

FACT SHEET ON BELGIUM

Information supplied by Petra Meier, based on her paper for the Workshop on Legal Struggles and Political Mobilization around Gender Quotas in Europe, September 2014, Florence.

CONSTITUTION
Constitutional gender equality clause, including constitutional parity provisions.
<p>Article 11bis of the Belgian Constitution (French text): La loi, le décret ou la règle visée à l'article 134 garantissent aux femmes et aux hommes l'égal exercice de leurs droits et libertés, et favorisent notamment leur égal accès aux mandats électifs et publics. Le Conseil des ministres et les Gouvernements de communauté et de région comptent des personnes de sexe différent. La loi, le décret ou la règle visée à l'article 134 organisent la présence de personnes de sexe différent au sein des députations permanentes des conseils provinciaux, des collèges des bourgmestre et échevins, des conseils de l'aide sociale, des bureaux permanents des centres publics d'aide sociale et dans les exécutifs de tout autre organe territorial interprovincial, supracommunal, intercommunal ou intracommunal. L'alinéa qui précède ne s'applique pas lorsque la loi, le décret ou la règle visée à l'article 134 organisent l'élection directe des députés permanents des conseils provinciaux, des échevins, des membres du conseil de l'aide sociale, des membres du bureau permanent des centres publics d'aide sociale ou des membres des exécutifs de tout autre organe territorial interprovincial, supracommunal, intercommunal ou intracommunal.</p>
Constitutional reform
<p>Article 11bis of the Constitution stipulates that no executive shall comprise but members of one sex, which actually comes down to a gender quotas imposing a minimum of one member of each sex in each executive. This applies to all governing levels, from the federal down to the municipal one.</p> <p>The 2002 parity clause was included in the Constitution to provide a legal basis for the gender quotas that were being asked for, compelling parties to put forward an equal number of female and male candidates, including for the top two positions of each list (and at least one woman in the top three in the first election after coming into force).</p>
Constitutional/Supreme Court case law on quotas
<p>In Belgium, the Constitutional Court has never struck down any gender quotas legislation. The only intervention there has been was by the Council of State, back in the early 1980s: In January 1980, Paula D'Hondt, a Christian Democrat Senator, introduced a parliamentary bill stipulating that no more than 75% of the candidates on local lists should be of the same sex (Senate, Parliamentary Documents 370/1 (1979-1980)). The Council of State rejected this parliamentary bill on the grounds that gender quotas would violate the principles of equality and non-discrimination.</p>

NUMBERS

Number of female MPs in both chambers

	1995	1999	2003	2007	2010	2014
Lower House	18/150 (12%)	35/150 (23,3%)	53/150 (35,3%)	55/150 (36,7%)	57/150 (38%)	59/150 (39,3%)
Senate	17/71 (23,9%)	20/71 (28,2%)	22/71 (31%)	29/71 (40,8%)	29/71 (40,8%)	30/60 (50%)

Source: <http://igvm-iefh.belgium.be/nl/actiedomeinen/besluitvorming/>

Number of women in boards of biggest publicly listed companies

In 2012 women made up for 10,1% of the members of boards of publicly listed companies. In 2011 women made up for 11% of the members of boards of the BEL 20 companies (the 20 biggest publicly listed companies). In 2013 this percentage rose to 20%.

Source: http://igvm-iefh.belgium.be/nl/actiedomeinen/arbeid/glazen_plafond/

POLITICAL and PARTY QUOTAS

Existence of voluntary party quotas and other schemes

Given the far-reaching gender quotas legislation most parties since long dropped their own voluntary rules in these matters, if ever they had adopted any. Such rules were mainly popular in the 1980s and early 1990s, reflecting interparty competition in these matters and a contagion effect between legislative gender quotas rules on the one hand and voluntary party quotas on the other hand.

For a good overview of such rules in early times please see: Meier, Petra. 2004. The contagion effect of national gender quotas on similar party measures in the Belgian electoral process, *Party Politics* 10(3), 583-600.

Existence of soft measures in politics

NONE

Existence of hard legislated electoral quotas

Gender quotas targeting elected political office were first adopted in 1994 and applied at the occasion of the 1994 European and local elections. The law stipulated that electoral lists must not comprise more than 67% of candidates of the same sex (actually 75%, a temporary quotas set for the first elections after the adoption of the law; from 1999 onwards the 67% quotas was applicable). In the event of non-compliance, the authorities would not accept the list.

From the beginning, this act was criticized because it did not insist on an equal number of women and men or impose a placement mandate to guarantee that women were given eligible positions on the parties' electoral lists.

In 2002, new gender quotas acts were adopted, compelling parties to put forward an equal number of female and male candidates, including for the top two positions of each list (and at least one woman in the top three in the first election after coming into force, which were the elections of 2003 (federal) and 2004 (European and regional)). Non-compliance again would result in the list being rejected. Since by then the organization of local and provincial elections fell under the remit of the regions, they all adopted similar measures (with the Flemish government imposing but one of the first three positions of the list to go to the under-represented sex until 2012).

Quotas for elected office were defended by the women's movements more broadly speaking, the various umbrella organisations, but especially by the political women's groups of some parties (Christian-Democrats, Social-Democrats and Green parties). The radical right and Flemish nationalists were strongly opposed against quotas. The Liberal parties had less of an outspoken position in these matters. While the party as such is against quotas a number of their prominent women members are openly in favour of quotas.

Given the type of sanction (impossibility to participate in the elections in case of non-respect of the quotas), there is a strong compliance with the law.

Since the first gender quotas law was adopted in 1994 the number of women has been steadily increasing in elected office across the different political levels. This should, however, not only be attributed to the gender quotas laws. The 1994 law had overall little effect since it contained no placement mandates. The 2002 law had more of an effect, initially in huge constituencies. It was only when the stipulation that one of the first two positions on each list had to go to a woman candidate that the law made a difference. It did so more precisely in smaller constituencies, which are the constituencies where traditionally few women got elected due to low party magnitude.

Existence of Public board quotas

In 1990, a quotas passed targeting advisory boards. It imposed that for each mandate in a federal advisory committee, all nominating bodies would present a male and a female candidate. The law contained neither sanctions nor incentives for good compliance.

There was no increase in the number of women on advisory committees, and even the nomination of women candidates was not taken seriously in all cases.

In 1997, a new gender quotas law was adopted. It provided for a maximum of 67% of members of the same sex on federal advisory committees. Advisory boards not complying with the law could not deliver any binding advise.

Since, the Flemish authorities and those of the region of Brussels adopted similar acts.

The implementation of these acts is still mixed. While some advisory boards do comply others don't. The underlying reason is that in many cases advice by an advisory board is not binding.

CORPORATE BOARD QUOTAS

Existence of soft Corporate Board quotas/measures

NONE

Existence of hard Corporate Board quotas

In 2011, a law imposing gender quotas to listed and state-owned companies was adopted. The boards of these companies need to comprise at least 33% of women members, formulated as being of a sex other than that of the serving members. Companies receive a period of transition in order to comply with the law depending on their size and status. Large listed companies are entitled to a period of five years to comply from the date of adoption of the law, smaller ones eight. State-owned companies have to apply the gender quotas without delay, given their 'role model' function.

Companies not complying with the law are required to appoint but women until they meet the gender quotas. Otherwise, serving board members lose the financial and other advantages resulting from their mandate. In cases where the gender quotas is not achieved a year from the date of application, the general meeting appoints a new board.

Quotas for boards were mainly defended within parliament and by political women's groups and other branches of the women's movement. Among the political parties, the radical right and Flemish nationalists were the main actors against. The Liberals again reflected a mixed picture with some prominent women members being openly in favour of these quotas. The Social-Democrats, and the Greens, were the first parties strongly defending gender

quotas. The Christian-Democrats also defended the gender quotas although some of their members were not in favour of these quotas.

QUOTAS IN OTHER DOMAINS

Legislated or voluntary measures in other domains as executive, judiciary, universities, sports federations, trade union, professions, political party structure, etc.

The national railway company and its different branches: 33% quotas of women for all boards.

Belgian agency for development cooperation: 33% quotas of women on the board.

High Council of Justice: 33% quotas of women for the magistrates and at least four women among the non magistrates.

Constitutional Court: minimum of one twelve members needs to be a woman.

Universities: the Flemish government adopted a 33% quotas of women for all major decision-making bodies of the two Flemish universities where it could intervene in such a direct way (the University of Antwerp and the University of Hasselt).

Flemish Research Council: the Flemish government adopted a 33% quotas of women for the selection committees of the different disciplines.

CONTAGION and CONNECTIONS

Contagion between different domains within the country

What initially started as voluntary party regulation, spilled over into gender quotas established by law, not only for parties running for elected office, but also for other decision-making bodies, in and beyond politics. Over time, the measures adopted were more far-reaching, in gender balance, in sanctions imposed, or in both. This is a contagion effect.

Connections with other countries/ international dynamics

Not much transnational dynamic, with the exception of the 2002 quota acts for elected political office. In that case the debate was also fostered by international initiatives of the time, such as the Council of Europe's studies on parity democracy, the various EU Community action programmes on equal opportunities or the 1996 Council Recommendation on the balanced participation of women and men in the decision-making process, as well as the UN Beijing Platform for Action. The Belgian women's movement followed these initiatives with interest and adopted part of the recommendations and requests. Interestingly, little reference is made to France, where a parallel debate was held on the parity law. Also interesting in this respect is that the Argentinean ley de cupos of 1993 was not at all mentioned in the debates leading to the 1994 quotas act on the same topic.

The French debates on parity were mentioned in the margin when it comes to the 2002 quotas acts for elected political office, as they were actually mentioned in all other debates to follow, but they were more extensively referred to when arguing for the reform of the constitution enshrining the principle of parity as well as the measure that no executive at the local, provincial, regional or federal level may be composed of but members of the same sex.

The debates on the 2011 quotas act for boards also referred to the discussions taking place at the EU level, but not extensively.

COUNTRY SPECIFICS

Best practice

In Belgium, gender quotas tend to be imposed by law/decrees, what, as such, seems to increase their effectiveness as compared to voluntary measures actors adopt themselves.

When it comes to elected office in political decision-making, the effectiveness of gender quotas is further stimulated by the type of sanction going hand in hand with the gender quotas. The sanction consists in all cases of a rejection of the list of candidates not complying with the quotas rules. Since this sanction excludes parties from participating in the elections, the sanction is not only one easy to adopt and apply, but also a very efficient one.

Given the fact that the Belgian electoral system is a very proportional list system, but with a huge range of district magnitude, the effectiveness of the gender quotas is furthermore due to the placement mandates for top positions on each list.

When it comes to the other gender quotas, the Belgian case shows that such measures seem to have more effect the more far-reaching the sanctions are.

Finally, Belgium is a consensus democracy building upon the consociational logic that integrates social groups into processes of decision-making, characterised by a segmented pluralism. This logic definitely helped the women's movement activists in making its claim politically plausible.

While the process of adopting gender quotas was a long one, spread over several decades, and the initial resistance to gender quotas huge, as well as the need for women's increased participation in public life and decision-making not recognised, overall the relevance of having women participate in these matters is no longer put in question. And even though quotas are still put in question by some actors, women elected after the introduction of such quotas are not necessarily stigmatised.

Failures

The process was slow from a mind-set change to legal quotas, and even then the measures did not necessarily correspond to feminist claims. First quotas were not far-reaching in the quotas they set or because of the absence of any decent sanctions in case of non-compliance. However, the issue reappeared on the political agenda.