Belgium

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I. INTRODUCTION

In Belgium, constitutional reform primarily takes place through the formal amendment procedure of Article 195 of the Constitution. Article 195 consists of a rigid procedure with an intervening election and ultimate approval by a two-thirds majority of both Houses of Parliament.

Belgian's amendment procedure can be characterized as a comprehensive, single-track process, which means that there is only one formal amendment procedure (i.e., single-track) that applies to all amendable constitutional provisions (i.e., comprehensive).[1]

Since 1970, Belgium has evolved from a unitary country to a federal state with subnational Regions and Communities through six substantial state reforms. In the past decade, negotiations on federal government formation have been very arduous. After the federal (subnational, and EU) elections on 26 May 2019, a long and cumbersome process to establish a federal government started. The corresponding number of seats in the House of Representatives (i.e., 52 of the 150 seats) of the caretaker minority government of Prime Minister Charles Michel—later on replaced by Sophie Wilmès as the first female Prime Minister in Belgian history—decreased after the election to 38 seats and thus merely 25.3% of the total number of seats.

In the middle of the ongoing arduous government formation, the COVID-19 virus was confirmed to have spread to Belgium on 4 February 2020. After an unsuccessful attempt to establish an 'emergency government', members of the Wilmès II minority government (Francophone and Flemish liberals and Flemish Christian-Democrats) took the oath before the King on 17 March 2020. As it is a constitutional custom in Belgium that the government requests a vote of confidence of Parliament, Wilmès II gained the support of a large majority in the House of Representatives on 19 March 2020 as a temporary government. This temporary government was given full powers in order to be able to take necessary measures to effectively combat the pandemic, yet under the promise to renew the request for a vote of confidence of parliament after ultimately six months.

After those six months had passed and almost 500 days after the election, a new, full-fledged government was finally established on 1 October 2020 by a coalition of Francophone and Flemish liberals, socialists, and ecologists, as well as the Flemish Christian-Democrats, led by Flemish liberal Prime Minister Alexander De Croo. In the Coalition Agreement of De Croo I several constitutional reforms have been announced and will be discussed in this report (*II. Proposed, Failed, and Successful Constitutional Reforms*). They relate most importantly to an intended trajectory under the direction of both a Francophone and a Flemish Minister competent for institutional reform to modernize, increase the efficiency, and deepen the democratic foundations of the state structure based on a broad democratic debate (A.), democratic renewal and citizen participation (B.), the intention to include the formal amendment procedure of Article 195 of the Constitution in the proposed list of revisable constitutional articles (C.), the intended amendment of Article 7*bis* of the Constitution on sustainable development (D.), and several other initiatives for institutional reforms (E.).

Subsequently, the report will situate constitutional reforms and evolutions in a broader context (*III. The Scope of Reforms and Constitutional Control*). Firstly, the role of the Constitutional Court and the Council of State will be mentioned as important interpreters of the Constitution (A.). For instance, the Legislative Section of the Council of State wrote an urgent opinion on the use of 'special power' decrees to combat the pandemic. Moreover, the Administrative Litigation Section ruled on several ministerial decrees to control the COVID-19 virus, as they pressurize important principles such as proportionality, legality and democratic control by Parliament. It is important to adopt a hermeneutical approach to constitutional reform, recognizing that constitutional meaning is attributed by multiple actors who interpret constitutional provisions and principles in specific contexts, resulting in living constitutionalism.[2] Secondly, the report will discuss the impact of the potential reuse of the 'legal trick' used in the Sixth State Reform which sidesteps the formal amendment procedure with two readings and an intervening election by adding a transitional provision (B.). Thirdly, a recent proposal to introduce 'confederalism' might be categorized as a proposed 'dismemberment' (C.).

Finally, some critical observations will be made regarding the resilience of the formal amendment procedure and its guarantees, the fulfilment of the ambitions regarding constitutional reform mentioned in the Coalition Agreement of De Croo I, and, among others given the protracted federal government formations, the future of Belgian's complex institutional architecture that seems to be reaching its limits (*IV. Looking Ahead*).

1 Richard Albert, 'The Structure of Constitutional Amendments Rules' [2014] Wake Forest Law Review 939

2 David A. Strauss, *The Living Constitution* (Oxford University Press, 2010)

II. PROPOSED, FAILED, AND SUCCESSFUL CONSTITUTIONAL REFORMS

In 2020, several constitutional reforms have been proposed in the Coalition Agreement of the new government De Croo I. These reforms are intended by the new coalition, but—for the time being—have not (yet) been implemented. In the last decade, the formation of a federal government has proven to be very arduous. With 541 days of government formation negotiations in 2010-2011, Belgium is the 'proud' world record holder for longest time without a government in peacetime.[3] This time, negotiations on the Sixth State Reform caused the long delay. Nonetheless, the most recent federal government formation also lasted for almost 500 days, this time without substantial state reform negotiations. As a result, the Coalition Agreement states that these protracted government formations must be avoided in the future. To this end, rules for the formation of a new federal government will be evaluated, and for instance the options of inserting a formal deadline or an unblocking mechanism will be explored.[4]

Moreover, the Coalition Agreement includes a number of proposed institutional and constitutional reforms, of which the most important are listed below.

1. MODERNIZATION, INCREASED EFFICIENCY AND DEEPENING OF THE DEMOCRATIC FOUNDATIONS OF THE STATE STRUCTURE

First of all, the newly established federal government aims to make an 'important contribution' in the field of modernization, increased efficiency and deepening of the democratic foundations of the state structure. The intended goal is a new state structure from 2024 onwards with a more homogeneous and efficient division of powers, at least in the domain of health care. No less than eight ministers and one secretary of state share substantial powers regarding health policy, requiring intense cooperation between the federal and subnational level which caused tensions during the combat of the COVID-19 pandemic.[5] The intended new state structure would take into account the principles of subsidiarity and interpersonal solidarity, and it is the aim to reinforce the federated states in their autonomy and the federal level in its effectiveness.

In order to achieve this, the federal government aspires to initiate a broad democratic debate to evaluate the existing structure, involving citizens, civil society and academia, under the direction of two Ministers of Institutional Reform (one Flemish and one Francophone). It would be the aim of this process to explore and formulate recommendations on how the Constitution and legislation can be modernized to strengthen democracy, the rule of law and fundamental rights. The federal government wants to strengthen confidence in politics by making democratic renewal a priority and wants to modernize the democratic functioning by providing for new forms of direct participation of citizens in political decision-making.[6]

The coalition's ambition to actively seek the participation and advice of citizens in the redesign of the state structure is rather remarkable in contrast to the traditionally elitist and secretive state reform process of negotiations between the leaders of involved parties. In this regard, we believe it is necessary that due attention will be paid to important preconditions for such citizen participation, such as proper information provision and inclusiveness of the process to avoid the emergence of a participation elite. More fundamentally, we believe it could be wise to consider formally including (the option of) a 'preliminary phase of citizen participation' in the amendment procedure of Article 195 of the Constitution and thus embedding the most fundamental rules of the game for such a process rather than making ad hoc arrangements.[7]

2. DEMOCRATIC RENEWAL AND CITIZEN PARTICIPATION

Overall, we can observe that there is a cautious upward trend in Belgium towards democratic renewal and more active citizen participation. This is shown by initiatives such as the G1000[8], the introduction in the Sixth State Reform of Article 39bis of the Constitution which provides the possibility for the subnational Regions to adopt a concrete legal framework—with a two-thirds majority—for the organization of regional (advisory) referenda[9], and several initiatives that experiment with civic involvement on the local level, such as participatory budgeting through subsidies.[10]

In the past year of 2020, there was quite some attention for so-called 'citizen dialogues' that directly involve randomly selected citizens in political deliberation. As of February 2019, the German-speaking Community of Belgium has ensured permanent citizen involvement of randomly selected citizen in Parliament's activities. Ever since, the 'Ostbelgien Model' has been an inspiration for the rest of the country. As of 2021, for instance, 'mixed committees' will be established in the Brussels Region, in which elected representatives and citizens will deliberate together. The federal Coalition Agreement also explicitly calls for experimentation with new forms of direct citizen participation in the political decision-making process in order to "enrich" representative democracy, such as civilian cabinets or mixed panels within the House of Representatives consisting of both Members of Parliament as well as citizens selected by lot able to formulate recommendations to the legislative branch. Such citizen participation is on a voluntary basis and could be organized "on tour" close to the citizens. Moreover, the House of Representatives will implement through its House Rules the 'Act of 2 May 2019 on petitions submitted to the House of Representatives' in order to enable a citizen's petition to propose a legislative initiative in

3 'Longest time without a government in peacetime' <https://www.guinnessworldrecords.com/world-records/96893-longest-time-without-a-government-in-peacetime> accessed 15 February 2021

4 'Coalition agreement 30 September 2020', <https://www.belgium.be/sites/default/files/Regeerakkoord_2020.pdf>, 83, accessed 15 February 2021

5 See Jurgen Goossens, 'Legitimacy of the COVID-19 pandemic approach by temporary minority government with special powers in Belgium' (published in Dutch) [2020] TVCR 300, 309

6 'Coalition agreement 30 September 2020', <https://www.belgium.be/sites/default/files/Regeerakkoord_2020.pdf>, 79 and 82-84, accessed 15 February 2021

7 See on citizen participation in the Belgian constitutional process and on constitutional referendums: Stef Keunen and Daan Bijnens, 'Ceci est une fiction: constitutional referendums in the Belgian legal order' (published in Dutch) [2017] TBP 248-261; Ronald Van Crombrugge, 'Democratic constitution-making: utopia or real possibility?' (published in Dutch) in Jeroen Van Nieuwenhove, Stefan Sottiaux, Christian Behrendt and Wouter Pas (eds.), *Leuven Constitutional Positions 4* (die Keure 2019) 251-295

8 For more information about this initiative, see <http://www.g1000.org/nl/> accessed 15 February 2021

9 Anne-Sofie Bouvy and Aurélie Heraut, 'La consultation populaire en Région wallonne' [2019] RBDC 3-88

10 See for Flemish citizen participation initiatives on the local level: Eric Lancksweerdt, 'The Decree on Local Government and Citizen Participation' (published in Dutch) [2018] T.Gem. 208-221

the relevant Chamber committee. Moreover, the coalition announces to lower the voting age in EU elections to 16 year.[11]

Finally, the new coalition announces that the abovementioned broad democratic debate involving citizens, civil society and academia will also discuss potential constitutional reforms, among others, as regards the future of the Senate, the statute and number of MP's, the procedure of verification of the credentials of elected MP's, and the procedure for dissolution of the Chamber.[12]

3. INCLUSION OF ARTICLE 195 OF THE CONSTITUTION IN THE LIST FOR REVISION

From a constitutional reform perspective, it is important to mention that the Coalition Agreement further states that the government instructs the two Ministers of Institutional Reform to draw up a provisional list of constitutional articles which will be revisable after the next election. The Agreement states that this provisional list will be the subject of an announcement in the Senate and Chamber at the start of the term of office. It further stipulates that the list will be supplemented at the end of the democratic debate with the articles that are necessary to translate the guiding recommendations, in particular with regard to democratic renewal and the division of powers.

It is important to mention that the Coalition Agreement expressly states that "this list must include at least Article 195 of the Constitution".[13] It thus seems that the controversial 'legal trick' used to circumvent the strict amendment procedure during the legislature of 2011-2014 might be used again, namely by declaring the constitutional amendment procedure in Article 195 *itself* subject to amendment.[14] In view of the rationale of the two phases and the intervening election embedded in the constitutional reform procedure, serious questions should be raised concerning this technique, as discussed in section III.

4. PROPOSED AMENDMENT OF ARTICLE 7BIS OF THE CONSTITUTION ON SUSTAINABLE DEVELOPMENT

Additionally, it is the intention of the government to submit a proposal to Parliament to amend Article 7*bis* of the Constitution, which has been declared revisable in the previous legislative term.[15] This constitutional provision contains the general policy objective that the federal State, the Regions and the Communities—in exercising their respective powers—pursue the objectives of sustainable development in its social, economic and environmental aspects, taking into account the solidarity between the generations.[16]

It is the coalition's aim to modernize article 7*bis* taking into account the transition to a climate-neutral society, circular economy and halting of the loss of biodiversity. To this end, the government is investigating how the federal government and the Regions and Communities can achieve more cooperation and a better coordination with regard to climate policy. It is the goal to amend Article 7*bis* in order to provide a foundation for a cooperation agreement and/or a special inter-federal Climate Act. The federal government errs on the side of caution, by stating that it will re-include Article 7*bis* in the constitutional revision declaration if adoption of the amendment proves impossible during this legislative term during which it needs approval of a two-thirds majority.

5. OTHER INSTITUTIONAL REFORMS

In addition to the constitutional reforms mentioned above, the federal government, among others, also intends to achieve a more integrated and global security policy in the Brussels-Capital Region. In this regard, the competences for prevention and security in a previous state reform already attributed to the Brussels Region will be strengthened. It is another goal to strengthen and streamline consultation and cooperation between the federal and the subnational level, so that policies are better coordinated. Moreover, the cooperation agreements on foreign policy will be evaluated and updated in order to harmonize the foreign affair actions of the federal state and the subnational entities and their role in EU and multilateral decision-making.[17]

The Coalition Agreement stipulates that the two Ministers of Institutional Reform will establish the necessary contacts to find additional parliamentary support to reach the necessary (super)majorities. Some institutional provisions that are intended to be amended are embedded in 'special majority laws'. This type of quasi-constitutional legislation consists of legislative acts approved in both federal legislative chambers by a majority vote in each linguistic group (provided that the majority of the members of each group is present) as well as a two-thirds majority of yea votes on the total number of votes cast by the two linguistic groups. These majorities in each linguistic group are *not* required when amending the Constitution. In other words, besides the two phases with an intervening election it is in that regard even tougher to amend these special laws.

III. THE SCOPE OF REFORMS AND CONSTITUTIONAL CONTROL

1. CONSTITUTIONAL INTERPRETATION

Due to the gradual evolution towards a federal state, the constitutional legislator decided to establish a Constitutional Court (formerly called 'Arbitration Court') in 1980 to review the constitutionality of legislation (i.e. laws, decrees and ordinances) and its compliance with the division of powers established by or in pursuance of the Constitution. As a result, the Constitutional Court became the most important interpreter

11 'Coalition agreement 30 September 2020', <https://www.belgium.be/sites/default/files/Regeerakkoord_2020.pdf>, 79 and 82-83, accessed 15 February 2021

12 Ibid., 83-84

13 Ibid., 79

14 See on the Belgian constitutional amendment procedure, e.g., Jan Velaers, 'Article 195, transitional provision: a temporary facilitation of the constitutional revision procedure' (published in Dutch) in Jan Velaers, Jürgen Vanpraet, Werner Vandenbruwaene and Yannick Peeters (eds.), *The Sixth State Reform: Institutions, Powers and Resources* (Intersentia 2014) 1-18; Jeroen Van Nieuwenhove, 'The constitutional revision procedure: towards a circumvention or towards a revision?' (published in Dutch) [2011] TBP 531-542; Bernard Blero, 'La refonte de l'article 195 de la Constitution: no future?' [2012] APT 587-598

15 See <https://www.senate.be/home/sections/institutioneel/20190524_institutional/20190524_institutional_nl.html accessed 15 February 2020>; Belgian Official Gazette 23 May 2019.

16 'Coalition agreement 30 September 2020', <https://www.belgium.be/sites/default/files/Regeerakkoord_2020.pdf>, 80, accessed 15 February 2021; see on Article 7*bis* of the Constitution: Jan Velaers, *The Constitution—An article-by-article commentary. Part I—The federal Belgium, the territory, the fundamental rights* (die Keure 2019) 129 (published in Dutch)

17 'Coalition agreement 30 September 2020', <https://www.belgium.be/sites/default/files/Regeerakkoord_2020.pdf>, 79-82, accessed 15 February 2021

of the Belgian Constitution and thus the main engine of informal—yet incremental and limited—constitutional change by interpretation of existing constitutional norms. Another important interpreter of the Constitution is the Legislative Section of the Council of State which offers a priory advice on proposed legislation. Consequently, both institutions have a substantial impact on the division of powers in Belgium. J. Vanpraet refers to this process as the 'latent state reform'.[18]

The year 2020 was of course dominated by combatting the COVID-19 pandemic.[19] On 30 March 2020, two 'special power' acts (also called 'power of attorney' acts) were published in the Belgian Official Gazette. In these acts Parliament temporarily attributed part of its legislative powers to the minority government Wilmès II to tackle the COVID-19 crisis more swiftly and adequate. Consequently, during a period of three months the government did not need to ask prior permission of Parliament to take necessary health or economic measures to fight the virus. Such special power decrees of the government may repeal, supplement, change or replace applicable legal provisions, even with regard to matters that the Constitution explicitly reserves to the legislator. These Royal Decrees must be ratified by Parliament within one year of their entry into force. Otherwise, they lose their legal validity and are deemed never to have had legal effect. In an urgent advice the Legislative Section of the Council of State reminded of the constitutional principles and limitations of the crisis measures of the executive in the context of the special powers doctrine, though stated that the proposed special power legislation met the conditions as developed in its previous advisory practice.[20]

During the health crisis, the federal government decided to mainly combat the pandemic through ministerial decrees, which has been heavily criticized by constitutional scholars.[21] Many crisis measures curtailing fundamental rights and freedoms were taken by ministerial decrees, relying on the Civil Security Act of 2007 as the necessary legal basis for the corona measures. This Act, however, was intended for quick and efficient interventions in case of acute and temporary emergencies, such as fires, explosions or the release of radioactive materials. Nonetheless, the general meeting of the Administrative Litigation Section of the Council of State (judgments no. 248.818 and 248.819 of 30 October 2020) dismissed two claims for suspension in case of extreme urgency against the curfew and closure of catering establishments, rejecting arguments based on the alleged violation of legal principles such as the principle of due care, proportionality, equality, and the freedom of enterprise, and stating that the protection of civil security can also include catastrophes like infections with a living virus. The pandemic, however, persists and serious concerns have been raised concerning the legality principle and the lack of the possibility of parliamentary control.[22]

2. REUSE OF THE 'LEGAL TRICK' WITH ARTICLE 195 OF THE CONSTITUTION?[23]

Article 195 of the Constitution contains the formal constitutional amendment procedure which consists of two main phases and an intervening election. Firstly, Parliament (i.e. the House of Representatives and the Senate) with a simple majority and the King (i.e. *de facto* the federal government) each adopt a list of constitutional provisions that are 'declared to be revisable', which results in the publication of a joint list of revisable constitutional provisions. Hereafter, Parliament dissolves and new elections are organized within 40 days. Afterwards, during the 'second reading' the newly elected Parliament has the power to amend the constitutional provisions that were declared to be revisable. In order to effectively amend the Constitution, two thirds of the members of each House of Parliament must be present and a supermajority of two thirds of these present members are required to approve the amendment.

The current amendment procedure of Article 195 of the Constitution still dates back to the original adoption of the Belgian Constitution in 1831. It is the aim of the rigidity of the amendment process to avoid that one single majority could substantially amend the constitution without prior consultation of the voters. Nonetheless, some legal scholars argue that the amendment procedure of Article 195 is too rigid and outdated.[24]

After the federal elections of 13 June 2010, it took Belgian politicians 541 days to negotiate a new, Sixth State Reform and to form a new government. However, in 2011, the list of constitutional provisions which were declared to be revisable in the first phase of the amendment procedure did not contain all the constitutional provisions that were required for the implementation of the delicately balanced final agreement on the Sixth State Reform. After a regime crisis of 541 days, however, the negotiating parties strongly wanted to avoid the organization of new elections or continued negotiations. As a result, they started thinking outside the box in order to implement the entire agreement without the approval of a new revision statement nor new elections. The revision list included the constitutional amendment procedure of Article 195 of the Constitution *itself* and the involved parties subsequently decided to supplement Article 195 with a 'transitional provision'. The transitional provision enabled a two-thirds majority as required by Article 195 to *immediately* amend the necessary constitutional provisions during the ongoing parliamentary term. The transitional provision contained an exhaustive list of immediately revisable constitutional provisions, but was not regarded as a revision statement leading to dissolution of Parliament.

Although from a strictly legal perspective one could argue that a two-thirds majority was permitted to amend Article 195 in such a way[25], serious concerns have rightly been raised as the constitutional

18 Jürgen Vanpraet, *The latent state reform. The division of powers in the case law of the Constitutional Court and the advisory practice of the Council of State* (die Keure 2011) (published in Dutch)

19 See Luc Lavrysen, Jan Theunis, Jurgen Goossens, Toon Moonen, Pieter Cannoot, Sien Devriendt and Vivianne Meerschaert, 'Belgium', in Richard Albert, David Landau, Pietro Faraguna and Simon Drugda (eds.), *I·CONnect-Clough Center 2020 Global review of constitutional law* (forthcoming)

20 Council of State, Legislative Section, 25 March 2020, no. 67.142/AV. See Jurgen Goossens, 'Legitimacy of the COVID-19 pandemic approach by temporary minority government with special powers in Belgium' (published in Dutch) [2020] TVCR 300, 304-305; Patricia Popelier, 'COVID-19 legislation in Belgium at the crossroads of a political and a health crisis' [2020] *The Theory and Practice of Legislation*, no. 8, 138-141

21 See, e.g., Patricia Popelier, 'COVID-19 legislation in Belgium at the crossroads of a political and a health crisis' [2020] *The Theory and Practice of Legislation*, no. 8, 138-141

22 See Luc Lavrysen, Jan Theunis, Jurgen Goossens, Toon Moonen, Pieter Cannoot, Sien Devriendt and Vivianne Meerschaert, 'Belgium', in Richard Albert, David Landau, Pietro Faraguna and Simon Drugda (eds.), *I·CONnect-Clough Center 2020 Global review of constitutional law* (forthcoming)

23 See Jurgen Goossens and Pieter Cannoot, 'Belgian Federalism After the Sixth State Reform' [2015] Perspectives on Federalism, no. 7.2, 33-34

24 See, e.g., Jeroen Van Nieuwenhove, "The new "transitional provision" to Article 195 of the Constitution. A reusable temporary deviation from the amendment procedure?' (published in Dutch) [2012] TvW 156

25 On 20 June 2012, the Venice Commission ruled that the 'transitional provision' neither violated the letter and the spirit of the Constitution nor international norms and standards. See Opinion on the revision of the Constitution of

amendment procedure and its guarantees were in practice temporarily set aside with this 'legal trick'. It has been warned before that the adoption of the 'transitional provision' could henceforth be used as a precedent, so that only declaring Article 195 of the Constitution revisable might be sufficient to achieve a substantial constitutional reform after the intervening election.[26] Such a reuse of this legal trick would again severely undermine the guarantees embedded in Article 195.[27] Nonetheless, the Coalition Agreement expressly states that "this list must include at least Article 195 of the Constitution", which would thus enable to open up Pandora's box of constitutional reform once again in the next legislative term. In this regard, it must be mentioned that the Constitutional Court does not regard itself competent to review constitutional amendments and potentially declare them unconstitutional.

3. TOWARDS 'CONFEDERALISM': DISMEMBERMENT?

In the last decade it has regularly been proposed in Belgium to introduce or evolve towards 'confederalism', and again in 2020 with the proposal for a declaration to revise the Constitution of 3 December 2020 submitted by Peter De Roover of the Flemish nationalists (N-VA). Although in Belgium with 'confederalism' politicians usually mean further developed 'federalism' with substantially more transfer of powers to the subnational level. However, it should be mentioned that Article 1 of the by-laws of N-VA opts for 'an independent republic of Flanders'. In principle, confederalism is indeed a relationship between *independent* states who agree in a treaty to establish a confederation in order to collaborate in certain policy domains with institutions representing the participating states. Whatever the exact intended meaning may be, proposals for confederalism in Belgium could potentially be categorized as a constitutional 'dismemberment' rather than an amendment, as they may be understood to be at odds with the existing constitutional framework and may deliberately seek to undo an elemental part of the constitution of the Belgian federal state.[28]

IV. LOOKING AHEAD

Given the likely chance of the reuse of the 'legal trick' executed in the Sixth State Reform to circumvent the formal constitutional amendment procedure, the future resilience of the formal amendment procedure and its fundamental guarantees should be questioned. The Coalition Agreement of 30 September 2020 states that the list of revisable constitutional provisions must include *at least* Article 195 of the Constitution, which would thus enable to open up Pandora's box of constitutional reform once again in the next legislative term. As this raises serious constitutional concerns, we advise to urgently start the debate on the modernization and diversification of the current comprehensive single-track amendment process rather than once again relying on an ad hoc 'legal trick' if one happens to see fit.

The Coalition Agreement ambitiously aims to organize a broad democratic debate to seek modernization, increased efficiency and deepening of the democratic foundations of the state structure, as well as democratic renewal reforms and increased citizen participation. Nonetheless, it should be observed that the intentions are rather vaguely mentioned in the Agreement, so that quite some effort and negotiations will still be needed to further crystallize those intentions of constitutional and institutional reform.

As the past protracted government formations raise the question whether the current institutional bipolar framework of Belgium's complex federal architecture is reaching its limits[29], it is interesting to see what the result will be of the announced evaluation of rules for the formation of a federal government, such as a formal deadline or an unblocking mechanism. Nonetheless, such mechanisms will not solve the inherent tensions within the complex Belgian institutional architecture. Hence, it remains to be seen whether and when 'a new political generation' will effectively modernize Belgium's state structure. There have already been six successive step-by-step renovations of the Belgian 'house' giving rise to two distinct types of gradually growing subnational 'chambers', the Regions and Communities, progressively resulting in a complex institutional labyrinth.

V. FURTHER READING

Jurgen Goossens, 'Legitimacy of tackling COVID-19 pandemic by temporary minority government with special powers in Belgium' (published in Dutch) [2020] TVCR 300-313

Patricia Popelier, 'COVID-19 legislation in Belgium at the crossroads of a political and a health crisis' [2020] The Theory and Practice of Legislation, no. 8, 138-141

Belgium, adopted by the Venice Commission at its 91st Plenary Session (Venice, 15-16 June 2012), <https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD%282012%29010-e> accessed on 15 February 2021

26 Jurgen Goossens and Pieter Cannoot, 'Belgian Federalism After the Sixth State Reform' [2015] Perspectives on Federalism, no. 7.2, 34

27 See Patricia Popelier, 'The trick with Article 195: A Patch for the Bleeding with the Blessing of Venice' (published in Dutch) [2012] CDPK 421-443

28 Richard Albert, *Constitutional Amendments* (OUP 2019) 76-94

29 Jurgen Goossens, 'Belgium, quo vadis? The story of a government, migration and regime crisis' [2019] TvCR 388-389