

## MANAGING ACROSS LEVELS OF GOVERNMENT

## BELGIUM

**1. Institutions and authority****1.1 Structures***Description of levels*

Under its Constitution, as revised in 1993 and co-ordinated in 1994, “Belgium is a federal State made up of Communities and Regions” (Article 1). Belgium has a total area of 30 500 square kilometres, and its population in 1994 was 10 116 000.

Belgium “is made up of three Communities: the French Community, the Flemish Community and the German-speaking Community” (Art. 2), as well as “three Regions: the Walloon Region, the Flemish Region and the Brussels Region”.

The territory of the Walloon and Flemish regions is determined in Article 5 of the Constitution. The Flemish Region is made up of five provinces: Antwerp, Flemish Brabant, East Flanders, West Flanders and Limburg. The Walloon Region is also made up of five provinces: Walloon Brabant, Hainaut, Liege, Luxembourg and Namur. The Brussels Region comprises 19 municipalities.

Regions divide the country along strictly geographical lines, whereas Communities are based on geographical and linguistic criteria alike. In practice, this dual structure means that people living in the Brussels-Capital Region, which has the status of a “bilingual region”, may opt into either the French-speaking or the Flemish Community; similarly, inhabitants of the German-speaking region belong to the Walloon Region yet constitute the German-speaking Community which exerts its competencies in the municipalities of Ambleve, Bullange, Burg-Reuland, Butgenbach, Eupen, La Calamine, Lontzen, Raeren, and Saint-Vith. At the same time, residents of the Flemish Region automatically belong to the Flemish Community, while people living in the Walloon Region, except for the German-speaking region, automatically belong to the French-speaking Community.

Belgium currently has 589 municipalities, located as follows:

- 262 in the Walloon Region;
- 308 in the Flemish Region;
- 19 in the Brussels-Capital Region.

Table 1. Area and population of sub-national governments (1990) <sup>(1)</sup>

	Regions	Provinces	Municipalities <sup>(2)</sup>
Number	3	10	589
Area (sq. km.)			
Maximum	16 844.3	4 439.7	213.75 <sup>(3)</sup>
Minimum	161.4	1 090.5	1.14 <sup>(4)</sup>
Population			
Maximum	5 768 925	1 605 187	459 072 <sup>(5)</sup>
Minimum	954 045	232 813	92 <sup>(6)</sup>
Breakdown of the number of municipalities by population			
	Population	Number of municipalities	
	0-1 000	1	
	1 000-4 999	101	
	5 000-9 999	171	
	10 000-49 999	289	
	50 000-99 999	19	
	over 100 000	8	

1. This table does not take the three Communities into account.

2. Data are for 1995.

3. Tournai.

4. Saint-Josse-ten-Noode.

5. Antwerp.

6. Herstappe.

Sources: *Structure and Operation of Local and Regional Democracy: Belgium*, Council of Europe, 1993.  
Ministry for the Public Service, 1995.

#### Central government at sub-national levels

Governors of provinces and mayors of municipalities are appointed by the Crown and represent central authority. Both are characterised by a dual functionality. Thus, on the one hand, they are agents of the federal government exercising general interest tasks in the provinces and municipalities respectively; and on the other hand they chair the executive bodies of the provinces and the municipalities (the municipal council in the case of the mayor). Thus they act as bodies of decentralised authority, exercising either provincial or municipal responsibilities, depending on the case.

As representatives of central authority at the municipal level, mayors are appointed by the Crown from among the elected members of municipal councils or, in exceptional cases and with the approval of the provincial executive (*députation permanente*), from among non-councillors who are registered voters of the municipality and aged 25 years or more (Section 13 of the new Municipalities Act). It is also in that capacity that mayors are invested by Section 133, paragraph 1 of the same act with the power to carry out laws, decrees, orders, regulations and directives of the State, unless such authority is formally assigned to the municipal executive, consisting of the mayor and aldermen (*échevins*), or to the municipal council. Notwithstanding, mayors are at the same time the supreme magistrates of their municipalities.

At the provincial level, the duties of government commissioner are carried out by a Crown-appointed governor (Section 4, paragraphs 1 and 2 of the Provinces Act of 30 April 1836). Under Section 104, paragraph 1 of that same act, the governor presides over the provincial executive, in which he possesses a vote. It is in his capacity as representative of the State in the province that the governor, under Section 124, paragraph 1 of that same act, carries out laws, decrees and general administrative directives, along with directives of the executives (currently the governments) of the Communities or Regions, unless the law, the decree, the Crown or the executives provide otherwise.

#### *Creation, elimination and restructuring*

Under the Constitution, “It lies with the law to divide the territory into a greater number of provinces, if need be” (Art. 5). In addition, “The limits of the State, the provinces and the municipalities can only be changed or modified by law” (Art. 7). The most recent mergers of municipalities entered into force on 1 January 1977 and, in respect of Antwerp, on 1 January 1983.

Municipalities may band together for the joint delivery of certain services, such as supplying water, gas or electricity.

#### *Control bodies*

Ever since Belgium became a federation, the Regions have exercised supervisory authority over the provinces and municipalities, except for the appointment of governors of provinces and mayors, and for the establishment of operational guidelines for municipal police forces, which are powers vested in the federal authority. Section 7, paragraph 1 of the special institutional reform Act of 8 August 1980 gives Regions the power to assign and exercise administrative control over provinces, municipalities, urban areas and federations of municipalities. Nonetheless, the same provision excludes from the jurisdiction of Regions certain powers that are conferred at the national or Community levels and for which the Act or decree specifically assigns jurisdiction.

Under paragraph 2 of that same provision, as amended by the special Act of 16 July 1993, the federal authority nevertheless reserves the power to assign and exercise ordinary administrative jurisdiction over municipalities in the German-speaking Region and to assign such jurisdiction over the municipalities on the outskirts of Brussels where residents are afforded linguistic “facilities” (*communes à facilités*), and over the municipalities of Comines-Warneton and Fourons.

Under Article 162, paragraph 2 of the Constitution, the higher authority is invested with power of approval only in cases and in the manner determined by law. Supervisory powers are exercised over both the legality and the suitability (i.e. compatibility with the general interest) of the actions of local authorities (on this point, see the stipulation in Article 162, paragraph 2 of the Constitution). Regional governments, provincial executives and provincial governors, as the case may be, also act as control bodies. Furthermore, at each level, financial inspectors oversee the advisability of expenditure. The Court of Auditors oversees the accounts of the State, the Autonomous Communities, the Regions and the provinces -- but not those of the municipalities.

### **1.2 Powers**

#### *Nature of sub-national institutions*

## Federal level

Federal legislative authority is exercised collectively by the Crown, the House of Representatives, and the Senate. Federal executive authority is exercised by the Crown and his ministers, i.e. the federal government.

The House of Representatives is made up of 150 directly elected members. The Senate is made up of 71 regular members, including: 40 directly elected senators, of whom 25 are elected by the Dutch-speaking electoral college (all registered voters in the Flemish Region and those in the Brussels-Capital Region who opt to vote for Flemish lists) and 15 by the French-speaking electoral college (all registered voters in the Walloon Region and those in the Brussels-Capital Region who opt to vote for lists of French-speaking candidates); Community senators, of whom 10 are appointed by and from within the Flemish Council, 10 by and from within the Council of the French-speaking Community and one by and from within the Council of the German-speaking Community; 10 senators co-opted by the other 61. There is also another category of senators -- those who are senators by right (the King's children or descendants of the heir apparent).

By law, federal ministers and Secretaries of State are appointed by the Crown. In practice, the composition of the government is the result of a negotiated agreement among the parties that form a majority in the House.

## Community and regional levels

In the Walloon Region: the Walloon Council, made up of 75 directly elected members; the Walloon regional government, whose members are elected by the Council.

In the Brussels-Capital Region: the Brussels-Capital Regional Council, made up of 75 members elected directly from lists of French-speaking or Flemish candidates; the regional government, whose members are elected by the Council and which must have the support of a majority of each linguistic group.

In the Flemish Community: the Flemish Council, made up of 118 directly elected members from the Flemish Region and six Flemish members of the Brussels-Capital Regional Council; the Flemish government, whose members are elected by the Council.

In the French-speaking Community: the Council of the French-speaking Community, (theoretically) made up of the 75 members of the Walloon Council and 19 French-speaking members of the Brussels-Capital Regional Council; the government of the French-speaking Community, made up of two members of the Walloon government, a French-speaking member of the Brussels-Capital regional government and a member elected by the Council of the French-speaking Community.

In the German-speaking Community: the Council of the German-speaking Community, made up of 25 directly elected members; the government of the German-speaking Community, whose members are elected by the Council.

In the provinces: the provincial council, made up of directly elected members; the provincial executive, whose members are elected by the provincial council; the governor; and the clerk of the provincial court..

In the municipalities: the municipal council, made up of directly elected members; the municipal executive, made up of the mayor and aldermen; the mayor.

Aldermen are elected by the municipal council except in the municipalities adjacent to Brussels and the municipalities of Comines-Warneton and Fourons where they are directly elected by the local voters. The mayor is appointed by the Crown. In addition, the provincial executive is presided over by the governor, who is not elected, but appointed by the Crown. The municipal executive comprises the aldermen and the mayor and is presided over by the mayor, who is appointed by the Crown, on the recommendation of the municipal council, and is generally an elected member of that council.

Institutions of the Flemish Community exercise regional powers in the Flemish Region, which therefore has no institutions of its own.

*Type and degree of autonomy*

Except as provided otherwise, measures enacted by political institutions of the Communities and Regions have the same force of law as those enacted by federal political institutions. Communities and Regions enjoy vast autonomy for the exercise of their own specific powers.

In addition, the Constitution gives the Council of the French-speaking Community, the Walloon Council and the Flemish Council constitutive autonomy. Accordingly, each of the three assemblies may adopt decrees, if approved by at least two-thirds of its members, to amend key features of its own composition, election and internal procedures, as well as decrees concerning the operation of its government. The Brussels-Capital Regional Council and the Council of the German-speaking Community do not have constitutive autonomy.

The Constitution, as it stands today, stipulates that “The federal authority only has power in the matters that are formally attributed to it by the Constitution and the laws carried in pursuance of the Constitution itself” and that “The Communities and the Regions, each in its own field of concern, have power for the other matters, under the conditions and in the terms stipulated by law” (Art. 35). The federal authority has jurisdiction over provincial and municipal law.

Notwithstanding, in the absence of an article of the Constitution enumerating exclusive powers of the federal authority, it is the jurisdiction of the Communities and the Regions that is delimited by the Constitution and by law, and the federal authority has jurisdiction over all other matters.

Since 1989, Community and regional finances have been governed by law. A system of taxation specific to the Communities and Regions is planned. The French-speaking and Flemish Communities both have jurisdiction within the territory of the Brussels-Capital Region -- a situation that in certain ways makes it difficult for the Communities to exercise their powers of taxation.

The Provinces and Municipalities Acts stipulate the respective jurisdictions and autonomy of provinces and municipalities. Municipalities have a power to tax.

The Regions are responsible for the organisation of, and have general administrative supervision over, the Provinces, the municipalities, municipal groupings, and urban agglomerations.

**1.3 Responsibilities**

*Distribution of responsibilities*

The distribution of responsibilities among the federal authority, the Communities and the Regions is established by the Constitution and institutional reform acts. The following lists for each level of government are intended only as examples.

*Federal level:* The powers of the federal authority lie essentially in the following areas: economic union; monetary unity; taxation; foreign affairs; justice; national defence; the gendarmerie; social security; federal cultural and scientific institutions; pensions; public health; public debt; law and order; the public service; scientific policy; foreign trade.

The federal authority retains some jurisdiction over matters attributed to the Regions, such as economic expansion, environmental policy, energy policy, public works and transport.

The Provincial Governors have retained only limited supervisory responsibilities, based on a decree of the Walloon Regional Council in July 1989 which specifies the supervision over the municipalities, provinces, and municipal groupings in the Walloon Region; the decree of the Flemish Council in April 1993 regulating the administrative supervision of the municipalities in the Flemish Region; and a Royal Order of July 1985 (modified in January 1989) concerning the administrative supervision of the Brussels agglomeration and the municipalities making up the Brussels-Capital Region.

*Community level:* The powers of the Communities lie essentially in the following areas:

- cultural matters, i.e.: safeguarding and promoting the language; promoting the training of researchers; fine arts; cultural heritage, museums; libraries and record collections; radio and television; support for the press; youth policies; ongoing education and cultural events; physical education and sport; recreation and tourism; pre-school training, adult education, and extra-curricular, artistic, intellectual, civic and social training; social promotion;
- occupational training and redeployment;
- education, except for setting the upper and lower age limits for compulsory schooling, minimum requirements for degrees, and the education pension scheme, which continue to fall under federal jurisdiction;
- certain major aspects of the health care and social welfare policies;
- the use of languages, with exceptions concerning special-status municipalities, services whose activities extend beyond the linguistic region in which they are established, and federal and international institutions whose activities are common to more than one Community.

*Regional level:* The powers of the Regions lie essentially in the following areas: land-use planning; the environment and water policy; rural renewal and conservation of nature; city planning and housing; agricultural policy; energy policy; subsidiary powers and administrative jurisdiction; employment policy; public works and transport.

Federalisation has also shifted supervision of local authorities from the federal to the regional level.

*Local level:* The general principle of the assignment of jurisdiction to local authorities is set out in Article 41 of the Constitution, under which “Interests which are exclusively of a municipal or provincial nature are ruled on by municipal or provincial councils, according to the principles established by the Constitution.” Moreover, Article 162, paragraph 2 of the Constitution requires that certain powers be decentralised to provincial or municipal institutions.

The vagueness of the concept of “interests which are exclusively of a municipal or provincial nature” has allowed local authorities to expand the number and scope of their powers imperceptibly over the years. Even so, a great many municipal and provincial powers are still conferred powers (i.e. bestowed by the Constitution or by laws enacted by virtue thereof) arising out of the process of decentralisation.

The powers of the Regions lie essentially in the following areas: municipal police (urban or rural); land-use planning (special land allocation plans, city planning permits, municipal development plans, etc.); the granting of social assistance (and, in particular, the “*minimex*” guaranteed minimum income benefit) via public social welfare centres, which provide help for the needy; archiving; public libraries; supervision of the unemployed (compulsory checking-in); recording domicile and changes thereof; issuing identity cards, driving licences and various records, copies (official or not) of certificates relating to nationality, domicile, household members, criminal records, etc.; population registers; municipal schools; street lights; municipal roads, parks and gardens; facilities that are hazardous, or insanitary or cause nuisance; funerals and burials (including cemeteries); insanitary housing; fitting out sporting and cultural facilities, etc.

Among the responsibilities of provinces are to certify the results of municipal elections, recommend appellate court counsellors and presiding and associate justices of courts of first instance, and adjust certain territorial boundaries. Moreover, provinces traditionally enjoy relatively broad autonomy with respect to education, social and cultural facilities (training centres, rest homes, etc.), preventive medicine, assistance to individuals (housing subsidies, disability pensions, entrepreneurial assistance, etc.), the environment, roads, and rivers and streams. Local authorities can thus deploy instruments of economic, cultural and sporting policy.

Governors and mayors bear responsibilities in the areas of law and order and civil defence; to that end, they may call upon the gendarmerie and the civil defence force.

#### *Mandatory, optional and shared responsibilities*

The principle of “federal loyalty” was enshrined during the most recent phase of institutional reform. What this means is that the federal authority, Communities and Regions not only adhere to their respective areas of responsibility but also act in such a way as to avoid all conflict of interest among themselves, the objective being to ensure that the various institutions function as a balanced whole.

Defining responsibilities through reference to notions of municipal or provincial interests can lead to overlapping areas of authority. Furthermore, separate authorities may have jurisdiction over different aspects of the same issue at the same time (as is the case with education and land-use planning). For example, alongside networks of private schools are municipal, provincial and Community school systems. There have been calls for rationalisation of supply, even though, in practice, there can be genuine complementarity in the field.

## 2. Management functions

### 2.1 Policy-making and co-ordination

#### *Coherence, consultation and conflict-resolution*

The coherence function essentially belongs to the government in Cabinet. Its main source of assistance in this task is the Finance Inspectorate, which is required to give advice on the budgetary impact of proposals and hence their feasibility. The Budget Division may also be consulted on budget matters and the General Administration Service on personnel matters.

Non-financial aspects of policy implementation are more often than not neglected. However, greater attention is starting to be paid to practical results and the method of implementation, including information and training, as the relatively new concern of improving the functioning of the administrative machinery develops.

Mechanisms had been introduced from the very earliest stages in the reform process to ensure that there were forms of association, consultation, co-operation and co-ordination and to prevent, and if necessary resolve, any conflicts of responsibility or interest.

#### *Formal and informal mechanisms*

Whilst the various authorities are autonomous, and their respective legislation equipollent (except in the case of the local authorities, which come under the federal government and the regions), numerous mechanisms are available to ensure coherence.

The Co-ordination Committee: the purpose of this Committee, which comprises political representatives from the various authorities and to which each can refer matters of dispute, is to find political responses to these disputes by consensus.

Interministerial Conferences: the purpose of these conferences, which comprise ministers from different authorities exercising powers in the same or related areas, is to harmonise action and co-ordinate them at field level. Its initiatives may include co-operation agreements setting out the practicalities of co-operation.

The Court of Arbitration has had some jurisdictional tasks, but is not part of the judiciary. Its work includes ruling on conflicts of responsibility between authorities.

The Council of State is an administrative jurisdiction exercising over all authorities, so there is uniform interpretation of the law. Its legislation review section, which gives opinions on bills and draft decrees, is responsible for ensuring that no authority exceeds its own powers.

The High Finance Board, made up of representatives from the various authorities and financial and monetary experts, is responsible for monitoring the economic and monetary union of the country. It recommends the maximum financial requirements authorised for each authority and tracks developments.

A Royal Decree covering the general principles of staff employment lays down the regulations (administration, rights of association, remuneration) that each authority is required to apply. The Act on minimum entitlements also sets out the minimum entitlements that each authority has to offer its staff in

terms of leave, allowances, health cover and accident insurance. Staff pensions remain a federal responsibility.

The diplomatic representation of the country abroad is the task of the federal government, even though the responsibility of each authority extends to international relations on matters within its sphere of competence. The machinery of diplomacy is thus at the service of all authorities. They can send special representatives abroad, although they are subject to the authority of the head of the diplomatic mission. A co-operation agreement lays down the procedures for representation in international negotiations, depending on whether the matters being addressed are the sole responsibility of an authority or not. Co-ordination meetings are held regularly on European Union matters.

The Finance Inspectorate exercises budgetary control over the different authorities on behalf of each authority's Minister for the Budget. A management committee made up of the budget ministers handles the assignment of inspectors to authorities. Similarly, the Court of Auditors acts on behalf of the elected assemblies responsible for exercising budgetary control over their respective executives. The uniformity of budgetary control by a single body, in these two cases, ensures a consistent approach.

Finally, at political level the parties may also serve as an informal mechanism to ensure coherent action by elected representatives and government members.

“Horizontal” coherence within the same statutory authority is achieved via the executive which meets in council to address any matters which, under existing regulations, can only be decided at that level (bills and draft decrees and orders which require formal discussion, public contracts above certain amounts, etc.) or which are of sufficient political importance to warrant the agreement of the whole executive.

At civil servant level, there are also standing interdepartmental committees (for international relations and in particular policy on the European Union, foreign trade, science policy, and economic forecasting) or co-operation protocols (recently, for instance, on clamping down on fraudulent social security claims).

At federal level, the College of Secretaries-General, which normally meets weekly, is made up of the senior officials in the ministries (fifteen in all), together with the secretary of the Council of Ministers. It ensures coherence in management of the government service. The College of administrators of social security bodies performs a similar role in that sector.

However, spontaneous collaboration between government departments to tackle common problems is still uncommon. It is mainly restricted to ministers' offices, though civil servants have become increasingly involved in the work of the offices over the last few years.

Informal consultations naturally take place between elected representatives and bodies representing particular groups or interests (trade unions, mutual insurance associations, employers). Alongside these informal contacts, sometimes reinforced by the presence of a delegate from an association in a minister's office, formal consultations are held in fora such as the National Labour Board (employment legislation) or the Central Economics Board (economic policy, including incomes policy). The bodies responsible for social security are jointly managed (the management committees of these bodies comprise representatives of employers' organisations and trade unions). Consultation on economic and industrial matters is also a tradition, with government representatives, employers' organisations and

trade unions coming together to reach broad intersectoral agreements. The population is also formally consulted in some cases, for instance when formulating national development schemes.

## 2.2 *Financial management*

The Constitution gives both the communities and the regions their own tax system, but because the jurisdiction of both the French-speaking and Flemish communities extends to the Brussels-Capital region there are difficulties in exercising the communities' power of taxation.

### *Sources of revenue*

The 1989 Funding Act, amended in 1993, specified the following sources of revenue for the regions: regional taxes (tax on gaming and betting, tax on slot machines, trading tax on bars selling fermented drinks, inheritance tax and succession duty, property tax, registration duty on property sales, motor vehicle tax, environmental taxes); supplementary proportional taxes, collected by the federal government and remitted to the regions; allocation of a share of personal income tax; a federal solidarity contribution; non-tax revenue (proceeds from forestry, shooting and fishing permits, tolls, etc.); loans.

The same Act specified the following sources of revenue for the communities: allocation of radio and television licence fees (which became a community tax in 1993); allocation of a share of value added tax and personal income tax; non-tax revenue; loans.

The tax revenue is either assessed wholly by the communities and regions (though it may actually be collected by the federal government, as with the property tax, the gaming, betting and slot machine taxes, bar trading tax, environmental taxes, registration duty on property sales, inheritance tax, and the radio and television licence fee), or is an allocated share of revenue from personal income tax and value added tax.

**Table 2. Main revenue sources of different levels of government (1985, 1990, 1994)**

	(in BF billions)		
	1985	1990	1994
Federal government	1 391.3	1 122.2	1 373.3
Communities and regions	130.5	673.5	889.4
Local authorities (provinces and municipalities)	350.5	379.1	482.9
<i>of which:</i>			
income and property tax	91.9	97.7	137.1
business tax	18.5	26.5	36.6
public sector transfers	214.1	217.0	263.3

Source : *Note de conjoncture*, Ministry of Finance.

The revenue of the provinces and municipalities comes from transfers from the supervisory authorities, from non-tax receipts, and from supplementary proportional levies (*centimes additionnels*) on personal income tax and property tax. These supplementary levies are assessed by the local authorities, subject to ceilings set by the supervisory authorities, and add an additional percentage to the income on property tax payable. Thus, a taxpayer liable to pay BF 600 000 in income tax who lives in a

municipality where the supplementary levy is 6 per cent has to pay an extra BF 36 000 in tax for the municipality. This tax is collected by the federal government and handed back to the provinces and municipalities.

The table below shows the distribution of revenue collected by the communities and regions. The lion's share of revenue can be seen to come from personal income tax and VAT.

**Table 3. Breakdown of revenue sources of communities and regions (1995)**

(in BF billions)	
Property tax	4.5
Gaming and betting	2.4
Slot machines	1.3
Bar trading tax	0.6
Environmental tax	--
Registration duty	17.8
Inheritance tax	25.6
Allocated share of personal income tax	410.4
Allocated share of VAT	345.8

Source: *Note de conjoncture*, Ministry of Finance.

#### *Expenditure responsibilities*

Table 4 shows the patterns of expenditure of sub-national governments over the last ten years. The evolution of both revenues and expenditures is essentially the result of transfers of responsibility and the associated funding between the federal authorities on the one hand, and the Communities and Regions on the other.

**Table 4. Main expenditure patterns by level of government (1985, 1990, 1994)**

	(in BF billions)		
	1985	1990	1994
Federal Government	1 882.2	1 483.8	1 670.3
Communities and regions	149.6	701.3	938.2
Local authorities (provinces and municipalities)	343.4	382.5	484.9

Source: *Note de conjoncture*, Ministry of Finance.

#### *Balance between discretion and control*

The Constitution and the Funding Act for the communities and regions have given these entities wide financial discretion, while at the same time safeguarding federal economic and monetary union.

Funding is based on two principles: these entities have financial responsibility, meaning that they are free to manage their own resources, a principle referred to as "financial discretion", and "federal solidarity", which only concerns the regions, is designed to help the region with the lowest average per capita income tax revenue.

Within the above framework, the political institutions (assemblies and executives) at the different policy-making levels (federal government, communities, regions) are fully responsible for setting their own expenditure budgets.

The funding rules for the communities and regions were enacted in special legislation requiring approval by a two-thirds majority and by an absolute majority of members of each community.

### **2.3 *Performance management***

These audit mechanisms are still in their infancy (at least at federal level). Education and health are subject to specific inspections by the competent authorities.

Local authorities clearly have a high degree of political accountability and the ultimate sanction is the six-yearly elections. People can also “vote with their feet” and move to municipalities that offer better value for money in terms of services and rates of tax.

The transfer techniques used by the supervisory authorities are such as to encourage the formulation of high-quality policy as they are partly based on the principle of additionality (grants).

### **2.4 *Human resource management***

*Statutory distinctions:* The local authorities have discretion to draw up their own rules of staff employment, within the applicable statutory framework. Thus, under the terms of Article 145, paragraph 1, of the new Municipalities Act, the municipal council sets the framework and conditions for the recruitment and promotion of municipality staff. This paragraph also lays down the financial terms of employment and the salary scales for most municipality staff. Further, Article 149 of the Municipalities Act gives the municipal council the power to appoint staff whose appointments are not regulated by law. This power can be delegated to the municipal executive, except in the cases of medical doctors, surgeons and obstetricians, and veterinary surgeons, to whom special duties are assigned in the interest of the municipality, and of the teaching profession.

There is also a federal body responsible for social security for local authority staff. The local authorities must, among other things, contribute a percentage of their wage bill to a pension scheme. The percentage is so calculated as to balance revenues and expenditures. This system does not exist at federal level, where the government includes its staff's pension costs in its annual budget. The federal government is also responsible for the pensions of staff in the communities and regions. However, the latter are required to top up the government's contribution if their wage bill grows faster, proportionately, than it did in a reference year (to encourage responsible pay settlements).

**Table 5. Public sector employment by level of government (1985, 1991, 1994)**

	June 1985	December 1991	January 1994
<b>National level</b>	<b>622 291</b>	<b>301 113</b>	<b>293 763</b>
<b>Communities and regions</b>	<b>12 567</b>	<b>344 140</b>	<b>353 187</b>
<i>of which:</i>			
Ministries	--	23 301	24 244
Scientific establishments	--	193	198
Public interest bodies	--	43 214	48 737
Teaching personnel <sup>(1)</sup>	--	277 432	280 008
<b>Provincial and local administrations <sup>(2)</sup></b>	<b>181 058</b>	<b>239 924</b>	<b>237 368</b>
<b>TOTAL PUBLIC SECTOR</b>	<b>815 916</b>	<b>885 177</b>	<b>884 318</b>

-- Data not available.

1. including those of the provinces and municipalities.

2. In 1985, local authorities (including municipalities, public social assistance centres, and provinces).

Source: *Public Management Developments: Update 1995*, OECD, 1995.

Each level of government has responsibility for negotiations with employees' organisations. However, some negotiations involve all the authorities, in cases where subjects are of common interest as defined in the general rules of staff employment.

Each authority has autonomy to decide on its level of recruitment, but actual recruitment must be carried out by the Permanent Secretariat for Public Service Recruitment when the posts are for established officials. The rules are the same as at central level, with one difference: the authority is free to recruit any of the candidates who passed the exam, while at central government level (federal, community and regional) the posts must be filled according to exam result rankings.

Each authority also has autonomy to decide on pay levels, subject to respecting the minimum and maximum entitlements laid down by the federal government after consulting the other authorities. There is a solidarity mechanism by which authorities have to contribute to the federal government's pensions budget to offset the impact of pay settlements on the pension bill.

As part of the decentralisation of services to the communities and regions, formal procedures have been introduced so that staff from these services can ask to swap posts with staff employed in the services that have remained federal who would like to be transferred to the decentralised services.

*Mobility:* Mobility between levels of government is not common in practice, though the principle appears in the Order laying down the general rules of staff employment.

## **2.5 Regulatory management and reform**

As stated above, the Constitution was amended in 1970, 1980 and 1989, radically altering the division of responsibility between the levels of decision-making: State, communities, regions.

Decisions with force of law are drafted and passed by the federal assembly (acts), community assemblies (decrees) and regional assemblies (decrees or statutory orders). Likewise, the federal

government and the governments of the communities and regions draft and pass regulations in their respective fields of responsibility. Decisions taken by the provincial and municipal authorities are subject, in various forms, to supervision by the regions.

Whilst there are some concerns as to the quality and consistency of regulatory decisions, it should be said that the philosophy underpinning the various stages in institutional reform has served to strengthen the autonomy of the communities and regions.

The autonomy of the communities and regions, and the rule that prevents municipal and provincial bodies as such from acting together, mean that there are scarcely any mechanisms for co-operation in drafting or applying regulations. Forms of co-operation between municipalities do exist, but they are confined to the management of activities. None concern the drafting or enforcement of regulations.

The autonomy which today characterises the Communities and Regions takes account of the differences which may be observed in the contents and the quality of regulations, as well as their eventual impact in terms of efficiency and competitiveness. Given the very wide discretion of the Communities and the Regions, some competition may sometimes result.

### **3. Trends in redistributing authority across levels of government**

#### **3.1 *Evolving tendencies***

In the last twenty-five years, Belgium has undergone a process of institutional reform. At the end of this process, the unitary State created in 1830-1831, and which had survived in that form until 1970, had been transformed into a federal State. Whilst there had always been several policy-making levels (State, province, municipality), under the unitary system that had prevailed up until 1970 it was at State level that legal rules with force of law were drafted, passed, given royal assent and promulgated. Whilst the provinces and municipalities did have real discretion, both entities were conceived as subordinate authorities subject to supervision by central government.

Not only did the transformation of the unitary State into a federal State lead to a proliferation of policy-making levels and the setting up or restructuring of institutions at each level, it also had an important impact on the organisation of government services.

The four major stages in the institutional reform process were:

- in 1970, recognition of the existence of cultural communities and regions; definition of fields of responsibility and creation of political institutions in the cultural communities;
- in 1980, extension of the field of responsibility of the communities; definition of the field of responsibility of the regions; creation of political institutions in the communities and regions (except Brussels);
- in 1988-1989, extension of the fields of responsibility of the communities and regions; creation of political institutions in the Brussels-Capital Region;
- in 1993, enshrinement of the federal nature of the State; introduction of direct elections to all community and regional assemblies.

The reforms were introduced to settle the disputes that stemmed from linguistic and cultural diversity and the complexity of the regional situation which had called into question the State's unitary and centralised nature.

The trends in the redistribution of authority mirrored those in the political institutions. In 1979 new authorities were created through the decisions or plans for the autonomy of communities and regions: Ministry of the Flemish Community, Ministry of the French-speaking Community, Ministry of the Walloon Region, Ministry of the Brussels Region. Their structures then evolved as a result of the subsequent changes that occurred at each stage in the institutional reform process (in 1980, 1988-1989 and 1993). The most complex structures are those in the Brussels Region.

In addition, among the decisions which have affected the trends at federal level, particular mention should be made of the decision, introduced by the Royal Decree of 19 September 1994, to create a Ministry of Public Service totally separate from the Ministry of the Interior, bringing under its umbrella a number of services such as the General Administration Service, the Permanent Secretariat for Public Service Recruitment and the General Directorate for Selection and Training.

### **3.2**     *The current debate*

The government agreement of June 1995 contained no major new decisions on this subject. However, the parliamentary elections on 21 May 1995 were called following a new declaration of intent to amend the Constitution which was passed and published. The federal assemblies that were then elected therefore have a mandate to revise the Constitution.

Some parties, groups or sections of opinion are nevertheless lobbying for further institutional reform in order either to extend the field of responsibility of the communities and regions, or to bring some areas of responsibility more clearcut. Now that certain provincial responsibilities are likely to be centralised in the communities and regions, some people are openly questioning the need for the provincial tier.

### **3.3**     *Driving forces*

In the recent past, some parties have acted as a driving force in the institutional reform process, particularly the Dutch-speaking Christian Socialists and the French-speaking Socialists. The gradual transformation of the unitary State into a federal State has affected a large number of sectors. To assign any real value as examples to any of these cases would be arbitrary.