In the case of Charles Michael's cabinet (2014–2018), the negotiations have continued for nearly five months.

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Belgian federalism is going in the direction of an asymmetrical structure. H. Vuye, *Brussel: enkele modellen en hun(on)mogelijke gevolgen*, "Chroniques de Droit Public" 2012, No. 2, p. 259.

⁴⁴ J. Vande Lanotte J., *De Belgische Unie bestaat uit vier deelstaten*, s. l., s.n. 2011, pp. 1–24. Johan Vande Lanotte, a professor of constitutional law but also an active politician, writes in his brochure that Belgium should become a Union of four federal states: Flanders, Wallonia, Brussels, and the German-speaking region.

⁴⁵ It is worth noting that since 2003, the demands for constitutional changes in Belgium have clearly included the idea of a confederation, especially in the programs of Wallonian political parties. C. Romainville, *op.cit.*, pp. 237–238, and the literature and programmes of Wallonian political parties referred to therein.

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