

# **Language criteria as a means to organize society in Flanders**

By Wilfried VANDAELE

Member of the Flemish Parliament

Member of the Belgian Senate

Former Secretary-General of the Cultural Treaty between Flanders and the Netherlands

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Thank you for inviting me to Donostia. Your struggle for cultural and linguistic rights, and for self-government of the Basque country in Spain resembles the struggle of Flanders in Belgium.

I have been active in the Flemish Movement and the Flemish Nationalist Party for 35 years, and currently I am a member of the Flemish Parliament and of the Belgian Senate for the New Flemish Alliance (N-VA).

Before I became a full time politician, I used to be secretary-general of the Cultural Treaty between Flanders and The Netherlands. Today I am also vice-president of the Dutch Language Union. Between Flanders and The Netherlands, we have an international cooperation in the fields of education, culture, language, etc. Dutch is the official language in The Netherlands, but also in Flanders. At home we often speak Flemish, which is a system of dialects. Our official language is Dutch. We did not develop Flemish as a standard language.

## **LANGUAGES IN BELGIUM**

Flemish people are the majority in Belgium, but only in 1930 – Belgium was founded 100 years earlier, in 1830, - a university, the University of Ghent, was allowed to give courses in Dutch.

Flanders has 6,5 million inhabitants, The Netherlands almost 17. Together there are 23 million people speaking Dutch. Dutch is one of the official languages of the European Union.

As you know, today we have 28 member states and 25 languages. Dutch occupies the 8th place. So Dutch is not a small language, but still the language is under pressure.

## **French minority dominated Flemish majority**

Belgium was founded in 1830. Officially, the Constitution says that the individual is free to use the language he prefers. Although a majority of Belgians was Flemish and spoke Dutch, or a Flemish dialect, the official language then was French.

The upper class used French. Courts, education, the public administration were French. People who wanted to succeed in life, had to use French. So the Frenchification worked very rapidly.

Brussels is a good example: historically, it was a Flemish city, but today it is a mainly French speaking city, surrounded by Flemish territory.

## **Flemish demand language rights**

Since 1860, Flemish people demanded language rights because there were some really unacceptable things going on. Pupils were not allowed to speak Dutch, not even on the playgrounds. They were punished. Some people were sentenced to death without being able to understand what had been said in court.

100 years later, in 1962, the language border was established.

In Belgium there are 4 language zones:

- The Dutch zone (Flanders)
- The French zone (Wallonia)
- The German zone (a small piece near the German border)
- A bilingual zone (French and Dutch): Brussels

## **Principle of territoriality versus personality principle**

The fact that we established language zones, with language borders, means that we choose for the principle of territoriality, with location-related language rights. We did not choose for the personality principle, with person-related language rights. In Latin: "ius solis" versus "ius personae".

The personality principle means that a person has rights and takes these with him, wherever he lives. In that case, as far as language is concerned, public authorities have to adapt to the individual.

The principle of territoriality gives rights to the region. Individuals have to adapt to the habits – e.g. the language- of the region.

In my opinion, the principle of territoriality is the only system that can work in the public area. And all states that are organised in a federal way, like Belgium, use this principle. The European Court for Human Rights says that this principle is not discriminating (1968).

A region, a society, has certain rules, has a certain language and it is a good thing for individuals to use that language when they want to be part of this society. At home, in private, people can do whatever they like, they can speak the language they want, they can even do the most bizarre things – stand on their heads naked with a dead rabbit between their teeth, singing a song in Swahili - but when citizens and authorities communicate, there are linguistic rules.

When people communicate with each other, according to the law, people can use the language they want, but it is a good thing for society that in public, people use the language of the area. So, in Flanders, this is Dutch. In Flanders, as in most countries, when you give your pub a name, you can choose the language you want, a restaurant can use the language it wants on the menu, etc. But mind you: this is not the case in e.g. Québec/ Canada, where there are also language requirements for names of shops, pubs, etc.

We need a “language breathing space”, a cultural space, because it makes us “feel at home”, it makes us feel safe amongst people we can understand, there is a social cohesion, there is solidarity etc ... elements that are all very important to construct a solid society.

## **EUROPEAN CULTURAL AND LINGUISTIC POLICIES**

The existence of different societies, of different cultures, linguistic and cultural varieties in Europe, gives us a richness, **a colourful diversity that should be typical for Europe.** As opposed to the United States, with its melting pot.

Europe has not always been clear on that matter: there has always been a friction between the economic objectives and the cultural objectives.

On one hand, nothing must prevent free trade and free traffic of services, goods and people, on the other hand cultural –and thus linguistic – variety is important for Europe.

This principle was adopted in the Treaty of Maastricht (1992): the cultural paragraph (article 128) gave countries the possibility to protect and stimulate their cultural identity. I was one of the co-authors of this paragraph at the time. Also the educational paragraph (article 126) stressed the importance of the languages. The Treaties of Amsterdam (1997) and Lissabon (2007) confirmed the principle that the European Union respects the cultural and linguistic diversity.

European countries are allowed to subsidize their movies, books, tv-programmes, works of art, theatres, etc. even if this inhibits to a certain extent free trade in the sense that it could be a distortion of competition.

Different member states demanded that this "cultural exception" should also be inserted in the "Trans-Atlantic Trade and Investment Partnership (TTIP) that is being negotiated between Europe and the United States for the moment.

Internationally, there are quite some instruments not only to protect different languages as such, but also to protect the "smaller languages" or languages that are only used in certain regions. You see some here.

We have the International Covenant on Civil and Political Rights (adopted in 1966, in force since 1976) that says that members of a minority in a state, are allowed to use their own language (article 27). There is the European Charter for regional or Minority Languages (1992, in operation since 1998); we have the European Bureau for Lesser Used Languages, the Mercator information network for minority languages and cultures (1987).

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The last one is the Framework Convention for the Protection of National Minorities, that implies certain rights for minorities in the field of culture, education, radio and television, and language. This one is a hot political issue in Flanders and Belgium.

Belgium signed this convention in 2001, but the Flemish region never has. Flanders refuses to sign because it fears that signing this treaty would endanger the principle of territoriality, with language zones and borders, on which the federal state of Belgium is founded. The problem in Belgium is that the French are very imperialistic. They are not good neighbours, because they constantly want to move the fence. A good neighbour doesn't do that. Before you realise, your French neighbour is sleeping in your bed. With your wife!

This fear of the Flemish was strengthened when first Mr Columberg (1998) and later Mrs Nabholz-Haidegger (2002) wrote a negative report for the Council of Europe.

Spain already signed the Framework for the protection of minorities in 1995.

## **LANGUAGE USED AS AN INSTRUMENT TO ORGANISE SOCIETY**

In fact, we constantly expect people to comply with language conditions: in job advertisements e.g. language is a relevant criterion. Language is not the same as race or ethnic background. One can learn a language.

Flemish and Belgian laws state that one mustn't discriminate on the basis of language. But: one can use language as a criterion if one can motivate ! Sometimes this is a difficult discussion!

Flanders uses the condition of knowing Dutch as a criterion to augment the chance of finding a job, to integrate in a community, to keep certain areas livable.

So our motives to ask that people know Dutch, are not merely cultural or linguistic, but also social.

If people can communicate with each other and understand each other, people feel safer, solidarity grows, etc.

After a struggle of many, many decennia, today, in Flanders Dutch must be used by the public administration, by the courts, in education and in enterprises.

Some instruments Flanders uses involving language criteria, have been taken to Belgian courts, to international committees, or to the European court by the French in Belgium.

Let us have a look at some language laws and at the reaction of national and international courts and institutions.

We will have a look at:

- courts
- education
- companies
- the administration

- housing
- minimum living wages
- some other fields

## **Courts**

Courts in Flanders have to use the Dutch language. In Brussels it should be Dutch or French.

If people, e.g. foreigners, do not understand the language, they can ask for an interpreter.

## **Education**

In kindergarten, in primary and secondary education, Dutch must be used (law of 1963). There are a few exceptions, but not worth mentioning.

The exception is that there are experiments in the sense that some schools teach partly in the language of immigrants in order to stimulate their integration. Also there have been experiments with immersion education, which means that in some classes French or English are used for non-language courses in order to teach children these languages at an early age. These still are exceptions in Flanders and most of us do not really like this method.

Also universities and institutions for higher education have to use Dutch. But: in higher education more and more courses are taught in English. To attract more foreign students and to give Flemish students more opportunities on the international market.

In The Netherlands, some universities nowadays only use English. In Flanders this is still impossible. Last year we adopted a new law (in fact a Flemish "law" is called a "decree") to allow more English at university, but still there are restrictions: all Flemish universities combined are allowed to have 6% of the bachelor courses in another language (mostly English) and as far as the master courses are concerned, the maximum is 35%.

We see that regulations are becoming less and less strict. I wrote two reports on that matter with an interval of 10 years and it is obvious that Dutch really loses ground and English wins.

## Companies

Enterprises in Flanders have to use Dutch in all spoken or written communication with employees and in all official documents. In Brussels companies have to make documents in Dutch for their Flemish employees and in French for their French speaking employees.

But: in practise companies often use English.

As far as the law is concerned which obliges companies to use Dutch in Flanders: here the European Court said (April 16<sup>th</sup>2013) that this law (of 1973) hinders, obstructs, the free traffic of people and services. According to the European Court, the solution is to make two versions of the text: one in Dutch and one in another language.

So Flanders has to adapt this 40 years old law.

## Public administration

In Flanders, the government, provinces and municipalities communicate with their citizens in Dutch (law of 1966). This is also the case for semi-public authorities, e.g. public transport (buses, trains...) and for companies working for public authorities.

In principle, people also have to use Dutch in their contacts with the authorities, e.g. if they want a construction permit.

In practice, Flemish often are very tolerant and adapt to others. If useful, they easily switch to another language. We see it as a matter of courtesy. But if we do so, this is because we want to, not because we have to.

Speaking about administration, we can also say something about the situation in **Brussels**, the bilingual capital of Belgium, and the Flemish municipalities surrounding it.

In Brussels, both Dutch and French are official languages, and civil servants, doctors and nurses in hospitals, etc have to know both languages. But in reality, they often don't, they often only know French.

Some say this is logic, as the Dutch speaking people in Brussels are a minority. But this is not really correct. First of all: Brussels used to be a Flemish city that became French. Second, Flemings have the majority in Belgium, but on the road to self-government, they gave it up. There are a lot of mechanisms within the Belgian government and parliament to make it impossible that the Flemish majority would impose its will on the French

minority. But the Flemish gave up this majority in the Belgian institutions on condition that - as a compensation - they would not be discriminated in Brussels.

The French domination in Brussels also affects **the Flemish communities surrounding Brussels**. More and more French speaking people (also people working for international organisations and companies in Brussels) come and live in the nice, green, calm and safe Flemish municipalities in the rim of Brussels. In some of these municipalities, the French speaking people obtained special language rights. They are allowed to demand official documents, primary education etc in French. The Flemings always thought that this measure would be temporarily and would disappear after a period of time, but the French say these rights are forever. The pressure of the French on the Flemish communities goes on and on.

In some Flemish municipalities in the neighbourhood of Brussels, today up to 50% of the people are French. At least, that is what the French say. In these municipalities, the French got special language rights. We call them "municipalities with language facilities".

But as I said, the French always want to move the fence.

An example: when **elections** are held, French speaking people in these Flemish communities are allowed to ask for election documents in French. Normally, everyone receives the documents in Dutch, and if a French speaking person wants the documents in French, he can ask for them. The French think that it should suffice if they ask once. In the future they expect to get the French version automatically. They have sent complaints but the Belgian Constitutional Court and the State Council said that they were wrong.

Here we have the communities with language facilities.

The Flemish government also **refused to appoint French speaking mayors** who refused to use Dutch in the **community council** of these Flemish municipalities. This too led to procedures.

The Council of Europe reprimanded Flanders.

## **Housing**

As far as housing is concerned, Flanders asks that immigrants learn Dutch if they want to **rent a social house** (since 2008). That way, they can

understand what is written in the contract (rights and obligations), they can understand safety rules in a building, and they can communicate with their neighbours and the authorities. The Flemish government offers free courses in Dutch for immigrants.

The government of the French Community in Belgium and the League for Human Rights turned to the Constitutional Court in Belgium and opposed the law.

The Belgian Constitutional Court ( and the State Council earlier) said the law was OK.

The Committee against Racial Discrimination of the United Nations on the other hand did not agree.

In 2008 it said: *"The Committee is concerned that the Flemish community adopted a decree on 15 December 2006 restricting access to social housing to persons who speak or make the commitment to learn Dutch".*

The Committee cannot "condemn", but "expresses its concern". So the attitude of the committee did not have legal consequences, but the image of Flanders abroad was severely damaged.

Some municipalities also ask people to learn the language when they want **to buy a house or building plot**. (The Flemish Housing Code only deals with renting a social house).

Normally, we ask people to learn Dutch, but we do not test them. Some municipalities do test, do examine, and even required a rather high level of knowledge. This was clearly felt to be a discrimination. To ask that people learn Dutch, that they make an effort, without examining them, is not.

The European Commission also asked Flanders to motivate its law and the measures of the municipalities. (2008)

Also in the field of housing, the **law "living in one's own region/environment"** says that in a limited number of municipalities (69 on a total of 308) where we have a strong pressure on the market of houses, priority should be given to people who can prove that they have a "link with the area". E.g. that they have been living there for some years, that they work there, that their children go to school there, etc. That way we want to help young people to buy a house in their native region. I live at the coast site and I used to be alderman/deputy mayor responsible for spatial planning. Where I live, prices for houses and building plots have

become really high. The prices of houses in my community, have tripled in 10 years time. The prices of building plots are 4 or 5 times higher than 10 years ago.

As a result of people from e.g. Brussels or from abroad (e.g. Germans) buying properties in the coastal region. Local young people cannot compete with these wealthier guests, who often buy a property as a second residence, or they come and live there when they retire.

Some municipalities at the coast site have more second residences than permanent houses.

This also means that our population grows older and that there are not enough young people left to keep the region livable. So for us, the fact that we want to give priority to these young local people, is a social matter.

This priority for people with a "link with the area" does not apply to all houses or building plots, but just to zones that are "expansion building area's" (reserve zones). And as I said, only in a limited number of municipalities, in the communities surrounding Brussels, in the border area with the Netherlands, and in the coastal region.

In Belgium, the State Council agreed to this priority rule, but again the French started action and after a negative advice of the European Court (May 8<sup>th</sup>2013), the Belgian Constitutional Court recently said the law is not OK (November 7<sup>th</sup>2013). The law is annihilated /annulled, retroactively ! So hundreds of people who could not buy a house because they had no link with the region, could now sue the Flemish government and ask compensation for damage.

The Flemish government now tries to adapt the law, e.g. by adding the condition that people do not only need to have a link with the community, but that they also must have a moderate or low income. Then, Europe would agree.

Here you see a map with zones for housing in red – everybody can buy there – and with reserve zones, where the link with the area is important. White with red stripes.

We do not agree that these are racist laws, or laws that favour people on the basis of nationality or ethnic criteria. No ! Language is the criterion, and everyone, also immigrants or people with other languages or cultures, can learn the language, or develop a link with the area.

People that come and live in Flanders and want to obtain a financial support from the municipality, "**minimum living wages**", when they have no income, should do an effort to learn Dutch. The Flemish government organises courses for these people (for free). Again: we ask them to learn Dutch, we do not have examinations. So it is an obligation that they take a commitment, that they make an effort, but we do not oblige them to reach a certain result.

Some municipalities did ask that they prove that they had acquired a basic knowledge within a certain period.

The European Commission asked for a motivation. The communities stressed in their decision that in order to receive minimum living wages, people have to be willing to look for a job. In order to verify whether this willingness is present, the municipality can use criteria. The willingness to learn Dutch can be one of these criteria.

## **Language criteria in other fields**

The municipality of Liedekerke adopted a rule that children should be able to speak Dutch in order to be accepted for **after-school child care or child-care during the holidays**. The Flemish minister of the Interior annulled this rule as being in contradiction with human rights and being a discrimination.

The municipality of Merchtem adopted a rule that people selling things on **markets**, mustn't use other languages but Dutch. The municipality of Grimbergen did something similar. In both cases, the Flemish minister of the Interior annulled this rule.

## **EXAMPLES IN OTHER COUNTRIES**

in Flanders, **schools** can ask that pupils know the language in which the courses are given. That is Dutch. In **The Netherlands** we even have a stronger example: a girl who wanted to become a hairdresser, brought her mother as a model for a haircut exam. Her mother only spoke Spanish. The school refused that, because it said that the way the student communicates and interacts with the client is an important part of the examination. The Dutch Commission Equal Treatment decided that the school was right.

The **Dutch Society of Acupuncturists** demanded that its members knew Dutch. The Dutch Commission Equal Treatment thought that this was a reasonable demand because it was important for the quality of their services that acupuncturists understand the information the organisation provides.

In other cases, The Dutch Commission Equal Treatment did not agree with the demand that Dutch should be used: a fitness centre demanded that Dutch should be used (to prevent intimidation). The commission would have agreed, if also other measures were taken against intimidation.

We talked about the priority in some Flemish communities to sell **social houses to people with a link with the area**. The French in Belgium opposed to that law, but...in **Wallonia**, the French region in Belgium, the French have a similar principle for social housing : 'la priorité communale'.

Recently, a Danish delegation told me that in the **coastal zones in Denmark, foreigners are not allowed to buy properties** in a zone of 500 meters. They say Europe accepted that when Denmark became part of the European Union.

As far as the use of languages **in companies** is concerned, amongst employees, in e.g. **The Netherlands** and the **United States**, there are also rules. In the U.S. e.g. they have the "English-Only Rules".

## **CONCLUSION**

In Belgium and Flanders, the last 150 years we have voted rules and laws in order to give the Dutch language, being the language of the Flemish, the majority of the people in Belgium, the same rights as the French language, being the language of a minority in Belgium. So in Belgium, the majority was protected with instruments that are normally used to protect a minority.

We choose for the principle of territoriality, with language zones and borders. The language used in the Flemish territory by the administration, by the courts, in education, in companies, is Dutch.

Recently, in the years 2000, Flanders also adopted laws to ask that immigrants learn Dutch if they want to receive minimum living wages (=financial support), or if they want to hire a social, cheap house. This is a commitment, there are no examinations. We see it as a means of

strengthening social cohesion, in which language is indeed important, but there are no racist or ethnic motives.

Also, in a limited number of municipalities where the pressure on the housing market is that high that local people cannot afford to buy there any longer, we give priority to people with a "link with the region". This too, has social reasons: for instance to keep enough young people in these areas.

Europe has always been ambiguous as far as the protection of languages and cultures is concerned: on one hand, cultural diversity is the basis for a colourful Europe, on the other hand, it is felt to be an obstruction for the free traffic of goods, persons and services.

The process of Europeanization and globalisation, accompanied by large scale migration, puts a high pressure on the concept of having homogeneous language zones. Measures taken in favour of the mother tongue in a certain region, are easily qualified as being old fashioned or even discriminating.

That way, many of our measures protecting or stimulating our "language breathing space", are contested in courts and committees, both nationally and internationally. Sometimes the laws or measures survive, sometimes they don't. It is important that the condition to use a language does not imply a discrimination on the basis of race or ethnic elements.

The easiest way would perhaps be to give in and let things take their course. The result could be that the strongest survives and that our smaller languages and cultures disappear. Sometimes I have the impression that young people wouldn't really care much if that would happen, or perhaps better: they are less afraid that this would happen.

As for me: I am convinced that taking action in favour of our language and culture remains necessary.

Safeguarding our language – be it Dutch or be it Basque – is our contribution to a colourful Europe.