

Adunarea Generala a Uniunii Europene

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Raport Belgia

General Assembly EUR - Bucharest, 14 to 18 September 2011

Report to the General Assembly on behalf of the Member State Belgium

Mr President,
Dear colleagues, ladies and gentlemen,

When a country breaks a world record, the people are generally very proud of it. Usually - in fact, but not always ...

Belgium has just launched the world record for the country that has spent the longest period of time without a government. Since the federal elections of June 13, 2010, Belgian politicians are still unable to form a government.

At the core of the stalemate a deep division exists between the Dutch-speaking from the north and the French-speaking Wallonia and Brussels. The Flemish demand a further decentralization of powers from central government, and the other camp is for a status quo or, at a limit, is prepared to negotiate to a very limited extent into this issue. With a lack of genuine national political parties, the positions are now so polarized that neither side is willing to make the slightest concession.

Thus, the stalemate seems unsolvable.

In the mean time, the resigning federal government is now 'a government of current affairs', led by the.... since April 2010 resigning Prime Minister, Yves Leterme. Ironically, this 'government of current affairs' has managed to solve any pitfalls that have presented itself on route, in fact, better than ever before... For every problem, this temporary government has managed to find a solution that has received approval from the majority of our parliament.

A federal budget was voted for 2011, the economy grows, there are foreign investments, exports remain level, Belgium received a compliment for the presidency of the European Union in 2010 and actively participated in the NATO bombing of Libya.

In the judicial field, it may be further noted that:

- The Parliament approved a law that establishes a family court in each judicial district;
- The limitation period for the prosecution of sexual abuse has been increased to 15 years;
- The parliamentary commission for juridical affairs finally approved the 'Salduz-Act', which determines the terms of the assistance of a lawyer during the interrogation of his client;

- the law on family reunification has been tightened;
- the burka ban was imposed by law.

It may of course not be omitted that some powers have already been transferred to the regions or the communities, each with its own government and parliament.

All of this results in the fact that the average Belgian is not really concerned with this political impasse at the federal level. Some laugh with it – be it a tongue in cheek laugh. Many ask themselves how long this can and should go on...

For indeed, a number of urgent cases are pushed forward or remain untouched because it is generally assumed that these are problems that should be handled by a fully-fledged government with full authority, acting in accordance with coalitions agreement. Topics that are left untouched are for example the reform of public finances in the long term, but also - and this is of ultimate interest to all of us - the reform of the Judiciary ...

Again, in that department, only the urgent problems that arise are handled immediately. Long term planning or problems that require a structural interaction, remain untouched. Amongst them are the integral reform of the judicial landscape...

Hopefully, the holiday has brought rest and insights to our politicians so that the Gordian knot shall be unravelled in no time.

As for the Belgian federation C.e.n.e.g.e.r. there is more positive news.

The transformation of a confederation to a federation has been fully completed. Some new forces have arrived to strengthen the board. We also see, for the first time, a prudent increase in the number of members ...

The new president and board didn't miss their start!

In a comprehensive memorandum, C.e.n.e.g.e.r. explains her vision of our job "as created", "as is" and "as to be". Once again C.e.n.e.g.e.r. warns for the impossible position in which the 'griffier' has been put in since the modernization of its statute by the law of April 25, 2007. From the one side the 'griffier' is still considered as being an independent actor with full personal responsibility, but from the other side, the 'griffier' has been placed under the staff that assists the magistrates. Clarity should be brought about!

It is indeed either the one or the other: either the 'griffier' acts independently but in that case he cannot be placed under the directives of any magistrate, or alternatively, the 'griffier' acts from under the wings of the residing magistrate but in that case you can not pretend that this 'griffier' acts independently and you also have to put the final responsibility for his actions on the magistrate...

C.e.n.e.g.e.r. has also highlighted the huge gap that has developed between the 'griffier' as created' and 'as is'. One of the main reasons is the fact that people were allowed to do the job without having the required qualifications. But also the fact that the advent of information technology and management techniques, the modernization of communications and transport has brought many new functions..., ones that have to be filled.

The basic structure of our current judicial system was conceived in the late 60's and has never radically changed or adapted to these modern new systems and tasks.

Many choices were and are still not available, and the 'griffier' has been pushed towards enveloping the new tasks. The question remains whether that is consistent with its originally created function... Do you for example, need to retrain a 'griffier', trained purely in the legal field, to become a "computer software expert"? Is it not more obvious to recruit a purely skilled "computer software expert"?

The structure has never followed the exponentially growing mobility. 'Griffiers' and judges are still appointed by one court ... Is it with the current mobility opportunities not obvious to appoint them throughout several courts? It will surely allow and improve deep specialization.

Based on the Green Paper on the European Rechtspfleger, C.e.n.e.g.e.r. presents a solution for the future. C.e.n.e.g.e.r. strives for a comprehensive revision and modernization of the responsibilities of the 'griffier', from which all non-legal tasks are excluded. In this way the judges can also be relieved of trivial tasks. Bring the judge only on stage when "justice should be executed"!

A powerful administrative support of magistrates and 'griffiers' completes the circle.

Contacts were made with the Minister of Justice, the High Council of Justice, the Commission for the Modernization of the judiciary and the Unions.

Through a new website and electronic newsletters all 'griffiers' (including non-members), the Higher Council of Justice, the Commission for the Modernization of the Judicial Organization, together with the members of the Parliamentary Commission for Justice, all stay informed of our activities and plans.

Positive reactions came immediately: A delegation of our federation was received by the Commission for the Modernization of the Judicial Organization and by the High Council of Justice. At the beginning of the judicial year 2011-2012, a meeting is scheduled with the Minister of Justice and with the three traditional Unions.

C.e.n.e.g.e.r. also aims for official recognition as a representative body for the functional aspect of our job. Conversely, C.e.n.e.g.e.r. recognizes the three existing unions as the official representative body concerning the pecuniary and social aspects of our job .

We note a certain amount of interest and have received confirmation of involvement in further developments. There is still much work ahead of us. C.e.n.e.g.e.r. hopes to join forces to create a modernized judiciary. One in which all its stakeholders and the parliament can find themselves ...

Mr President, ladies and gentlemen, on behalf of C.e.n.e.g.e.r. and her delegation, I conclude with special thanks and hearty congratulations to the Romanian colleagues for organizing this annual general meeting, which - and our delegation is convinced of- will be particularly fruitful.

On behalf of C.e.n.e.g.e.r. and her delegation, for the Belgian member state,

Geert Van Nuffel
Vice President C.e.n.e.g.e.r.