

The Belgian Constitution

The Constitution is the fundamental law

The Constitution defines the organisation of the State, determines the competences of the representatives of authority, and the way in which they exercise them.

Given that the Constitution specifies the fundamental rules for the organisation of the State, the constitutional framework is positioned above federal laws, community decrees and regional decrees or ordinances in the hierarchy of legal standards.

The Belgian Constitution is a written constitution (coordinated February 17, 1994) containing over 200 articles.

What does the Belgian Constitution provide?

The Constitution states, sometimes explicitly, sometimes implicitly, a certain number of basic principles on which the organisation of the State is founded.

For example:

Explicitly : «All powers emanate from the Nation» (art. 33).

Implicitly: the separation of powers (information sheet 3).

On the basis of these principles, Belgium can be considered as: a constitutional state, a democratic state, a parliamentary monarchy, a federal state, a welfare state and a social state.

» Division and composition of the federal Belgium

«Belgium is a federal State made up of Communities and Regions» (art. 1)

«Belgium has four linguistic regions» (art. 4)

On February 7th 1831, the members of the National Congress adopted the Belgian Constitution. However, it took until 1967 before its Dutch version got an authentic character. Until then, the Dutch text was only a translation without any official value. Since 1991, an official German version of the Belgian Constitution does also exist.

» The fundamental rights and freedoms of the citizen

- The equality of all Belgians before the law, the guarantee of non-discrimination and the equality between men and women (art. 10, art 11 and 11bis)
- The right of individual freedom (art. 12, 13)
- Minimum rules for criminal penalties (art. 14, 14bis)
- The inviolability of the home (art. 15)
- The right to property (art. 16)
- The freedom of religion (art. 19, 20, 21)
- The respect of private and family life (art. 22)
- The rights and freedoms of children (art. 22 bis)
- The right to conduct a life in compliance with human dignity which implies the right to work, social security, decent accommodation, protection of a clean environment and cultural and social development (art. 23)
- The freedom and right of education (art. 24)
- The freedom of the press (art. 25)
- The freedom of assembly (art. 26) and association (art. 27)
- The freedom to submit signed petitions (art. 28)
- Inviolability of the confidentiality of mail (art. 29)
- Freedom regarding language usage (art. 30)
- The right to consult administrative documents (art. 32)

» The division of competences between the various levels of authority and the tasks of their institutions

- The competences of the federal State, the federal executive power (the King and government) and the federal legislative power (the King, House of Representatives and Senate)
- The competences of the communities and regions, the executive power (governments) and the legislative power (parliaments) of the communities and regions
- The provincial and communal institutions
- The judicial power

How is the Constitution changed?

The Constitution is a fundamental law. The legal foundation of the State must be sustainable. That is why it is not desirable for the Constitution to be revised at every turn and to be at the mercy of changing political majorities. In this respect, the National Congress provided a certain number of restrictions on the ability to revise the Constitution and devised a special revision procedure that has remained unchanged since 1831.

» Some restrictions

The Constitution may not be revised in times of war (art. 196), certain articles may not be revised during a regency (art. 197). The Constitution may not be completely revised but only partly so. Certain things that the Constitution prohibits may never be introduced, such as censorship for example (art. 25).

» The revision procedure

Ordinary procedure

The Constitution is changed in three stages.

- 1. The declaration for the revision of the Constitution**
In this stage each branch of the federal legislature (House of Representatives, the Senate and the King read the government) designates, in three separate declarations, the articles of the Constitution which may be revised by the constitutioner after the elections. The declarations of revision from the House or Senate are adopted by an ordinary majority. Only the provisions stipulated in the same way in the three declarations may be revised. After the publication of the declarations of revision in the *Moniteur Belge* (the official State journal) the federal Parliament is dissolved.
- 2. Elections for constituting the federal legislative Chambers**
Federal elections are organised within 40 days of Parliament being dissolved. The new constituent Chambers must meet within two months of the dissolution.
- 3. The revision itself**
At this stage, the deputies, senators and the government may introduce proposed amendments to the Constitution. Only the articles designated before the new constituent assembly may be revised.

The revision procedure is bicameral, in the same way as the ordinary parliamentary bills. This means that both the House of Representatives and Senate must adopt the amendments to the Constitution. The draft and proposed amendments are approved by each assembly with a double majority, which means that during the vote two thirds of the members of each house must be present, and the amendment must receive two thirds of the votes.

Transitional procedure

On the occasion of the Sixth State Reform, a transitional arrangement was inserted into Article 195 of the Constitution. In this way, the amendment of articles of the Constitution, in a given sense, without declaration of revision and without prior elections, was made possible.

The Constitution is revised more frequently

During the last decades, the Constitution was more frequently revised than before. The first two revisions of the Constitution (1893 and 1920) were aimed at reforming the electoral system: the next six (1970, 1980, 1988, 1993, 2001 and 2012-2014) had the purpose of gradually reforming the unitary Belgian State into a federal State.

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| DOC 55 3719/005 | DOC 55 3719/005 |
| CHAMBRE DES REPRÉSENTANTS DE BELGIQUE | BELGISCHE KAMER VAN VOLKSVERTEGENWOORDIGERS |
| 2 mai 2024 | 2 mei 2024 |
| RÉVISION DE LA CONSTITUTION Projet de révision de l'article 7bis de la Constitution, en vue d'ajouter un alinéa régulant le bien-être des animaux | HERZIENING VAN DE GRONDWET Ontwerp van herziening van artikel 7bis van de Grondwet, om een lid toe te voegen dat het dierenwelzijn regelt |
| Texte adopté par la séance plénière et soumis à la sanction royale | Tekst aangenomen door de plenaire vergadering en aan de Koning ter bekrachtiging voorgelegd |
| SÉNAT Documents: 7-481 – 2022/2023: N° 1: Proposition de révision de la constitution de MM. Anclaix, Ben Chikha et Uyttendaele, Mme Masai, MM. Eerdekens, Vanderhove, Van Goidseghoven et Dodimont, Mme D'Hose et M. Daems. N° 2: Rapport. N° 3: Audition. N° 4: Texte adopté par la commission. Annexes du Sénat: 24 novembre 2023. CHAMBRE DES REPRÉSENTANTS Documents: Doc 55 3719/ (2023/2024): 001: Projet transmis par le Sénat. 002: Rapport. 003: Texte adopté par la commission. 004: Amendements. 005: Texte adopté par la séance plénière et soumis à la sanction royale. Voir aussi: Compte rendu intégral 25 avril et 2 mai 2024. | SENAT Stukken: 7-481 – 2022/2023: Nr. 1: Voorstel van herziening van de grondwet van de heren An- claix, Ben Chikha en Uyttendaele, mevrouw Masai, de heren Eerdekens, Vanderhove, Van Goidseghoven en Dodimont, mevrouw D'Hose en de heer Daems. Nr. 2: Verslag. Nr. 3: Hoorzittingen. Nr. 4: Tekst aangenomen door de commissie. Handelingen van de Senaat: 24 november 2023. KAMER VAN VOLKSVERTEGENWOORDIGERS Stukken: Doc 55 3719/ (2023/2024): 001: Ontwerp overgezonden door de Senaat. 002: Verslag. 003: Tekst aangenomen door de commissie. 004: Amendementen. 005: Tekst aangenomen door de plenaire vergadering en aan de Koning ter bekrachtiging voorgelegd. Zie ook: Integraal verslag: 25 april en 2 mei 2024. |
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