

**A step forward?**  
**A gender perspective on the reform of the Belgian electoral system**

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## 1 Introduction

The reform of the Belgian electoral system is one of the hobbyhorses of the present Verhofstadt Government. Much has been written about it in the press over the last few months, whereby the attention was first of all directed at the question to what extent the Government let itself be guided by noble principles. Is it really motivated by a more adequate translation of democratic principles, or is it a capitalizing on a position of power that it is after? Both angles are also of importance if we approach the subject from a completely different perspective, namely via the question to what extent the reforms can contribute to more balanced gender relations in politics. Is it not the case that even this subject is officially an important policy issue? Will the reform of the electoral system contribute to a more balanced sex-ratio in politics? Do these reforms imply a reduction of gender-related barriers in the Belgian electoral system? Are there any barriers at all and if so, what are they?

Judging by the extremely small number of women that Belgian politics has known for decades now and its increase over recent years, years we can equally describe as the quota-years, we can assume that there probably *are* barriers. So far this question about the existence of barriers has however primarily been asked in the context of the debate about the need for, and the benefits of, gender quota. Both the quota and the target figures introduced by the parties, and the quota enforced by law in 1994 and more recently in 2002, aim at reducing gender-related barriers in the Belgian electoral system. The same applies to the reduction of the impact of the list order, from a predominantly liberal standpoint presented as an alternative for quota. Apart from that, the electoral system per se has not undergone much doctoring to attain more balanced sex-ratios in Belgian politics.

Even with the recent reform of the Belgian electoral system, the enhancement of women's representation in politics was hardly an objective. In fact one remained surprisingly quiet about this theme. Should we deduce from that that this reform is gender-neutral? Or is the silence on this topic a writing on the wall that gender questions are not under discussion when dealing with the really important matters, like the reform of an electoral system? In other words, one does feel like fighting the excrescences of the system, but one is not a priori prepared to put a stop to these while one is in the process of revising the fundamentals of the selfsame system.

It is difficult to find answers to these questions. After all, they are situated at the fragile borderline between political discourse on the one hand, and the real motives of political actors

on the other. It is possible, however, to analyse the reform of the Belgian electoral system from a gender perspective and this is what we set out to do in this contribution. At first, we are dealing with the question of the key elements of what can be called ‘a gender-sensitive electoral system.’ Then, we are going to test the Belgian electoral system against this model. Furthermore, we are examining the reforms of this electoral system by asking to what extent they heighten its gender-sensitivity. Lastly, we are going to study the relation between the reformed electoral system and the other government measures to stimulate the sex-balance in politics, i.e. the 2002 quota law that replaced the 1994 law. We will be looking at the degree to which this law actually is in keeping with the reforms of the electoral system. This offers the possibility to uncover possible contradictions in the way one doctors on the electoral system on the one hand, and the quota law on the other hand. It is in fact possible that effects are thereby generated which are mutually neutralizing, and thereby discouraging a more balanced sex-ratio.

## **2 The definition of a gender-sensitive electoral system**

In the literature on the procedures for the incorporation of both sexes in political decision-making, the electoral system is but one factor of many which are quoted in explaining women’s access to politics (Leijenaar 1997; Lovenduski and Norris 1993). Others are for example, the general political culture, the party system, the party structure and ideology. The electoral system is, however, not *just* another factor among many. Firstly, electoral systems are not neutral. The specific conditions of the electoral system significantly impact on the election results and the power relations between political parties as well as between social groups. Consider the recent discussions about the introduction of an electoral threshold. Secondly, one can doctor on elective systems easily, and therefore does so regularly. Elective systems are after all a collection of technical rules of play and in that sense much more easily susceptible to change – at least if there is political will – than factors like political or social culture. Thirdly, the electoral system is not just one factor among many, as it is itself made up of various aspects, like whether or not a list of candidates is used, whether that list is open or closed, what the size of electoral districts looks like, whether there is an electoral threshold, etcetera.

It is therefore hardly surprising to see that the genderstudies literature about electoral

systems looks for the definition of a gender-sensitive electoral system (see e.g. Leijenaar 2000).<sup>1</sup> According to the literature, a electoral system that is the most beneficial to sex parity, is characterised by:

- a high degree of proportionality;
- a high party magnitude;
- closed lists;
- the indication of the respective candidates' sex;
- a limitation in time of the number of mandates.

We will amplify these characteristics one by one.

## **2.1 The system of proportional lists**

If the literature does at all agree on one matter, then it is on a proportional electoral system as being the most gender-sensitive. Research has systematically shown that larger numbers of women hold the office of political delegates in proportional electoral systems than in majority systems (Garcia Munoz and Carey 1997; Norris 1987, 1985; Rule 1994, 1987, 1981). This applies at least for Western countries (Matland 1998c). Proportional electoral systems are characterised by twice as many elected women as majority systems. In 1999, women in the national assembly of 53 democratic countries made up 10.8% of those elected in majoritarian systems, 15.1% in mixed or semi-proportional systems and 19.8% in proportional systems (Norris 2000). This is also the ranking in which the scientific literature puts electoral systems when assessing their gender-sensitivity (Matland 1998a; Rule 1994; Squires and Wickham Jones 2001).

Yet not all proportional electoral systems are equally gender-sensitive. The literature distinguishes three proportional electoral systems: the list proportional system (a system of the Belgian type), the single transferable vote system (a system like the Irish one) and the mixed member proportional system (like the German system). Of these three, the proportional list system is eventually the most proportional, which is why it is preferred from a gender

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<sup>1</sup> The determination of the modalities regarding the constitution of the Scottish assembly in the nineties is a good example of the way in which certain actors purposefully looked for a gender-sensitive electoral system (Brown 2000, 1996; Squires and Wickham-Jones 2001).

perspective. A system of proportional lists implies that parties present a list of candidates per electoral district and that the voters make their choice within the confines of one party.<sup>2</sup>

Why is it that more women become elected through proportional elective systems than via majoritarian systems? A first reason is the degree to which new candidates disturb the party-internal power balance. In a majoritarian system this is a zero-sum game: parties can only play out one candidate, so if a woman or another candidate of an underrepresented social group takes up this place, then by definition there is one place less for the 'established names' within the party. In a proportional system parties can more easily create room for new candidates without menacing the internal power balances. Some authors also point out that women feel uneasy about the competition ensuing from a zero-sum game situation (Leijenaar 2000; Welch and Studlar 1990).

A second reason is connected to the way in which the elector is appealed to. In a majoritarian system the candidate who is advanced is the one with whom, it is expected, as many voters as possible can identify. On the contrary, in a system of proportional representation, parties play a range of candidates, each of whom is to appeal to a subgroup within the electorate. That is why in majoritarian systems more established candidates tend to be pushed forward, which often plays tricks on women. A proportional system by contrast, seems to bring into play a contagion effect (Matland and Studlar 1998). This means that mutually competing parties are stimulated to play female or other 'innovative' candidates as soon as it is assumed that these will attract new voters. As long as even a smaller party can score, bids will be raised, so to speak. A majoritarian system knows such imitating behaviour far less.

A third explanation is the larger turnover of candidates and delegates in a proportional system. This, coupled with the trend of holding on less to a place on a list or a seat, enhances the chances for women and other candidates of more recent groups (Lovenduski and Norris 1993; Matland and Studlar 1996). Lastly, the literature also points to the often varying selection procedures which are followed in a majoritarian and a proportional system. In the first case the selection procedures are often more decentralised, whereas a central appointment of candidates makes it easier to take into account general interests which exceed the individual interests.

## **2.2 Party magnitude**

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<sup>2</sup> For more information about the various electoral systems, see Reynolds and Reilly 1997.

For a proportional list system to become really gender-sensitive, it must hold a high number of seats per party per electoral district. This the literature generally describes as party magnitude (Matland 1993). What is important in this context, is that it is not a matter of the relative size of parties, but their absolute size.

The number of seats that every party wins per electoral district is higher in larger electoral districts. Even when proportional systems with relatively small electoral districts still do better than majoritarian systems in terms of the proportion of women (Lovenduski and Norris 1993), a constant finding is that women are represented in larger numbers in political assemblies through systems characterised by large electoral districts (Engstrom 1987; Jones 1996; Matland 1993; Matland and Studlar 1998; Norris 1996; Rule 1987). Electoral districts of five seats appear a minimum for women to become elected considerably. According to empirical studies, electoral districts should consist of ten to fifteen seats if women's number is to rise substantially (Rule 1994).<sup>3</sup> On the one hand, this is because the number of votes needed drops the higher the number of seats. On the other hand, the logic which underlies a proportional system, namely the balancing out of the list in terms of diversity, is more purely at work as the size of the electoral district grows. There are arguments for and against bigger electoral districts<sup>4</sup>, but it is undeniable that they offer a higher potential for diversity.

However, the more parties are competing, the fewer seats these win per constituency. Already near the end of the 80ies Darcy and others pointed out that the impact of the size of electoral districts is influenced by the number of parties which obtain seats per electoral district (Darcy et.al. 1994). The positive effect of large electoral districts for women and other underrepresented groups is in fact undone if too large a number of parties must share the seats within an electoral district. Empirical research in 25 modern Western democracies by Paskeviciute (2001) detected a positive correlation between a minimum number parties and the percentage of female delegates. The limit of this positive effect lay, according to the findings, at six effective parties; otherwise the pure working of a proportional system is disturbed. Empirical findings have it that the number of seats that parties win per electoral district is even more significant a condition for a gender-friendly electoral system than the size of an electoral district (Matland 1993).

This explains why a number of authors argue that an electoral threshold is a prerequisite for a gender-sensitive electoral system (see e.g. Leijenaar 2000). Just like the formation of large

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<sup>3</sup> The author makes a subtle remark in passing that such large electoral districts are conducive to the necessity for delegates to give account to their voters, as established delegates can more easily be reprimanded (in the sense of not being re-elected).

electoral districts, the introduction of a legal electoral threshold is a technique to maximise the number of seats per party per electoral district. An electoral threshold can lower the number of parties, whereby the number of people elected per party increases. When parties obtain more seats, candidates with a variety of profiles can be elected.<sup>5</sup> An electoral threshold moreover, especially excludes very small parties, which often tend to play out a conventional candidate. Nevertheless, this plea for an electoral threshold requires a comment. However logical the argument may sound that small parties leave their scarce seats only to political heavyweights, there is an exception: parties who are specifically bent on advancing underrepresented social groups. Even if they do not necessarily win (a great many) seats during the elections, they can spur on the well-established parties to pay more attention to the underrepresentation of certain social groups in their midst. In the absence of an electoral threshold, such new parties can crop up more easily. Thus we see that e.g. in Belgium, new parties especially spring up in larger constituencies like in Brussels and Antwerp, as the actual electoral threshold is relatively lower. This equally applies to the *Verenigde Feministische Partij* (the United Feminist Party), which wanted to incite other parties to advance more women candidates, or to the list repeatedly formed in the nineties, which explicitly aimed at enhancing the representation of Belgians of foreign origin. It would have been (even more) difficult for these parties to stand for election, had there been a higher electoral threshold. We could posit that in systems without legal electoral thresholds, there still is a real electoral threshold operating. In the latter case it does differ per electoral district, whereas with a legal electoral threshold the same minimal barrier applies everywhere. From this point of view, not everyone subscribes to the plea for an electoral threshold (see e.g. Rule 1994).

The question is finally whether one speculates on the effect of that type of parties or on the yielding to the demand for more diversity by large parties. The difference lies in the fact that the promotion of party-internal diversity may be enforced from higher up. What we can state with certainty is that a high number of seats per party per constituency is of importance to stimulate socio-demographic representativeness and that large electoral districts in combination with an electoral threshold can be the proper technique to make this happen.

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<sup>4</sup> See e.g. Maddens 1995.

<sup>5</sup> The other question which presents itself in this context is what is meant by representativeness. An electoral threshold is, according to Matland (1998b), negative for representativeness as it is measured traditionally, namely in terms of the distribution of seats among parties. The traditional way to express representativeness (being the nearer the share of seats is to the proportion of votes gained, the more representative the system is taken to be), is partly undermined by an electoral threshold. But an electoral threshold does raise the number of seats that parties win per electoral district and thus representativeness in another sense: a descriptive of socio-demographic. The balancing that has to be done here is between what the society holds as primordial in terms of representativeness.

### 2.3 Closed lists

For a proportional list system to be really gender-sensitive, it needs to be combined with closed lists and this again in combination with a quota measure. With closed lists the electors declare their preference for a party without being able to alter the order in which candidates appear on a list via a specific preference for a male or female candidate. With open or half-open lists the electors can vote for particular candidates, whose individual chances for election may thereby be affected.

This brings us to a debate, namely that of closed lists versus preference votes. To the advantage of preference votes, it is often argued that it allows for electors to have the last word over the election of candidates, and that the resolute votes for certain candidates can be used as a strategy (Rule 1994). Moreover, quota measures can be juridically contested and annulled, whereby their sex-balancing effect is undermined (Leijenaar 2000). Although both arguments hold water, two comments are in their place here. Firstly, one can state that unclosed lists undermine the responsibility of parties, since the electors are eventually made responsible for the sex-balance of the delegation it sends to the assembly. Secondly, voters make little use of the strategic instrument to influence the constitution of a party via preference votes, and in fact more women get elected on closed lists (Paskeviciute 2001), especially if these are coupled with effective quota (Jones 1998, 1996). Where preference votes have been employed as a strategy to have more women elected, it has often had a reverse long-term effect.<sup>6</sup>

The crucial question boils down to whether it is easier to convince the voter to vote for women or to persuade party leadership to allot good places to women candidates (Matland 1998a). Analysing the Belgian situation, one must conclude that neither the one, nor the other seems simple, but the latter can at least be enforced via legal measures. This leads to the underlying question whether our society is prepared to undertake steps so as to obtain a sex-balanced representation and if so, up to what point.

It is self-evident that, in a democracy, a government is not in control of the election results. It can, however, set a number of rules to come to that result. With regard to a sex-balance there are three key elements with which an electoral system must comply: proportional lists, a

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<sup>6</sup> For its local elections, Norway relies on a proportional system with open lists. Through an intensive campaign for the 1971 elections, (female) voters to a great extent made use of the possibility to omit male candidates from the lists and to put women on top. In some cities the share of women thus rose by 15 to 20% and thereby became the majority. This success had, however, a reverse and unwarranted effect when at the following elections there was lobbying to undermine women candidates.



maximum number of seats per party per electoral district and closed lists in combination with quota. All these elements can be fixed legally. So, in actual fact, the government does have at its disposal an important lever to reach more sex-balance in politics.

#### **2.4 Sex-indicators and the limitation of mandates in time**

On the last two characteristics of a gender-sensitive electoral system, namely the indication of the candidates' sex and a limitation in time of mandates, opinions do not differ. Both are assumed to contribute to a more balanced constitution of assemblies. To indicate the sex is particularly important when first names are not marked in full, but it is also helpful whenever these do not univocally refer to one sex. Moreover, this measure helps to visualise in a simple way the extent to which parties are concerned about offering a sex-balanced list. Still, it will be clear that this rule does not have the same structural impact as the majority of the measures discussed above.

Very different, however, is the demand for a limitation of the number of mandates a deputy can hold consecutively in one and the same assembly. The proposal for this rule is inspired by what one could call the headstart, or the advantage, of established representatives. Delegates who are standing up for a second or third mandate have better chances to be elected. They at least have the advantage of having been able to create a distinct profile of themselves for some years through their mandate, which usually results in a certain amount of publicity and often also a certain amount of credit with the electors. Limiting the number of mandates that a person can hold, leads to a higher turnover of candidates. This creates openings for newcomers. A similar reasoning underlies the limitation of the number of mandates that a person can have simultaneously. A broad ban on cumulation raises the number of candidates that can gain a mandate. A comment on this matter of decumulation needs to be made here. As soon as, or when an assembly is formed in a balanced way, even an important ban on accumulation will not lead to great shifts in terms of representativeness.

### **3 The gender-sensitivity of the Belgian electoral system**

It speaks for itself that there is no such thing as *the* Belgian electoral system, as the rules may vary according to the level at which elections are organised. To prevent any overlaps, we will in fact discuss the various aspects of the Belgian electoral system here and refer where needed

to the differences per election level (i.e. elections for the European Parliament, the Senate, the Lower House, the councils of communities and regions, as well as the provincial and local councils)<sup>7</sup>.

### **3.1 The system of proportional lists**

Since 1899, Belgian elections are based on proportional lists. This prerequisite for a gender-sensitive electoral system is thereby met and in this respect, Belgium scores rather good points internationally. The only aspect on which the various levels differ from one another is the calculation method used to distribute the seats over the lists. Except for the local level, the D'Hondt method is used everywhere, another fact since 1899. At the local level the Imperiali method has been followed since the revision of the local electoral system in 1921. The big difference between these two methods lies in the fact that the Imperiali method favours larger parties.<sup>8</sup> There are plans to adopt the D'Hondt method on the local level too, at any rate in Flanders.

Empirical data are lacking to prove whether this difference can in itself be significant for the degree to which an assembly is composed in a sex-balanced way. But apart from that it is possible to make the following reflection, analogous to the reasoning regarding the electoral threshold: the more seats parties obtain, the easier they will be prepared to partly leave these to candidates with no traditional profile. In this sense a distribution method that advantages larger parties is not necessarily disadvantageous to promoting party-internal diversity. Nevertheless, some authors do plead for a distribution method which allots the seats even more proportionally according to the amount of votes, than the D'Hondt formula, like the Niemeyer distribution code (Rule 1994). The underlying reason here too, is that the exclusion of small parties also obstructs those parties which set themselves the target of precisely promoting diversity.

### **3.2 Party magnitude**

In Belgium the size of the constituency varies both for the level at which elections take place and within the election level itself. Roughly speaking, one could divide the range of assemblies in two categories: those with one electoral district (possible per language group) and those that are elected over several districts. To the first category belong: the elections for

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<sup>7</sup> The Council of the French Community is composed indirectly.

<sup>8</sup> For a detailed discussion, see e.g. Ackaert 1990.

the Senate, for the European Parliament, as well as for the Council of Brussels Capital Region, the Council of the German-speaking Community and the local councils.

The largest electoral district is to be found for the election of the Council of Brussels Capital Region to which 75 – and in the future even 89 – delegates are elected. The second largest electoral district is that at the level of the Senate and of the Council of the German-speaking Community. In the Senate, the Dutch-speaking electorate has an electoral district of 25 seats. The same goes for the Council of the German-speaking Community. The French-speaking electors vote for their Senators in an electoral district of 15 seats, which comprises just one more seat than the Flemish electoral district for the European elections. At this last level, the French-speaking electoral district consists of 10 seats.<sup>9</sup> Although, in terms of size, the French-speaking electoral district for the European Parliament comes close to the number of districts of the assemblies that are elected in several electoral districts, the electoral districts there are generally smaller. Completely in line with the expectations, one witnesses a higher percentage of women delegates in the assemblies described above that have larger electoral districts, than in the others. Whereas in these cases it approximates 30% or exceeds it, it is about 20% in the case of the Lower House and the Council of the Flemish Community, and in the case of the Council of the Walloon Region even far below this.

At the local elections, the districts correspond qua average size to that of assemblies which are elected on the basis of one electoral district. The electoral districts consist of on average 22.2 seats and the median is 21 seats. Here, measurements at the last election have shown that a correlation exists between the size of the electoral district and the percentage of women who get elected. The correlation amounts to 0.25 (Marissal and Hansen 2001).<sup>10</sup>

The Council of the Flemish Community has the largest electoral districts of all assemblies that are elected in several districts. The constituencies consist on average of 10.7 seats and the median too lies around 10, although the smallest district has 5 seats. As for the Lower House, the mean electoral district has 7.5 seats, the median is only 6 and the smallest district has 2 seats. At the level of the Council of the Walloon Region too, the median lies at 6 seats and the smallest district has but 2. The average district has only 5.8 seats. Looking at these data it is not surprising that especially in the Council of the Walloon Region the percentage of women is lower than in the assemblies which are elected through larger electoral districts. That in the Lower House, with its on average small electoral districts, the percentage of female delegates

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<sup>9</sup> One exception is the German-speaking electorate which, because of the number of electors, have an electoral district which consists of only one seat. In the Senate they have one co-opted Senator.

exceeds 20%, obfuscates the image. It is possible that more balanced election results in larger districts boost the general share of elected women, but this has not been studied.

For provincial elections, the spread of the electoral districts is a bit larger than in the case of other assemblies. Whereas the smallest comprises 2 seats (Poperinge, West-Flanders), it runs up to 30 in the largest (Wavre, Walloon Brabant). An electoral district on the level of provincial councils consists of 7.4 seats and the median is about 6 seats. Here the same comment as was made about the Lower House applies, namely that a more sex-balanced election result in larger districts revalues the overall percentage. For the 2000 elections the correlation coefficient between the size of the electoral district and the percentage of elected women was 0.25, which seems to imply that women's proportion grows with the size of the electoral district (Marissal and Hansen 2001).

The current divide in the sex-ratios confirms the idea that a larger proportion of female delegates goes hand in hand with larger electoral districts. This applies without exception for the in 1993 reformed Senate and for the Council of Brussels Capital Region.<sup>11</sup> While the results of the Senate in 1993 can partially be explained by the debates about the 1994 genderquota law, there was not yet concrete talk of such a measure in 1989, when the first direct election of the Council of Brussels Capital Region was held. That this Council already boasted nearly 25% of women, a much higher percentage than any of the other Belgian assemblies, is partly due to the very large constituency.

Although in a way the data confirm the hypothesis that larger electoral districts are beneficial to the percentage of female elected, this factor cannot be overestimated. Initially, the Belgian delegation in the European Parliament and the Council of the German-speaking Community for example were not characterised by a large proportion of women. It was from the second election, in 1984, onwards that the first had a relatively large number of women; the second did since the 1994 quota law passed. A similar remark can be made about the local councils, although one could interpret the figures differently as there has been a gradual growth in the percentage of women elected already since the beginning of the eighties. The sole exceptions in this context are the provincial councils, which have relatively many women elected, equally since the vote of the quota law. But in this case we can speak of second order elections, whose results therefore need to be nuanced. On the whole, however, only assemblies with relatively smaller electoral districts see a lower percentage of women delegates. One may thus deduct

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<sup>10</sup> Carton (1995) points out that, even for the local elections of 1994, proportionally more candidates are on the lists in large towns than in smaller towns.

from that that larger electoral districts have more potential in terms of gender-sensitivity. Further, data seem to suggest that the much cited explanation for the relatively high number of women elected to the Senate and the European Parliament, namely that these hold less power, calls for some refining. It is not just a matter of less power. Evidence suggests that it is also a matter of party magnitude.

The number of parties that participate in the elections in Belgium and actually obtain seats has risen over the years. On the one hand, traditional parties at one point split in one Dutch- and one French-speaking counterpart.<sup>12</sup> On the other hand, new parties saw the light, the regional and the green parties and, particularly on the Flemish side, also the extreme right. It is therefore not surprising that the degree of fractionalisation has gradually increased since the beginning of the sixties. Where it added up to .67 in the 1961 Lower House, it had risen to .90 by 1999. The same holds true if one looks at the effective number of parties. Calculations for the Lower House have shown that, where there had been 3.1 in 1961, the number mounted to 9.8 in 1999 (Deschouwer 1999). These are the number of parties that are actually seated in the Lower House. These data would present a less fragmented image, if the parties of various language groups belonging to one ideological family were considered one (Deschouwer 1987). Data for the local level indicate that there, the degree of fractionalising rose slightly between 1976 and 1994 (from .57 to .59). What is striking, however, is that it is higher in Brussels than in Flanders or in Wallonia (Ackaert 1995).

This brings us to an important point. Even though a trend of more fractionalising can be recognised, the number of parties is particularly high when the parties of both language groups fight for the same voters, in other words in the Brussels region. This is the case for the elections of the Lower House, the Council of Brussels Capital Region and the local councils.<sup>13</sup> But in all these cases the electoral districts involved are relatively large, which puts the number of parties into perspective.

### **3.3 Closed lists versus preference votes**

In the Belgian electoral system the choice for the system of preference votes or for the list order has never been made in a clear-cut way. Both play a role in the end, albeit to a varying extent depending on the electoral level. The Belgian voter can make use of plural preference

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<sup>11</sup> The St. Michael's agreement (1993) equally reduced the number of seats in the Lower House from 212 to 150, but did not really change the size of the electoral districts.

<sup>12</sup> In 1978 the Socialists split up and thereby followed a trend which was introduced by the Christian-Democrats in 1968 and which had been imitated in 1971 by the Liberals (Deschouwer 1993).

votes – this is the possibility to vote for more than one candidate and/or successor – as long as it is done within one and the same list. This measure has long been in existence for local elections. At the provincial level the system of the simple preference vote was replaced in 1994; at the remaining levels this happened in 1995. Candidates are not just elected on the basis of the amount of preference votes that they have attracted. The only situation in which the ranking on the list has no impact is when a candidate's number of preferential votes attains the eligibility figure or when the list votes are already fully distributed and there are still seats to be allocated. However, since a number of amendments took place between 2000 and 2002, there is a 50% reduction of the impact of the list order. In practice, this means that only half of the stock of votes for the ticket as is are transferred, whereby these are used up faster and those elected get appointed more easily on the basis of their respective number of preference votes. So far, this last rule has only been observed during the local and provincial elections of October 2000.

Throughout the years, we witness a rise in the number of preference votes, even it is not steady and not everywhere as high (Das 1992; Smits and Wauters 2000). But in most cases the list order remains decisive for becoming elected or not. In the course of the whole last century, not even 1% of the MPs succeeded in breaking through the list order for the Lower House or Senate (Craeghs and Dewachter 1998). Furthermore, the analyses of the 1995 and 1999 elections point in the direction that little use is made of the system of multiple preference vote. And when use is made of it this hardly leads to a massive breaking through the list order, because the plural preference vote benefits especially candidates on top of the list (Smits and Thomas 1998; Smits and Wauters 2000).

The situation is different on the local and provincial level. Especially on the local level preference votes are given on a much larger scale, resulting in a higher number of candidates who become elected outside the list order (Ackaert 1994; Wauters 2000). For example at the 2000 elections this happened in 49% of the cases. On the provincial level it is less significant, but in 2000 it still amounted to 30% (Marissal and Hansen 2001). Halving the impact of the list order naturally is of importance here, but even before, the difference between the local – and to a lesser extent the provincial – level and the other levels had already been considerable. With regard to gender-sensitivity the following remarks are in place. Firstly, one cannot say that the fact that the voter on the provincial and local levels has a bigger say in who is eventually elected, leads to a playing out of this as a strategy to increase the share of women.

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<sup>13</sup> For the elections of the Senate and the European Parliament the number of seats for the various language groups is fixed. The provincial councils too are unaffected by this.

Simulations have revealed that the list order today impacts negatively for women on all levels (Verzele 2000; Marissal and Hansen 2001). For the provincial level it was calculated that the rise in the proportion of women elected in 2000 can but to an extremely limited extent be attributed to the halving of the impact of the list order. A mere 1% more women were elected than if the impact of the list order had not been halved. This suggests that the instrument of the preference vote is not really used to elect more women at elections for the local- and provincial councils. If the Belgian electoral system is to become more gender-sensitive via the option of the preference votes, a bigger effort will be needed in mobilising the elector. This is the case for all levels, be that because this instrument is not really made use of, or be it because only a large-scale giving of preference votes for women is effectively beneficial to them.

A second point is that using contradicting strategies simultaneously does not result in an optimal effect. We are referring to the simultaneous enforcement of quota and the upgrading of preference votes, as the latter undermines the effect of the list order. So quota for safe seats, as introduced through the 2002 quota law, are of no use anymore. The parallel use of two opposing strategies undermines an optimal impact thereof on gender-sensitivity. Such a situation, moreover, reflects a lack of will on the part of the Government to take a clear position in this matter, let alone to act accordingly.

### **3.4 Sex-indicators and limiting mandates in time**

The Belgian electoral legislation renders the full statement of the first name on the list of candidates obligatory. The sex of the candidates is not provided. Besides this, there is no limitation of the number of consecutively held offices. Nor does the electoral law prescribe a maximum age limit for candidates. There does exist, however, a limited rule of incompatibility for some mandates. For example, being a delegate to the Council of the Flemish Community or the Council of the Walloon Region is incompatible with being seated in the Lower House or being a directly elected or co-opted Senator. In terms of gender-sensitivity the Belgian electoral system, on the whole, does not well as regards these aspects.

Evidently, not all modalities of the Belgian electoral system have so far been enumerated. It is, for example, also characterised by the compulsory attendance. Yet there are no indications that these additional traits of the Belgian electoral system undermine or advance the gender-sensitivity. The system of successors could constitute one exception to this. We will expand

on it in the following part.

#### **4 The reform of the Belgian electoral system<sup>14</sup>**

The present federal bills to reform the electoral system redraw the contours of both the Senate and the Lower House. The new Senate will have an equal number of wo/men, with 35 Dutch-speaking and 35 French-speaking Senators. One French-speaking Senator is delegated by the German-speaking Community and, as for the delegates from the Council of the Flemish Community, it is seen to that the Dutch-speaking in the Council of Brussels Capital Region are adequately represented. Both the Councils of the Flemish and French Communities appoint a minimum of 30 members from among themselves or from their respective government, thereby respecting the numerical proportion between the various political parties. Besides this, every Council can co-opt a maximum of 5 Senators. Further, no more than 2/3 of the members of each language group can be of the same sex. At the next elections in 2003 the Senate will still be elected on the basis of the old electoral districts. After the eventual reform, the 40 directly elected Senators are to move to the Lower House, where they will become the first generation of 'nationally elected' delegates (see below).

The make-up of the Lower House is equally going to be altered fundamentally. In total it will comprise 200 deputies, of whom 150 are elected via local districts. These local districts are provincial electoral districts, with the exception of the former province of Brabant. On the Dutch-speaking side there will be one joint list for Brussels-Halle-Vilvoorde and Leuven. On the French-speaking side parties will stand for election via separate lists in Brussels-Halle-Vilvoorde on the one hand, and Nijvel on the other hand. Subsequently, the results in Brussels-Halle-Vilvoorde are first pooled on the level of the language groups. Then, the number of seats obtained on the Dutch-speaking side in Brussels-Halle-Vilvoorde are added up with those from Leuven. So, this electoral district in fact consists of a flexible number of seats. On the French-speaking side, only the district Brussels-Halle-Vilvoorde is flexible as for the number of seats. In this case an apparentement is possible between Brussels-Halle-Vilvoorde and Nijvel. The remaining 50 deputies are elected via one national list per language group, and the seats-ratio will be based on the number of seats that each language group won

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<sup>14</sup> This section is based on the memorandum of 26 april 2002 drawn up by the parties to negotiation, as well as on the present bills (Doc50 2035/001 Kamer van Volksvertegenwoordigers, Wetsontwerp tot wijziging van het



via the local lists at the preceding elections. Candidates can stand for election on a local as well as on a national list, in as far as the local list is related to the electoral district of the candidate in question. Candidates who become elected on both the national and a local list, must choose which office they are taking. The system of successors, only just abolished, is therefore reintroduced. There will be separate lists for effective candidates and successors. Furthermore, a provincial electoral threshold of 5% is brought into force. Beside the electoral threshold, an alteration of the contours of the electoral districts and the system of successors is going to be implemented in June 2003.

#### **4.1 The reformed Senate from a gender perspective**

In the case of the Senate, as in that of the Lower House, the reforms offer both a number of levers and pitfalls as for the promotion of a sex-balance. Particularly eye-catching about the Senate is the imperative restriction of the number of Senators of the same sex.<sup>15</sup> It is something new to the Belgian society and to the whole of Western Europe that a legislative is imposed a minimal sex-ratio. So far, measures have always focused on the input-side, i.e. the list of candidates, and not on the output-side, in other words the effective distribution of seats over delegates of a differing sex. The Belgian political system too has known such reserved seats only for language groups.<sup>16</sup> The imposed ratio is even a world first: elsewhere, the proportion of seats reserved for the underrepresented sex has never reached a critical mass.<sup>17</sup> One may nevertheless wonder why a government which applies the principle of parity to the list of candidates, suddenly departs from that principle in the case of an indirectly composed Senate. It is all the more incomprehensible as the same principle is actually followed – and for the first time across the board – for the two big language groups.

In practice, the imposed seats-ratio between the sexes will not guarantee a spectacular change as a matter of fact. At present there are 28.2% women senators, their proportion would thus increase by (at least) 6.1%.<sup>18</sup> This in itself is not a bad rise of the percentage, but such figures of growth are being registered elsewhere too, even without legal measures. The imposed

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kieswetboek; Doc50 1806/018 Kamer van Volksvertegenwoordigers, Wetsontwerp houdende verschillende wijzigingen van de kieswetgeving)

<sup>15</sup> A similar condition could be introduced for the Council of the French Community.

<sup>16</sup> Meant here are: the Belgian delegation in the European Parliament, the Senate and – in future – the Council of Brussels Capital Region.

<sup>17</sup> One could interpret this step towards a guaranteed representation of women in the Senate in a cynical way too, by seeing a link with the power which this institution will hold.

<sup>18</sup> One third (if one departs from a minimalist scenario) of 35 is 11.67. Since it is more correct to round this number up to 12, than down to 11, there would be 24 women Senators in total, which results in 34.3%. Naturally, nothing prevents the respective Councils to delegate more women.

seats-ratio may well be of consequence in another way. Even if the Senate is made up of 28.2% women at the moment, they still represented 30% of the Senators that are directly elected. In other words, women have fallen by the wayside – albeit to a small extent – comparatively more often for appointment and co-optation. With the new rules this could no longer happen. But it is debatable what this respecting of sex-ratios will mean in practice, as it applies per language group. So, the different parties will need to agree on how many men and women they will delegate respectively.

Lastly, if the number of women Senators does not soar, the new Senate will entail a comparatively heavier burdening of women delegates. Proportionately more women will, after all, have to hold a double mandate to reach the required sex-ratio. The only structural solution which tackles this problem to the core exists in taking measures which lead to a more balanced sex-ratio in the Councils of the Communities (and the corresponding governments).

#### **4.2 The reformed Lower House from a gender perspective**

At first sight, a number of Lower House reforms seem positive from a gender perspective. This holds particularly true for the enlargement of the electoral districts. Certainly on the Flemish side, the average size of the electoral districts grows.<sup>19</sup> In combination with an electoral threshold, it can stimulate the party-internal diversity. However, during the first election under the new system all the top candidates from various former electoral districts are now fighting for the top positions on the single provincial list. It is true that the list will consist of more eligible seats, but at present nothing actually guarantees that a sex-balance will be respected in the filling of it. Nor does the reformed quota law offer certainty, as the following section explains.

A positive effect of the provincial electoral districts is the omission of the *apparentement* (with the exception of the electoral district Nijvel and the French-speaking seats of Brussels-Halle-Vilvoorde). The *apparentement* rendered the allocation of the residual seat unpredictable. By its omission, it can be determined more precisely which places on the list are eligible. This may be to the advantage of social groups that are especially overrepresented in combat places. The dropping of the *apparentement* does not necessarily mean that parties

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<sup>19</sup> The size of the new electoral districts is as follows: Antwerp 24, East-Flandres 21, West-Flandres 17, Leuven and the Flemish seats in Brussels-Halle-Vilvoorde 17 to 18. The only Flemish electoral district where nothing changes is Limburg (11), as the earlier district Hasselt/Tongeren/Maaseik equally followed the borders of the province. On the French-speaking side one observes a same increase in the difference between large and small electoral districts as the previous electoral districts which were based on the provincial borders (Luxemburg, Namen and Walloon-Brabant) equally were the smallest. These comprise 3, 6 and 5 seats respectively. However,

suddenly let high numbers of candidates from underrepresented groups stand for election via so-called safe seats. But a part of the combat places which they have often been allotted, disappears.

Apart from the increase in the number of safe seats, the parallel circuit of two lists and the room for manoeuvring which it leaves to parties, could turn out to be a trump as well as a pitfall in terms of gender-sensitiveness. The potential pool of successors is larger than Belgian political history has ever seen, since everyone standing for election on a national list may do so on his or her local list too. There are thus 50 potential successor's places. This enables parties to strategically position candidates who have little chance of being elected. It also allows parties to offer newcomers a chance to come to the fore during one whole legislature, and to then play these people out during later elections. In other words, this manoeuvring presents parties with a 'breeding ground' for new candidates. Parties no longer have an excuse for not finding candidates with certain characteristics, or for arguing that these would not be elected. For this simply implies that they have neglected their pool of candidates or that they refuse to position such candidates strategically.

From a gender perspective, it is important to see who succeeds whom and where. Separate successor's lists have the advantage that – compared to the system whereby succession happens via the (first) candidates that have not been elected on the list of effective candidates – one can speculate more accurately who is to become the eventual successor. In cases where there is no separate successor's list, one seat more or less has the whole list of successors moving up. The question is, however, whether candidates that were elected on both lists will eventually choose the local or the national seat. In each case another list of successors comes into play. It is evident that, on these matters, arrangements need to be made beforehand. The clearer a scenario is in advance, the easier parties can fill the places strategically with candidates who they want to take office. Here again parties can exploit this to enhance the share of women delegates. But parties can also do the exact opposite and thus circumvent the legal double quota to some extent.

The fewer people stand for double mandates, the more precise each party can calculate beforehand who will actually enter office. There is less room for successors (apart from the cases where those that are elected move on to the government). In terms of gender-sensitivity this is the fairest system for parties who boast a considerable number of eligible women candidates and play these out. If parties do not have a great many women candidates eligible

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a number of small electoral districts in the provincial district of Henegouwen (19) and Liege (15) disappear. For the French-speaking side the district Brussels-Halle-Vilvoorde will probably yield 11 or 12 seats.

for election, the multiple use of double nominations for candidates offers the possibility for channelling successors to the Lower House, so they can create a distinct profile for themselves. In this case, however, it is crucial to come to agreements about the succession in advance and to fill these safe successors' places with such candidates.

A last remark, with regard to successor's lists. It is often asked whether these lists should, in view of a sex-balance, begin by a candidate of the same or of the opposite sex than the effective list. In fact one cannot simply adopt one principle or the other, as the calculations of party-internal ratios could take the Government into account too. The political women's groups of various parties do not just find it important that their party boasts a large number of women delegates. They attach importance to female ministers. It is, however, the case that a successor's list whose composition reflects the effective list, will not alter the ratio targeted by the effective list. The more balanced the effective list is, the more logical it is for the successor's list to mirror it so as not to undermine that balance. This holds true in as far as the list order is decisive.

## **5 The interplay between the reformed electoral system and the new quota law**

In an attempt to meet the social lament for a more balanced sex-ratio in politics, the Belgian Government itself took the helm in the early nineties. This led to the law of May 24, 1994 'for the promotion of a more balanced distribution of men and women on the list of candidates'. This to European standards then unique quota law stipulated that lists of candidates could consist of a maximum of 2/3 of candidates of the same sex. The law was implemented from 1996 onward, with an exception for the 1994 elections. For these elections, and for all other possible elections between 1996 and 1999, the number of candidates of the same sex could be 3/4 of the total number at maximum. In practice the 1994 elections were the only in which the transitional provision was observed. Meanwhile, the eventual 2/3-1/3 quatum has been applied once at all electoral levels. In 1999 this was the case at the elections for the European Parliament, the Senate and the Lower House, the Councils of Regions and Communities; in 2000 at the elections of local and provincial councils.

Since 2002 a new quota law is to replace the preceding one. The quota law of 1994 had been criticised as being undemocratic since no balanced ratios between male and female candidates were taken as a standard. When it came to the crux, the maximum of 2/3 candidates of the

same sex, in practice, kept reducing women to a minority. Another criticism was that the instrument did not intrinsically lend itself to reaching the set targets. The modalities of the law guaranteed only a maximum number of candidates of the same sex. They were not conducive to a more 'balanced distribution' of men and women on the list of candidates. To this aim the law should have provided a double quorum, and next to a quorum for the list per se also impose a quorum as for the distribution of men and women over the eligible places.

The 2002 quota law obliges parties to submit a list of candidates which contains as many male as female candidates. Equally new about the law is the clause that the first two places on the list must follow the zipper principle. This implies that lists should alternate male and female candidates. Following the law of 2002, the first two places on the list of candidates cannot be taken up by same-sex candidates. In other words, a mild form of double quorum is enforced. The new quota law too, however, contains a transitional provision. For the first elections after the coming into effect of the law, the first three places on the list cannot have candidates of the same sex. More concretely, this means that the eventual double quota guarantee women at least a second place on the list, whereas the temporary quorum promises women only a third place.

It goes without saying that the new law is useful, certainly regarding the double quorum. Various evaluations of the impact of the 1994 quota law underline that it is not so much the number of women candidates on a list which is of importance, but the number of these on safe places (Carton 2001; Deschouwer and Meier 2002; Marissal and Hansen 2001; Peirens 1999; Verzele 2000). As we have seen, this depends on the modalities of the Belgian electoral system and first and foremost on the decisiveness of the list order in candidates' chances for being elected. The question which is raised is that of the interplay between two measures which are simultaneously taken by the same Government, i.e. the new quota law and the reform of the Belgian electoral system. To what extent the new quota law corresponds to the modalities of the reformed electoral system, is debatable.

Verzele (2000) compared the 1999 election results with simulated ones whereby she checks - following a simple simulation method (Meier 1998) - what the election result would have been if the quota law had imposed the following double quota: i) the first two candidates cannot be of the same sex; ii) there can be no three candidates of the same sex on the top three places; iii) the zipper principle is applied to the entire list. The three principles were each simulated twice, without taking into account the actual distribution of both sexes over the list (minimalist scenario), and respecting the real distribution of both sexes over the lists

(maximalist scenario). Whereas the minimalist scenario is especially interesting to see what rules a legislator should lay down for a quota law to produce an effect, the maximalist scenario shows the extent to which parties are committed to a sex-balance.

For the 1999 elections Verzele reaches the not surprising conclusion (see table1) that the zipper principle would have been the most efficient measure. More interesting, however, is the finding that in the case of the Senate, the Council of Brussels Capital Region and the Council of the German-speaking Community it is the *only* measure which would have had an effect. All other measures would not have triggered any large shifts, at least not in a minimalist scenario. As a minimalist scenario is the only one that can measure a compelling effect of a law, we can conclude that solely a legally imposed zipper principle would guarantee more women elected in these assemblies. The zipper principle restricted to the first two places on the list already is conducive to a sex-balance in the case of the other assemblies. But in the Senate, the Council of Brussels Capital Region and the Council of the German-speaking Community a minimalist adoption of such a measure would lower the percentages of women. This implies that, in the end, the new quota law will not make changes happen in these assemblies. Obliging parties that the first three positions on their electoral list not be taken up by candidates of the same sex, would not increase the percentage of women in any of the assemblies. Such a transitional measure is therefore uncalled for, at least within the framework of the electoral system in 1999.

**Tabel 1: % female elected if reforming quota law**

	% women elected in 1999	% women elected via zipper principle	% women elected via zipper first 2 places	% women elected if 1 woman on first 3 places
<b>EP</b>	32	36/44*	36/40	20/36
<b>Senate</b>	30	45/50	25/33	23/30
<b>Lower House</b>	19	25/32	23/31	11/20
<b>Council of the Flemish Community</b>	20	35/38	30/34	11/22
<b>CBCR</b>	35	47/51	12/37	8/36
<b>Council of the Walloon Region</b>	11	32/33	29/31	8/15
<b>Council of the German-speaking Community</b>	24	44/52	20/28	20/28

\* % for minimalist scenario/% for maximalist scenario

Source: Verzele 2000

These simulations point out that the electoral system comprises a number of modalities which

influence the working of double quota to an important extent and in this respect they are of interest for the new genderquota law and the electoral reform of the Lower House. The modalities which influence the working of double quota are the size of the electoral districts and coupled with it, the amount of seats won per party. That in the Lower House, the Council of the Walloon Region, and, to a somewhat lesser extent, in the Council of the Flemish Community there is little difference between a complete zipper principle and a zipper for the first two positions, is due to the relatively smaller electoral districts in these assemblies. That there is no difference in this respect for the European Parliament either, can be explained by the fragmentation of the seats over a great number of parties.

With the electoral reform of the Lower House 8 out of the 11 electoral districts comprising no more than 6 seats are abolished, whereas the size of most electoral districts grows to 15 seats or more. But whereas the electoral districts grow, the new double quota are restricted to the first two and at the next elections but to the first three places on the list. With these data in mind, we can conclude that the new quota law is after all not really tailored to the reformed electoral system for the Lower House. The number of safe seats will certainly be higher in the expanded electoral districts than two or three. The revised quota law was tuned to the (former) small electoral districts and will bring about changes only there. Larger electoral districts require more far-stretching rules like a complete zipper, if a quota law imposing double quota is to have any impact in the new Lower House. In addition to that, the number of electoral districts decreases in the Lower House and therefore also the number of safe places on which women candidates can count via the new genderquota law. Whereas the province of Antwerp was formerly divided into 2 electoral districts, one comprising 14 seats and the other one 10, there is now only one electoral district and hence list per party. The same goes for Liege, East- and West-Flanders and Henegouwen, where 3 former electoral districts merge into one provincial one. The number of elected women in 2003 might actually be disappointing if parties interpret the law in a strict way.

## **6 Concluding remark**

Lovenduski and Norris (1993) posit that studying aspects which may influence the women's position in politics in a vacuum, can lead to single-cause, simplistic and deterministic explanations. Therefore it is important to approach the various aspects of an electoral system

in a holistic perspective. In general the Belgian electoral system does rather well on a scale of gender-sensitive electoral systems. It is a proportional system with, in practice, quite closed lists. And also the reform of the Lower House can heighten this gender-sensitivity since new provincial electoral districts will have the party magnitude expanded. The question which is raised however, is who occupies eligible positions. In this respect too, the Belgian electoral system does not badly from a gender perspective. After all, it is one of the few systems in which the law imposes quota for lists of candidates. The crux of the matter is, however, that the new quota law is at odds with the revised electoral system for the Lower House, because the zipper for the first two places is only effective in small electoral districts. Add to this that the number of electoral districts decreases and it soon becomes clear that the effects targeted by the new quota law are undermined in the Lower House by the reform of its electoral system.

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