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Searching for the Panacea of Long-Term Equality:  
on the art of combining quick-fix solutions and  
structural measures to increase the presence of  
women in parliament

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Robert Schuman Centre for Advanced Studies

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**MERCEDES MATEO-DÍAZ**

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## **Abstract**

The issue of equality is at the centre of theoretical and practical discussions in modern democracies. Most political actors agree that the State should treat its citizens equally, in the sense that it should not discriminate against individuals due to certain physical characteristics, such as race or sex. Political controversy arises over what is to be done to bring existing inequalities to an end and to prevent others from developing. At issue is the extent to which governments should promote, say, political, social and economic equality through policies of redistribution and positive actions in order to reach *de facto* equality. In practice, political inequality, as related to the right to vote and to stand for election, together with broader socio-economic inequalities, have resulted in a disproportionate composition (with regard to certain characteristics) of the legislative assemblies. Discussion of the arguments and theoretical basis for and against proportional descriptive representation in parliamentary assemblies will not be undertaken here. The aim is, rather, to provide a stronger empirical basis for some of those theoretical and political arguments and tools that are aimed at giving rise to some degree of proportionality. The paper will therefore focus on one major empirical question, namely *What affects women's presence in parliaments?* Answers to this question could be linked to the length of time that women have had the right to vote and to stand for election, or the socio-economic, cultural and political context in which this has occurred. The paper will, however, examine a third possible answer, that is, specific institutional reforms such as quotas. It will first discuss under which conditions institutional arrangements are efficient. It is argued that, for a mechanism to be effective in bringing about *de facto* equality, it should be given both a hard content and form. That is to say, the mechanism should be far-reaching in its scope, while being legally binding and thus subject to sanction. Then it will focus on one case study: Belgium. Belgium introduced a first reform in its electoral law, enforcing sex-quotas in the political parties' composition of electoral lists of candidates. However, these quotas prioritised the number, leaving to one side the question of how male and female candidates were positioned on the parties' lists. Thus, the law had a *soft* content with a *hard* form, and, as a consequence, the increased number of female legislators after the elections was due more to other factors than to the reform itself. Instead, the new electoral legislation introduced in Belgium in 2002, and applied for the first time in the May 2003 elections, had both a *hard* form and a *hard* content, thereby ensuring *de facto* proportionality given that female candidates were granted a number of eligible positions in all the party lists. The last section addresses the last electoral and constitutional revisions in Belgium and briefly refers to other EU Member States as counterpoints.

## **Keywords**

Equality, positive actions, parity, quotas, constitutionalisation, electoral law, policy reforms, policy implementation, gender and politics, parliament, European Union Member States.





## Introduction<sup>1</sup>

During the first half of the twentieth century, women in one Western European country after another began to receive the rights to vote and to stand for election. However, neither access to the voting booth nor the right to stand for election resulted in any large influx of women into the parliaments. Such a development had to wait until the last quarter of the twentieth century when international conventions, declarations, optional protocols, action plans and other recommendations began to encourage the broader participation of women in political and socio-economic spheres. Today, the beginning of the twenty first century still sees a wide variation from country to country in terms of women's presence in legislative assemblies. The natural question that arises concerning this is *why?*

The paper starts by describing what have been called 'self-evident disparities' between men and women in terms of political representation in elected bodies. The account will concentrate on the lower houses of the current 15 European Union (EU) Member States. Following this, a discussion is presented of the different mechanisms used to achieve proportionality in the representative assemblies. In doing this, it skips another, important discussion on why these imbalances matter and why is there a need to remedy them, since there is enough material on this for a paper in its own right. Therefore, this paper is limited to showing an awareness of the complexity of the premises on which the empirical research is based. The aim is thus to give a stronger empirical basis to some of these theoretical and political arguments and tools that are proposed.

This paper will concentrate on the discussion of positive discrimination strategies, with a particular focus being placed on Belgium. Belgium has the particularity of being the only EU Member State to have introduced sex<sup>2</sup> quotas into its legislation, and to have applied this twice in the selection of party candidates. Along the lines of the discussion regarding how efficient institutional changes and legislation favouring equal representation of men and women actually are, the fourth and last section presents the latest electoral and constitutional revisions introduced in Belgium. This last section looks at the indirect effects of quotas, and forecasts the possible combined effects of quotas and other institutional reforms. References to recent evolutions in this area experienced in other EU Member States will also be examined. The paper ends with some concluding remarks on the matters previously explored.

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This contribution is developed from a seminar held by the Robert Schuman Centre for Advanced Studies at the European University Institute, Florence, on 9 April 2003, hosted by the Gender Studies Programme. The author would like to thank all the participants for their useful comments. The author is also grateful to Hans E. Andersson, Lieven De Winter, Susan Millns, and the anonymous readers for their helpful comments to previous versions of this article.

2 In this study, when talking about sex, the references are the certain biological attributes that characterise men and women. When talking about gender the references are the social aspects of differences between men and women. Thus, when referring, for example, to the social composition of an assembly, the term used will be sex, because the account is made purely on the basis of biological differences. It is, however, important to stress the existing controversy around the dichotomy sex-gender. One argument is that the term sex, still goes beyond the purely biological aspects due to the fact that the concept has also been used to refer to social construction. Some radical feminists have also questioned the usefulness of distinguishing between the two notions, sex and gender. They argue that a significant majority of the expressions of gender oppression are intimately linked to men and women's biology and reproductive roles and that it therefore makes no sense to talk about two separate concepts, since in practice they are part of the same phenomenon.

## 1. On the Existence of Self-Evident Disparities

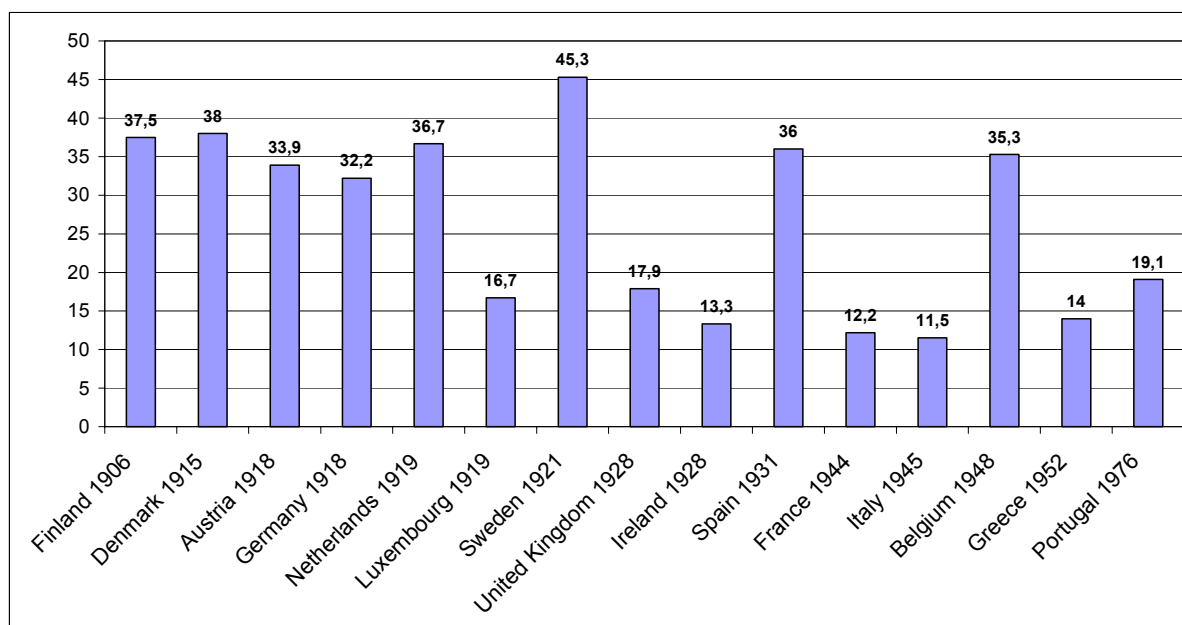
Generally speaking, there are two ways of seeing the problem of unrepresentativeness: either in purely political terms or as a more general problem. In the first case, this will lead to specific political solutions, such as changes in the electoral system, the adoption of legally binding measures i.e. quotas, and financial sanctions, whereas in the second more fundamental solutions can be envisaged. The idea is that since the discrimination of certain groups is not limited to the political system, more far-reaching measures need to be implemented. For example, in the case of women, to the extent that basic changes in the educational system and the job market (e.g. equal pay for equal work) affect their opportunities, women will also have a greater chance of entering the political arena. In other words, changes in the political structure are driven by major changes in the socio-economic structure.

However, if one looks at the problem of unrepresentativeness in purely political terms, i.e. as something exclusively concerning politics, and therefore opts for institutional changes, one may also hope for the reverse process, namely, that changes in political institutions will give rise to changes in the socio-economic structure. In empirical terms, the problem is that we enter a circle, a circle in which we do not know where the cause ends and the effect starts (i.e. endogeneity problems).

Today's disparities between women and men in terms of presence in elected bodies over the EU member states are primarily rooted in the obvious discrepancies in the length of time since enfranchisement. Women's presence in parliaments has increased over the last 50 years in the European Member States. Nevertheless, while this change has been quite spectacular in this respect in certain countries, others remain stagnant. As for the first formal step towards women's political empowerment, a strong heterogeneity can be observed between the 15 EU Member States. In terms of the full right of women to participate in elections a difference of 70 years exists between the first country to implement this (Finland) and the last one (Portugal). Thus, the fact that women were given the right to vote at different moments in different countries could explain some of the differences currently existing between countries in terms of sex-balance in elected bodies.

In figure 1 countries are arranged according to the year in which women gained the political right to vote and stand for election.

**Figure 1 Date of Women's Vote and Percentage of Female MPs by Country (as of 2004-05-27)**



A quick look at the countries heading figure 1 shows that, overall, they are also those with a better sex-balance in their respective parliaments. For instance, Finland is the first European country to have both a female president (Tarja Halonen, sworn in March 2000) and a female prime minister (Anneli Jaatteenmaki, appointed in April 2003).<sup>3</sup> However, figure 1 also shows that even if there is a clear tendency between the earliness of the date for women's voting and a higher female presence in parliament, this relationship is not perfectly linear. For example, despite the fact that Sweden was only the seventh EU country to grant women the right to vote (in 1921), it had the highest proportion of female parliamentarians in the world until September 2003.<sup>4</sup>

Of course, time is far from being the only, or even the most important factor in explaining how and why women in some countries managed to enter the corridors of power, whereas women in other countries remain essentially excluded from them to this day. Once these imbalances have been shown and a description been presented, a further question that emerges concerns the extent to which not only time, but also the institutional features, i.e. the electoral arrangements, are related with the variation in the number of female representatives across countries.

From discussions on different groups' representation in legislative assemblies it is easy to have the impression that this is an issue concerning only the *pros* and *cons* of positive actions, such as quotas. However, there are several other factors that can play a fundamental role in the creation of a structure of opportunities enabling different groups to win representation in parliaments.

Pamela Paxton (1997) provides three types of explanations for cross-country differences in female participation in national legislatures, namely: *social structural*, *political* and *ideological*. The *social structural* explanations are located within what she calls the 'supply-side' of politics, that is to say, women's empowerment in other areas of life will make them available as potential candidates to run for office. This first explanation assumes that as long as women have not gained enough competencies in terms of their education and economic status, there will not be a pool of available women to supply the political with competent female candidates. It should be said, however, that, the postulate assuming that women need to gain competence before they can embody a political mandate has proved to be a possibly necessary, but certainly not sufficient condition (see Paxton and Kunovich, 2003).

The second explanation, or the *political*, belongs to what Paxton calls the 'demand-side', where it is the political parties and electoral systems that have the power to encourage or hinder women's political involvement. If institutions have an inclusive nature, they will pull female candidates among those who are competent. Many of the studies which try to explain the variation among countries in the numerical presence of women in national parliaments have been concentrated on factors related to the political context. Pippa Norris, for example, in a political context, distinguishes three levels that affect the likelihood of women being elected to parliament: The *political system* comprises the legal, constitutional and electoral circumstances which create the framework for recruitment. At the level of the *recruitment structure*, the rules of the game are created by the organization and ideology of the parties. At a third level, the *recruitment process*, it is, for example, possible to study which and how many women the party's gatekeepers will allow to run.<sup>5</sup> In her analysis, Pia Kaiser reminds us that Women's Political Participation (WPP) could also be the result of what is called the 'strategic

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3 See European Women's Lobby Newsflash, May 2003.

(<http://www.womenlobby.org/Document.asp?DocID=597&dtod=15413>, as off 1/07/2003).

4 The highest figure is now displayed by Rwanda, which held elections in September 2003, and has 48.8 % of women in its lower house (39 out of 80 seats). The newly born constitution establishes a quota for women, in which the National Assembly should be made up of a minimum of 24 women, whereas the lower bound for the Senate is a 30% threshold. See further at <http://www.ipu.org> and <http://www.idea.int/quota>.

5 Norris, 1996b:195-196. See, also, Vengroff, 1999:6.

approach', or the strategic incentives of major parties to promote women.<sup>6</sup> Empirical research has shown that the general pattern is that proportional systems more often result in gender-balanced assemblies, as opposed to the majoritarian systems (Norris, 1985 and 2000b; Vengroff, 1999; Matland, 1998; Lijphart, 1994; Rule and Zimmerman, 1992).

As a third and last explanation, Paxton mentions *ideology*, which she defines as the set of 'ideological beliefs about women's role and position in society'. (1997:445). Ideology will determine the way in which voters perceive female candidates, and will, thus, influence their choices. Even in systems dominated by parties, the electorate has its say. In the last instance, voters, not parties, decide which candidate they want to vote for. Thus, for having an equally sex-balanced parliament is not enough to force parties to present a sex-balanced supply, since voters also have to vote for both men and women. Cultural views on the political competence of women affect the election process in two ways: from top-down, because the party élites select the candidates who will run for election; and from bottom-up, because the voters select the candidates that will effectively stand for the party in parliament. However, *ideology* affects more than the demand-side of the political. It also affects the perceptions of the subjective competence of female candidates, which might hinder their active involvement as political subjects, and thus affect the supply-side of the political sphere.

Women in many Western countries have, for a considerably long time, had the possibility of becoming representatives. Nevertheless, it is obvious that there has been, and, in many cases, continues to be, a gap between the theoretical and practical possibilities of actually getting elected. The competence argument has very often been put forward in political and academic debates against mechanisms for bringing about proportionality in legislatures. However, cultural factors and stereotypes continue to stigmatise certain groups and hinder them from gaining access to the halls of power. In their seminal work *The Civic Culture*, Gabriel A. Almond and Sidney Verba (1963) define the citizen as the person who is able to take part in the running of the political system (1989:206). They stress the importance that the citizens' political competence has for the well-functioning of a given political system. What is particularly relevant, for the topic under discussion here, is that they emphasise the crucial role of the citizen's *subjective* competence, and thus, of his or her degree of self-confidence to participate and become actively involved in politics:

Compared with the citizen whose subjective competence is low, the self-confident citizen is likely to be the active citizen: to follow politics, to discuss politics, to be a more active partisan. He is also more likely to be satisfied with his role as a participant and, subject to certain exceptions discussed above, likely to be more favorably disposed toward the performance of his political system and to have a generally more positive orientation toward it (Almond and Verba, 1989:206).

In other words, even where women have gained an objective competence, they can still remain excluded from the political sphere when their competence as political subjects has been traditionally questioned, and thus it can, to a significant degree, affect their subjective perceptions about their political competence. It is striking to see that, despite the fact that women have achieved a great deal in terms of educational attainment and shares in the economic sphere, both their capacities for voting rationally and for running for office have been systematically questioned by cultural beliefs and the role models produced by them.

Having said that, it is important to stress that Paxton and Kunovich did not include institutional reforms and specific mechanisms such as quotas designed to enhance women's presence in legislatures in their model. The fact that cross-national studies do not include this factor to their models has a twofold explanation: first, these types of data are difficult to gather, and their accuracy has, until very recently, been fairly low; and second, due to the heterogeneity of the mechanisms designed and implemented all over the world, their operationalisation is very problematical. Recently,

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6 Kaiser (1999) investigates three factors: the salience of women's issues in the media, the ideology of parties, and the rise of new egalitarian parties, arguing that, when one party raises a policy issue, it becomes more likely that another party will also adopt it, by a 'contagious effect'.

there have been a number of efforts and important initiatives to cover this lack, which started with the works of the Inter-parliamentary Union, and were followed by the joint project of International IDEA and Stockholm University, named 'Global Database of Quotas for Women'. All in all, case-studies have shown the significant role of intentional and more specific political reforms to bring about proportionality in legislatures.

To further investigate how institutional features contribute to women's political empowerment, the next sections will first discuss under which conditions institutional arrangements are efficient. It is argued that, for a mechanism to be effective in bringing about *de facto* equality, it should be given both a hard content and form. That is to say, the mechanism should be far-reaching in its scope, while being legally binding and thus subject to sanction. Then it will focus on one case study: Belgium. Belgium introduced a first reform in its electoral law, enforcing sex-quotas in the political parties' composition of electoral lists of candidates. However, these quotas prioritised the number, leaving to one side the question of how male and female candidates were positioned on the parties' lists. Thus, the law had a *soft* content with a *hard* form, and, as a consequence, the increased number of female legislators after the elections was due more to other factors than to the reform itself. Instead, the new electoral legislation introduced in Belgium in 2002, and applied for the first time in the May 2003 elections, had both a *hard* form and a *hard* content, thereby ensuring *de facto* proportionality given that female candidates were granted a number of eligible positions in all the party lists. Section four investigates the possible indirect and combined effects that can be expected from the different reforms. Recent developments in other European Union (EU) Member States in this area will also be considered and used as counterpoints to the Belgian case.

## 2. Enhancing Women's Representation by Means of Specific Institutional Reforms

A number of different measures to enhance the representation of women in the legislative assemblies have been suggested. As Pippa Norris remarks, the type of measure adopted reflects 'different cultural values and beliefs'. Joni Lovenduski establishes a threefold categorization for the different types of measures: rhetorical strategies, affirmative action programmes and positive discrimination strategies. The *rhetorical strategies* have the 'aim to change the party ethos by affirming the need for social balance in the slate of candidates'. The *affirmative action programmes* have the 'aim to encourage applicants by providing training sessions, advisory group targets, financial assistance, as well as systematically monitoring the outcome. [...] Gender quotas fall into this category if they are advisory rather than binding'. And *positive discrimination strategies* advocate 'mandatory group quotas for the selection of candidates from certain social or political groups. (...) The strongest version would be legal measures which specify that a high proportion of all parliamentary seats should be reserved for women in the constitution' (Lovenduski, 1993. Cited from Norris, 1997).

Empirically, in terms of efficiency-assessments, it is interesting to concentrate on Lovenduski's second and third categories. The reason is that they both have a factual character whereas the rhetorical strategies remain at the level of the discourse, and it thus seems quite difficult to measure their effectiveness. Within the world of affirmative action programmes and positive discrimination strategies, quotas have been the most popular mechanisms in use. Quotas will vary according to their given content and form, which, at the same time, are a consequence of the cultural and institutional systems in which they apply. In last instance, both the form and the content will depend on the nature of the process of political negotiation that preceded them. More specifically, in terms of content, quotas can either take the form of affirmative action programmes, which are non-binding recommendations, or of positive discrimination strategies, which are binding.

The positive action measure 'quota' is presented by philosophers and politicians as a temporary measure of correction. The objective is to accelerate the process which leads to a balanced political share between men and women. The use of quotas is based on the belief that sex-balance cannot be reached naturally, *i.e.*, by letting the evolution of society change patterns. Iris Marion Young (1997,

1998), for example, claims that the universalism which is behind liberal democracy is false and ignores factual discrimination. As a result, she stresses the need for artificial mechanisms such as quotas. Formally, quotas consist of establishing a compositional threshold that can be either defined positively (*i.e.*, the minimum required of minority members) or negatively (*i.e.*, the actual majority cannot be more than a maximum). Defined from an essentialist<sup>7</sup> point of view, ‘quotas’ are based on a notion of representation organised around interest groups. It assumes that the representative shares social characteristics (*e.g.*, gender, race, locality and class) with those represented, which result in common policy preferences. Only women are capable of representing the specific interests of women. The act of representation is to be performed *by* and *for* women.

Despite its temporary nature, the conceptualization behind *quotas* makes them into conflict with the essence of some political regimes. In France, one of the main arguments against anything similar to a quota was that of replacing the universal principle of popular sovereignty by the principle of difference which, it was argued, is the source of discrimination *per se*. This and other criticisms have motivated the emergence and strengthening of the *parity* philosophy.

From a distance, these two concepts—*quotas* and *parity*—can be seen as something similar, *i.e.*, a measure of correction in order to reach a political balance between men and women. ‘*Parity*’, as a second theoretical approach to end the ‘social bias’ in representative assemblies, also argues in favour of a parliament which includes a substantial representation of women. But both are quite different, at least in theory. ‘*Parity*’ is claimed to be a definitive measure that goes beyond the quantitative aspects, and the different philosophical reasoning underlying this measure makes it very different from quotas. It is, in itself, the duality of mankind which will justify a sharing of power between men and women. *Parity* refers to a sort of dichotomy within the unity. The blind and abstract rights produced by the liberal democratic tradition assimilated people, with different belongings and life experiences, under a universal citizenry, which served to perpetuate inequality *de facto*. Thus, the argument goes, a new understanding is needed in order to break away from this logic of assimilation, which has to be replaced by autonomous individuals having a self-determined will. The fact that individuals belonging to certain groups are systematically under-represented implies the existence of people whose wills are determined by something/someone external to them, which reproduces the current paradigm of dependence. The objective of *parity* is to transcend the Kantian notion of *heteronomy*, *i.e.*, being given a law by something external, in order to create independent actors with both independent wills and decision-making capacity.<sup>8</sup>

Even if the defenders of parity stress the differences between the concepts of quotas and parity, there are no differences when it comes to implementation, as will be discussed later with regard to the new legislation. Indeed, when it comes to translating the principle of parity into practice, it simply becomes a 50 % quota. Thus, in the following both parity and concepts will be treated in terms of their actual efficiency once they are implemented in practice.

Ben Reilly (quoted in Dahlerup, 1998:96-7) has created a threefold classification of the different methods of implemented around the world under the general title of *quotas*. First, the *statutory quotas* require a minimum proportion of women among the elected representatives (*e.g.*, Argentina). Quotas in the *electoral law* constitute the second method. It forces the party lists to attain a certain threshold of female candidates (*e.g.*, Belgium). Finally, *informal quotas* can also be implemented by individual parties. This method has been applied, by and large, in Scandinavia. *Statutory quotas* and *quotas in the electoral law* belong to what Lovenduski calls *positive discrimination strategies* (*i.e.*, mandatory), whereas *informal quotas* belong to the *affirmative action programmes* (*i.e.*, non binding).

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7 Essentialism defined as the philosophy conferring to essence, *i.e.* nature, the primacy over existence. It is what you are born that decides who you are by essence, and not the later social interactions.

8 The concept of heteronomy stands in opposition to the concept of autonomy, which in turn stands for the entitlement of any individual to initiate her own laws. See the Ethics Glossary, edited by Lawrence M. Hinman, in <http://lgxserver.uniba.it/lei/foldop/foldoc.cgi?Ethics+Glossary> (2002-02-08).

The International Institute for Democracy and Electoral Assistance (IDEA) proposes a threefold classification of sex-quotas, namely, the *Constitutional Quota for National Parliament*, in which the quota is already stipulated in the constitutional text; the *Election Law Quota or Regulation for National Parliament*, when the quota is included as a part of the electoral legislation; and the *Political Party Quota for Electoral Candidates*, in which the parties internally decide to set up a quota to be applied to the electoral lists of candidates presented by the party.<sup>9</sup>

Lovenduski, Reilly and IDEA’s typologies have both common and overlapping points. A table will help to give a clearer idea of how these three classifications interrelate:

**Table 1 Relationship between Lovenduski, Reilly and IDEA’s Typologies and a New Proposal<sup>10</sup>**

Lovenduski	Reilly	IDEA	Mateo-Díaz and Millns
<i>Rhetorical Strategies</i>			
<i>Affirmative action programmes</i>	Informal quotas	Political Party Quota for Electoral Candidates	Internal Political Party Quotas for Electoral Candidates
<i>Positive discrimination strategies</i>		Constitutional quota for national parliament	Constitutionalisation of quotas or parity principle
	Quotas in the electoral law	Election Law Quota or Regulation for National Parliament	Legislation on quotas: <ul style="list-style-type: none"> <li>• Enabling quotas for political parties</li> <li>• Requiring quotas for electoral candidates</li> <li>• Enabling quotas for the composition of parliament</li> <li>• Requiring quotas for the composition of parliament</li> </ul>
	Statutory quotas		

In another paper co-authored with Susan Millns, we have argued that a more fine-grained typology for institutional reforms applied to facilitate the equal representation of men and women in the elected bodies was needed. The fourth column in Table 1 displays our proposition. Along the rows, one can see the relations that exist between the four categorisations. Leaving aside minor changes in the labelling of some of the categories, the major contribution in the Mateo Díaz and Millns approach is the distinction within the ‘legislation on quotas’, between four groups, namely, *enabling quotas for political parties*, *requiring quotas for electoral candidates*, *enabling quotas for the composition of parliament* and *requiring quotas for the composition of parliament*. The four types have been ordered according to the degree of constraint they impose on the parties. The following table classifies the EU Member States into the Mateo-Díaz and Millns categories.

9 They also suggest to add a fourth category to the previous list that is in reality a version of the Constitutional Quota for National Parliament but at the subnational level, namely: the Constitutional or Legislative Quota for Sub-National Government. According to IDEA, among the EU member states France and Greece are the only ones to have applied this kind of quota. See the *Global Database of Quotas for Women* (<http://www.idea.int/quota/system.cfm>).

10 See Mateo Díaz and Millns (forthcoming), *Liberté, égalité, parité?: A comparative perspective on the constitutionalisation of quotas*.

**Table 2 Classification of EU Member States according to the Sex-Quota Implemented<sup>11</sup>**

Quota type		Country
<b>Internal Political Party Quota for Electoral Candidates</b>		Austria, Belgium, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, UK  [In Denmark this kind of quota existed before]
<b>Constitutionalisation of quotas or parity principle</b>		Belgium, France, Italy, Portugal
<b>Legislation on quotas:</b>	Enabling Quotas for political parties	UK
	Requiring Quotas for electoral candidates	Belgium, France
	Enabling Quotas for the composition of parliament	Finland
	Requiring Quotas for the composition of parliament	

First, the *enabling quotas for political parties* correspond to the British case in which the use of a quota is permitted, but is neither recommended nor binding, even though it takes the form of legislation.<sup>12</sup> This is a very soft version of legislation on quotas for the selection of candidates. The second category *requiring quotas for electoral candidates* covers the legislation in which there is a formally binding requirement for the sex-composition of the candidates presented in the party lists. The third type has been called *enabling quotas for the composition of parliament*, and covers the Finnish case, in which legislation strongly favours the equal representation of men and women in all decision-making bodies. This kind of provision is stronger than the British provision given that it concerns the final composition and not only the candidates. In Finland, there is no quota regulation at party level. Since 1987, the *Act on Equality between Women and Men*—amended in 1995—has stipulated that the presence of men and women should be as equal as possible in all decision-making bodies. Through the 1995 amendment, the quantity was specified and rose to a minimum of 40 % of one sex.<sup>13</sup> And as a fourth and last type, *requiring quotas for the composition of parliament* includes the countries in which there is a formal requirement for the effective distribution of the parliamentary seats. Some countries have included a provision which reserves seats for certain groups in their

11 Some of the information reproduced in this table has been extracted from the *Global Database of Quotas for Women* (<http://www.idea.int/quota/system.cfm>). The rest has been updated by the authors.

12 In January 1996, the quota introduced by the Labour Party in 1992—that set up all-female shortlists for 50% of vacant and winnable seats -, was declared by an Industrial Tribunal to be against the Sex Discrimination Act enacted in 1975. In 2001, the Sex Discrimination (Election Candidates) Act was enacted by the Parliament (and received Royal Assent on 26 February 2002) in view of enabling ‘a political party, should it wish to do so, to adopt measures which regulate the selection of candidates for certain elections in order to reduce inequality in the numbers of men and women elected as candidates of the party’. See further at <http://www.hmso.gov.uk/acts/en/2002en02.htm>, <http://www.hmso.gov.uk/acts/acts2002/20020002.htm> and at <http://www.idea.int/quota/displayCountry.cfm?CountryCode=GB>, as off 26/11/2003.

13 See further at Council of Europe ‘Women and Politics Database’, <http://www.db-decision.de/CoRe/Finland.htm>, as of 18/11/2003.



legislation. Belgium, for instance, applies this mechanism in order to guarantee representation to the members of the German-speaking community in the Senate.

We will now turn to how these mechanisms perform, and how they interact with the existing institutional settings. Here, it is important to recall why these mechanisms came about and who requested them. Affirmative actions come to the surface when there is a disparity which a group considers to be unfair and which it wishes to see redressed. When a group asks for presence in parliament, the group would like to see a mechanism that not only corrects the composition of the lists of candidates, but one that actually brings them into the Chamber. Given that politics is about negotiation, those who are *for* and *against* have to find an agreement, which is not necessarily the best of both worlds, and thus, not necessarily satisfactory for any of them. For a mechanism to be effective in bringing about *de facto* equality, it should be given both a hard content and a hard form. In other words, the mechanism has to be far-reaching in its scope, while being legally binding, and thus, subject to sanction. As a result of political negotiations and the necessary trade-offs, sometimes mechanisms can take a hard form, binding, for example, but are made up with soft content, with a very limited scope, while at other times, the content is rich in its scope but limited in its legal means. One can argue that the likelihood of seeing *de facto* equality brought about will vary, according to how the mechanism has been built in terms of substance and form. The possible combinations can be represented in a two-by-two table.

**Table 3 How the Formal and Informal Nature of Mechanisms for Equality Combine, and Translate into Possibilities for Obtaining a Successful Output in Terms of Substantive Equality**

		<i>Formal aspects of the Mechanism</i>	
		<b>Soft</b> (e.g., recommendation)	<b>Hard</b> (e.g., binding legislation)
<i>Substantive aspects of the Mechanism</i>	<b>Soft</b> (e.g. on the numerical composition of the lists)	Failure in practice	Failure if there is no external pressure
	<b>Hard</b> (e.g. on the final composition of parliament)	Failure if there is no external pressure	Success

Focusing now on the four resulting categories, the first box on the top-left corner displays the worse scenario, in which both form and scope are very limited. The expected outcome in such a case should be a failure of the translation of the equality principle into practice. The gap existing between *de iure* and *de facto* equality is clearly represented in the top-right corner of the four resulting categories, in which the mechanism takes the form of a binding law, while the real scope in practice is very limited. What is interesting to see is that, sometimes, *soft* legislation can be transformed into hard practice when there is a combination of factors, such as the attention that media pays to an issue, and the receptive capacity of public opinion on the particular given issue. One can argue that the electoral success of a party rests, to a significant extent, on the image it provides through its party candidates during election campaign. When the sex-criteria becomes relevant for public opinion, a very soft legislation in terms of content can become a very effective mechanism in achieving *de facto* equality. One can, for instance, think of the Belgian law on quotas enacted in 1994 and applied in 1999 for the legislative elections, which determined quantity but not the positions occupied by candidates within the lists. Notwithstanding this, the law had a significant impact through what one can call ‘indirect effects’ which will be examined in the last section of this paper. Public opinion was receptive to the issue, and parties could use any evident lack of respect for the principle of equality between the male and female candidates presented in the lists on the part of the other parties to their own advantage.

One might think that party regulations are to be considered as a kind of ‘soft mechanism’, although they sometimes have more of an impact than binding legislation on quotas for women on the electoral lists. This contradicts our hypothesis that, for a mechanism to be effective in bringing about *de facto* equality, it should be given both hard content and form. However, I would argue that, although they only affect the party concerned, the regulation is not necessarily soft in either its formal or its substantive scope. In contrast, the mechanism can be far-reaching in its scope, and to be imposed as a strong internal party-regulation—thus binding the party to respect this statutory rule. To advance the argument even further, when the party constitutes the majority, it can significantly affect the overall sex-balance of the legislature.<sup>14</sup> Thus, the distinction between hard and soft mechanisms, both in form and content, holds for both reforms of the electoral system, and reforms within the party structures.

As a conclusion, one can say that, when examining the performance of mechanisms for obtaining *de facto* equality, one should look at both the scope of the reform and the legal means it is given to translate this content into practice. In the next section, the case of Belgium will fully illustrate the discussion above. It will be completed with references to other European cases, and a few general conclusions will be drawn from it.

Relying on the terminology discussed above, Belgium, the case on which I will focus from now on, has implemented a *positive discrimination strategy*, and therefore a legally binding measure, under the form of a quota that has been established in the *electoral law*. The principle of parity has been *constitutionalised*, and in terms of concrete electoral legislation it has *requiring quotas for candidates*. Belgium is one of those beautiful examples in which both scientists and practitioners can work, sometimes in synergy. Practitioners know that institutions matter and make use of them when designing election rules, and scientists are called on, here and there, to give their advice on the design of these institutional changes. Just as an example of how institutions matter, and how politicians are aware and make ‘good’ use of this, we can look at the change from majority to proportional electoral formula. During the nineteenth century, the Belgian political scene was basically divided between a large Catholic majority and a liberal minority. The end of the century saw the emergence of the socialist movement, which would, in a relatively short period of time, replace the liberals. A new cleavage now appeared with the Christian-democrats on one side and the socialists on the other. In order to prevent a radicalisation of the political space, which the dispersion of the liberals would have entailed, the Christian-Democrats—which controlled the majority—decided to change from majority rule to proportional system (1899). Hence, the liberals survived the socialist eruption in Belgian political life. This can be seen as another example that institutions matter: the example discussed in the next section will instead concentrate on the law on quotas.

### 3. The Belgian Law on Quotas Concerning the Sex-Composition of the Lists of Candidates<sup>15</sup>

A superficial analysis of the increase in the number of women in the Belgian parliament would conclude that it was due to the quota policy put into operation during the elections of 13<sup>th</sup> June 1999.<sup>16</sup> However, as is often the case in social sciences, correlation does not imply causality. The coming paragraphs will show that this rise was not primarily caused by the introduction of the new quota legislation, but by the fact that the electorate chose to vote for other parties than in the election of 1995. The parties that gained votes were simply the parties which had more women in eligible and ‘fighting positions’ (*i.e.*, right after the eligible places).<sup>17</sup>

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14 This was for example the case of the Social Democratic Party in the Swedish Riksdag.

15 A more detailed analysis can be found in Mateo Díaz, 2002a; Mateo Díaz, 2002b.

16 The 13th of June 1999 was not only the day in which Belgium held national, regional and European elections, but also the first time in which a quota legislation was implemented in one of the 15 EU Member States.

17 The Belgian electoral system allows voters to pick specific people from party lists. The rank of candidates within the party lists determines the likelihood of eligibility.

The *Smet-Tobback* law on quotas was approved in 1994, and was applied for the first (and last) time at the elections for the Federal Parliament in 1999.<sup>18</sup> Further legislation, also intended to favour the equal representation of men and women, was enacted in 2002, and was applied in the elections held in 18 May 2003. The law on quotas intended to promote a balanced distribution of men and women on the candidate lists, by establishing a maximum limit per sex of 2/3.<sup>19</sup> The quota is binding with regard to the quantitative composition of the list of candidates, but does not say anything about the effective composition of the parliament, *i.e.*, the effective number of seats. There is no reference to the ‘quality’ of the composition of the lists, either; in other words, there is no explicit mention of the positions that the male and female candidates ought to occupy. The order is, however, determinant in the election of candidates. A short reference to the Belgian electoral law in existence for the 1999 elections will clarify this point. The new system, as provided by the 2002 reforms, will be discussed in the last section of this paper.

Belgium has compulsory voting, and used to be divided in 20 multi-member constituencies. To this day, the voting system is a party-list system, with proportional representation.<sup>20</sup> Voters can either go for the whole list or cast preferential votes, but always within the same list. In other words, vote-splitting, *i.e.*, voting for different candidates from different lists, is not provided for. Where there are vacancies between two electoral terms, departing members will be replaced by substitutes, elected at the same time as the title holders. Three important features of the Belgian election system are to be kept in mind: (1) Belgian political parties play a decisive role in the nomination process, determining who will ultimately be elected.<sup>21</sup> (2) Position is of the utmost importance since the higher a candidate is on the list, the greater his or her chances are of being elected (*ordre utile*). (3) When casting his or her vote, the voter has two possible alternatives: to go for the whole list or to opt for individual candidates. However, the so-called ‘devolution effect’ gives priority to the candidates at the top of the lists. If the voter decides to vote for the list presented by political party X, the beneficiary of his or her vote will be the first candidate on the list. Thus, even if a candidate gets more personal votes, the system privileges the candidate chosen by the party to occupy the top position on the list. For example, Table 4 displays the case of a party X that received 100 votes for the whole list, and in which candidates A, B, C and D individually received 1, 5, 10 and 2 preference votes. Despite the fact that candidate C received the highest number of votes as an individual candidate, she will not be elected because the sum of the remaining list votes (26), plus the preference votes (10), does not make up the 40 votes needed by each candidate to be elected.

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18 It was applied for the first time on 9 October 1994 in provincial and local elections. However, a temporary quota of 3/4 instead of that of 2/3 was used at these elections. The law on quotas did not apply in the 1995 general elections. Quotas fully applied for the 1999 general, regional and European elections.

19 Article 117b of the Electoral Law.

20 Using the Hondt method for the distribution of seats.

21 See Deschouwer, De Winter and Della Porta, 1996.

**Table 4 The Role of Preferences versus Position in the List, in the Selection of Candidate**

Party X received 100 votes for the list (Each candidate needs 40 votes to be elected)			
	N° Preference votes	N° Votes from the list needed to complete	Remaining list votes
<b>A</b>	1	+ 39 = 40	(61)
<b>B</b>	5	+ 35 = 40	(26)
<b>C</b>	10	+ 26 = 36	
<b>D</b>	2		

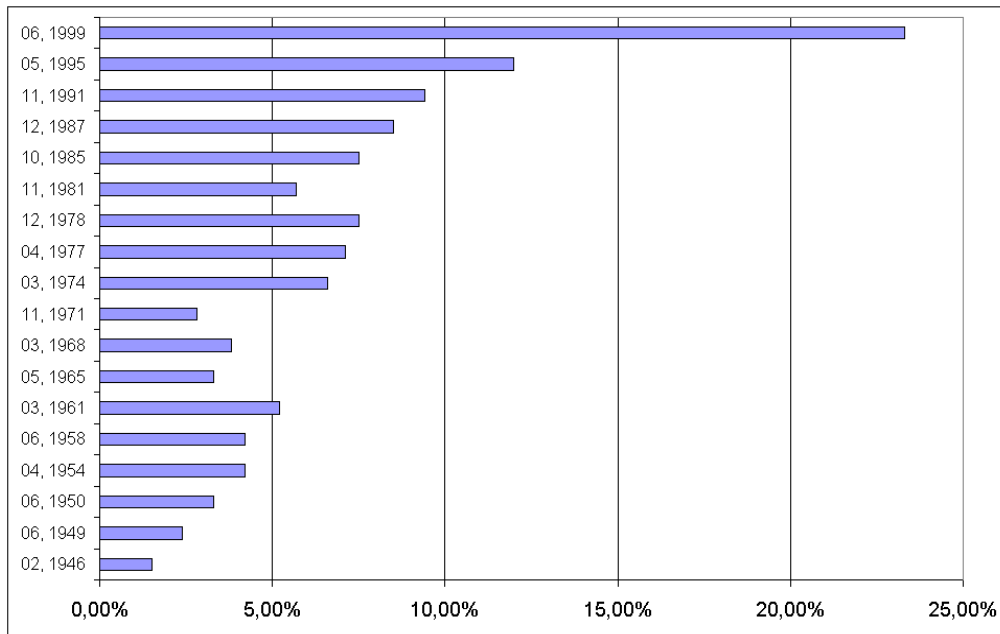
Just to illustrate the importance of the ‘devolution effect’ in the Belgian electoral regulations, and consequently the importance of the positions that the candidates occupy within the list, from 1919 —to 1991, 0.64 % of the elected candidates in the Chamber (30/4719), and 0.04 % of the elected candidates in the Senate (1/2358) were elected through preferential voting, disregarding the ‘*ordre utile*’ (see Bouckaert *et al.*, 1998:13).

From these three observations, it is theoretically easy to deduce that the effect of quotas, exclusively based on quantity rather than on position, which are a key factor in the Belgian electoral system, depends, to a large extent, on whether or not parties have the will to include more women representatives in eligible positions.

Thus, what has been the effect? Do quotas matter? And how do they matter? The following will first address the development of the female composition of the Chamber of Representatives during the second half of the twentieth century. Following, a description of the variation in the female composition between parties after the 1999 elections, and within parties over time will be given. Ending this section, a model explaining the observed variation between parties and measuring the effect of the law on quotas will be proposed.

*Changes over time.* A glance at the development of the number of female MPs in Belgium over time will be the starting point of this examination. From figure 2 one can see that, in general, the percentage of women increased in each election between 1946 and 1999. There are, however, a few exceptions: the 1965, 1971 and 1981 elections. In these elections, the parties which lost mandates were those which had more women representatives.

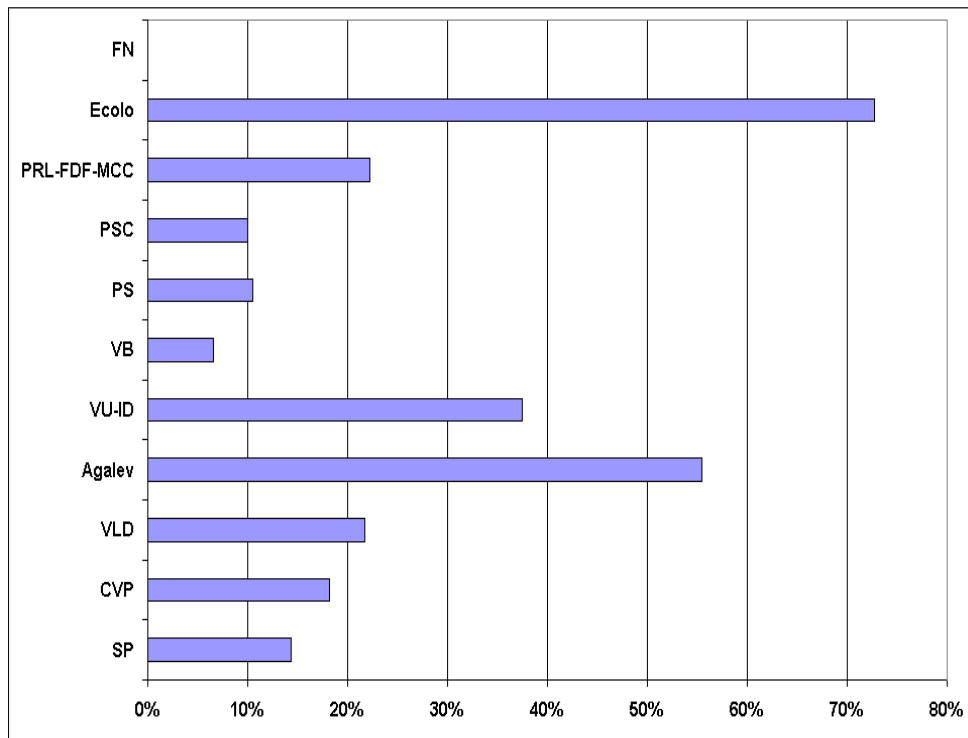
**Figure 2 Evolution of the Number of Women MPs in Belgium between 1946-1999<sup>22</sup>**



At first sight, quotas have affected the parliament's (i.e. Federal Chamber of Representatives) sex composition quite strongly: the number of women increased from 12.7 % in 1995 to 23.3 % in 1999. Nonetheless, given that the law was not explicit about the order of the candidates, one would expect the parties, though respecting the law, to have placed women candidates in very different positions within the lists, and therefore that the variation between parties regarding the number of elected women will be very high. Figure 3 shows the percentage of women directly elected into the Chamber by party.

<sup>22</sup> Data from: Union Interparlementaire, 1995, completed with IPU website figures consulted on the 2001-01-15, <http://www.ipu.org/wmn-e/classif.htm>.

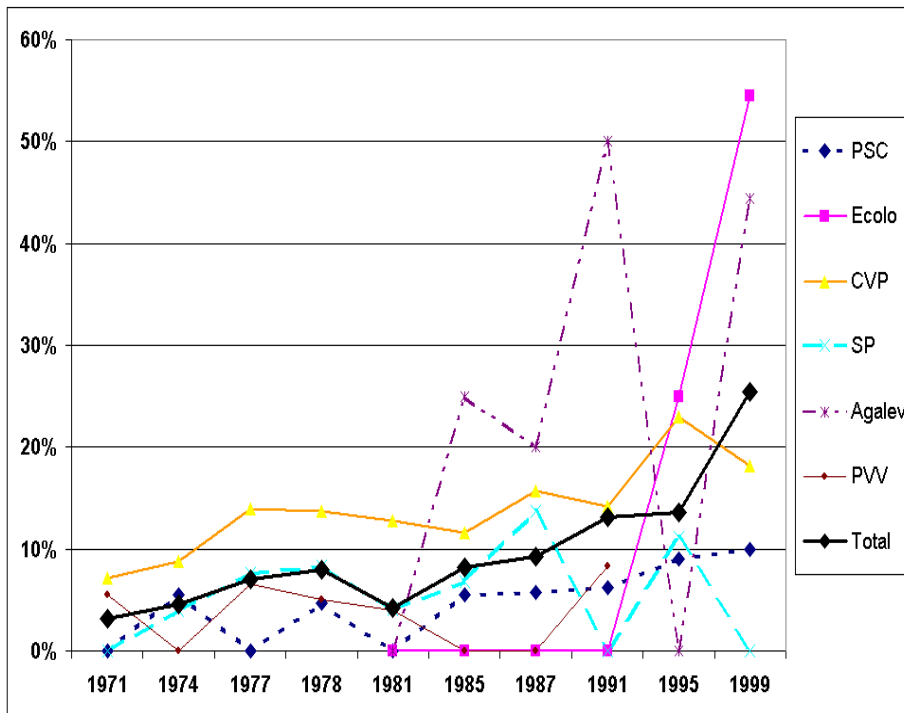
**Figure 3 Percentage of Women Directly Elected into the Federal Chamber of Representatives by Party, 1999**



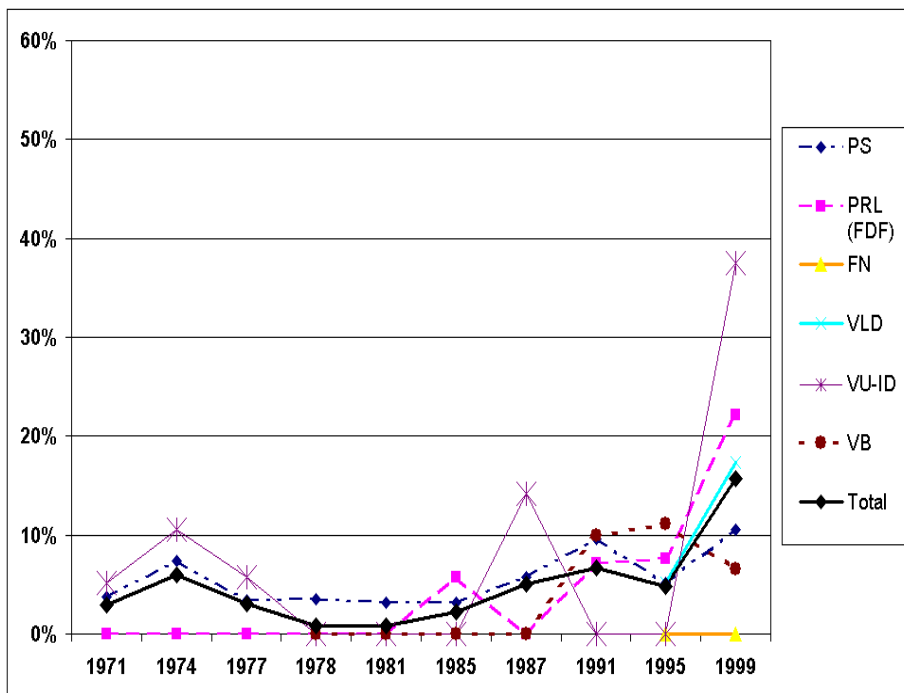
On average, the Flemish parties are 2.5 points above the Francophone parties, with 25.6 against 23.1 % female parliamentarians respectively. The Flemish and Francophone Green parties have the highest number of women representatives, followed by VU-ID. Equal sex representation was reached and even surpassed by Ecolo. On the opposite side stand two extreme right parties (FN and VB) with a very low female presence, the same with the Francophone Christian-Democratic party (the PSC), and the Flemish and Francophone Socialist parties (the PS and the SP). In contrast, even though Liberal parties (VLD and PRL) have always been opposed to quotas, more than 20 % of their representatives were women.

The following figures show the number of female parliamentarians per party across time. These give a picture of the effectiveness of positive actions undertaken by each party, and allow for a comparison with the results of those parties that did not use such measures.

**Figure 4 Percentage of Female Parliamentarians in Parties having Formal Binding or Recommendations on Quotas/Parity 1971-1999<sup>23</sup>**



**Figure 5 Percentage of Female Parliamentarians in Parties without Formal Binding or Recommendations on Quotas/Parity 1971-1999**



23 Data for all parties extracted from Gubin and Van Molle, 1998.

After the 1999 elections, the parties with the highest percentages of women were the two Green parties (Ecolo and Agalev) and the Flemish regionalist party (VU-ID). The VU-ID had no quotas, although it defended the possibility of imposing a strong version of quotas on all parties in order to reach a sex-balance in legislature. The two Green parties have a parity system, formally binding in Agalev—thus, hard form and content, and recommended in Ecolo—hard only in its content, but with strong internal and external pressure that it be respected. As the VU-ID illustrates, the position of the candidates on the lists seems to be more decisive than the number of men and women *per se*. The Francophone Liberal party (PRL) showed a large increase in the number of women between 1995 and 1999, obtaining more than 22 % female representatives without any quota imposition. With or without quotas, the Flemish Christian-democratic (CVP) and Liberal (VLD) parties follow with 18 and 17 % of women respectively.<sup>24</sup> The PSC (*i.e.*, the Francophone Christian-democratic party) with quotas and the PS (*i.e.*, Francophone Socialist party) without quotas, both have around 10%. At the bottom of the list are the extreme right parties (VB and FN), and the Flemish Socialist party (SP).

Thus, in relation to the women actually elected, it can be observed that some of the parties without quotas are among those which have a greater sex balance, while some of the parties with a quota system fail to achieve it. As expected, the quota *per se* does not ensure a sex-equilibrium. A sex-balanced representation in parliament is not only a question of the number of women within the composition of lists, but also a matter of order for male and female candidates (*i.e.*, hard content). In this sense, both Green parties (Ecolo and Agalev) have applied the zipper system in the elaboration of lists (*i.e.*, alternation men-women), which is connected to the whether the parties are interested in changing with or without the imposition of measures such as quotas.

There is the theory that ‘left-wing parties are more likely to nominate and elect female candidates to office’.<sup>25</sup> As has been demonstrated here, this is not always the case. In Belgium, the Socialist party in the early days was not the most supportive of, for example, women’s suffrage. Even if inspired by an egalitarian ideology, the fear of an electoral backlash, due to the assumption that women would vote conservative, made pragmatic sense take over.<sup>26</sup>

*What are the factors that can explain party-variation as regards to the number of females elected?* Finding an explanation for the variation in female composition per party can throw some light on the effect of quotas as compared to that of other factors. It first requires an in-depth analysis of the whole process, from the sex composition of lists to the final composition of parliament. The analyses proceed through a systematic comparison between the 1995 elections (before the law was applied), and the 1999 elections (with the law).<sup>27</sup> Three kinds of analyses have been performed to describe the process. The coming paragraphs present a summary of the steps underpinning it, namely: 1) the number of men and women on party lists; 2) the number of men and women in eligible places; 3) the effective number of men and women in parliament.<sup>28</sup> After the basic analyses providing statistical description of the sex-composition at each of the above-mentioned stages, a model explaining the final sex-composition of the Chamber of Representatives, as issued from the 1999 elections, will also be presented.

(1) *The number of men and women on party lists.* Regarding the composition of the lists of candidates, the parties have respected the law. As compared to France, in which the parties are penalised through economic sanctions, in Belgium the lists are not received if they do not respect the sex-quota. The parties can present less (or no) women than those required by law, but they will then

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24 As mentioned before, the VLD abolished quotas in 1992.

25 Norris, 2000a. See also Caul, 1999 and Duverger, 1955.

26 Gubin, 1998:69. See also Peemans-Poullet, 1998:16; Coenen, 1998:42,44.

27 Data for 1995 extracted from the ‘Relevé Statistique de l’Activité Parlementaire’, Troisième session de la 49e législature, Doc. 7/2—95/96. Data for 1999 extracted from the ‘Relevé Statistique de l’Activité Parlementaire’, Deuxième session de la 50e législature, Doc. 0007/001.

28 A more developed version of the analyses can be found in Mateo-Díaz, 2002a; b.



loose as many candidates as the gap existing between the number required and those presented. Therefore a priori the answer to the question ‘Have the parties respected the quota?’ should be yes. Indeed, on the lists of candidates, the law is respected and even exceeded: about 40% of candidates were in average female. In this sense the law on quotas has had an effect, moving 8 points upwards from 32 % in 1995. Also notice that there are basically no differences between Francophone and Flemish parties.

(2) *The number of men and women in eligible places.* When looking at the positions on lists, two major aspects ought to be considered. Firstly, the distinction between eligible and non-eligible places (i.e. *ordre utile*) should be made. Eligible places are calculated on the basis of seats obtained by the party in the last election, given that parties expect at least to maintain the seats they gained during the last elections in each constituency. Secondly, the devolution effect that benefits candidates situated at the top of the list, in spite of the number of votes achieved should be considered.<sup>29</sup> These two aspects negatively affect candidates who occupy the lists’ lower positions, i.e. usually women. This negative effect is reinforced by the existence of two categories of candidates, effective candidates and substitutes, since women are very often given substitute places.

Women were 11.3 % on the top of the list in 1995, and this percentage went up to 15% in 1999. In this regard, there was also a positive evolution between the two electoral terms. Ecolo—the Francophone Greens—placed the most women at the top, i.e. around 50 %, followed by Agalev—the Flemish greens—, at around 36%. The parties with no women at the top of the list were the Flemish Liberals (VLD), the Flemish Socialists (SP), and the extreme-right party (VB).

However, regarding the other eligible positions, comparison between the lists presented in 1995 and 1999 shows that there is no real change between the two terms in relation to the effective opportunities given to women, i.e. around 15% of eligible places in the lists on both occasions.

(3) *The effective composition of the Chamber.* Even if the law affects only the lists of candidates, the ultimate goal is to obtain a more equally sex-balanced parliament. The effective composition of the Chamber is calculated after adding the substitutes to the directly elected members, i.e. after the replacements the parties have to make subsequent to the government’s formation. Those elected members who have been appointed to ministerial positions have to be replaced in the parliament. Given that women are very often presented as substitutes in the lists of candidates, there is a possibility that when a directly elected member of parliament is appointed as minister, he will be replaced by a woman substitute. As regards the effective composition of the Chamber, the jump from 1995 to 1999 has been very significant, moving from 12.7 to 23.3 % of women.

Summarizing the three preceding points, in the 1999 elections there were about 40 % of women in the lists of candidates, among which 21% of the total number of members of parliament were directly elected, and the final number of women in the 1999 assembly was 23.3%. The parties can thus be classified as *minimalist* and *maximalist*, according to their implementation of the law. Those parties that have merely respected the law, but which have given any real chances to their female candidates to be elected, belong to the minimalist approach. The extreme right party (VB), and the Flemish Socialists (SP) fit in this first group. Within the maximalist approach, a distinction has been made between those that could be called the ‘halfway maximalists’, which gave some chances to women by placing them in fighting positions, such as the Liberals; and the ‘true maximalists’ who really gave female and male candidates equal opportunities, placing them indistinctively in eligible positions, such as the Greens.

But how then can we explain that there has been an advance from 12% in 1995 to 23% in 1999? The analysis of positions on the lists has shown that between 1995 and 1999 there was no real improvement for women to be elected in terms of opportunities. However, since the sex composition

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29 Art. 172 of the Electoral Law.

of Belgian parliament changed considerably between the two elections, the cause of the change remains to be found. Some light on this question can certainly be thrown by answering the question ‘What can explain the party variation as regards the female composition?’ In this regard, two following hypotheses will be advanced: (1) the party’s general attitudes towards gender equality; and, from a more pragmatic point of view, (2) the electoral outputs.

(1) As regards the first point, one can consider that the importance that parties allocate to the questions concerning gender equality can have an effect on the chances respectively given to both male and female candidates on the lists. One can therefore expect that the parties that have already introduced formal or informal sex-quotas in their internal regulations will be more sensitive towards the equilibrium than the others, and thus give more opportunities to women. (2) A more pragmatic reason for the parties to have more elected women is that of the electoral gains and losses. In this sense, if the parties which have a better sex-balance lose seats, the assembly will be less well-balanced, as was the case, for instance, in the 1965, 1971, and 1981 elections. In addition, if women occupy ‘fighting positions’, they could only be elected if the party won more votes than expected. If the parties which have more women in borderline positions win seats in the parliament, more women would be elected. As compared to the alternative case, when the parties which have the majority of women placed at the bottom of the list—and therefore, almost certainly ineligible—win seats, less women would be elected.

Stemming from these hypotheses, five different factors explaining the sex-composition of the Belgian Chamber of Representatives can be extracted, namely: the parties’ internal actions to enhance a sex balance; the eligible positions given to women; the party’s gains/losses between two consecutive elections; the fact that they do or do not make up part of the government, and, finally, the law on quotas. Three regression analyses have been performed in order to identify which of the above-mentioned factors had a higher impact on the number of women MPs when controlling for the others. The units of analysis are the parties’ lists. Thus, one case will be the list of candidates that party X presented in constituency A, for which, as an example, the percentage of women presented for election will be included in the first variable, the number of female candidates in eligible positions calculated in the second variable, and so on.

The first model is based on the 1995 election, the second on the 1999 election, and the third includes both elections in a general model. The last model is interesting as it shows an approximation of the effect of quotas. The variable called ‘quota law’ has been coded as dichotomous, where (0) is used for those cases previous to the law on quotas, and (1) for those after the law took effect. Another variable is that of ‘parties forming the government’ which measures the effect of substitutions on the assemblies’ sex-balance.

**Table 5 Regression Model Predicting the Number of Female MPs in 1995 and 1999 (standardised coefficients)**

	Predicted variable: effective number of women in parliament		
	1995 N=115	1999 N=116	Full Model 95-99 N=231
(Constant)	-0.043	-0.053	-0.188*
Number of women in eligible positions	0.659**	0.492**	0.536**
Number of women in top of the list	0.104	0.090	0.132*
Difference between the number of seats (91-95 and 95-99 respectively)	-0.388**	-0.582**	-0.466**
Parties forming government (0=not in the gov. 1=in the gov.)	0.164	0.226**	0.231**
Party's actions for gender balance (0=without 1=with)	0.025	0.134	0.047
Quotas law (0=before 1=after)			0.108*
Adjusted R Square	0.423**	0.454**	0.420**

\*\* Coefficient is significant at the 0.01 level (2-tailed) \* Coefficient is significant at the 0.05 level (2-tailed). N = number of lists presented by the parties.

As shown by the general model, the most significant effect is the number of women in eligible positions, followed by parties' gains or losses in terms of seats between two consecutive elections. Generally speaking, when parties lose seats, the number of elected women decreases by a disproportionately high degree, which suggests that women are occupying the lower portion of eligible positions, or 'fighting positions'. The effect of substitutions for parties forming the government comes in third place, just before the number of women at the top of the lists. The effect of substitutions is higher in 1999 than in 1995, which means that, in relative terms, the 'rainbow coalition' (i.e. Ecolo, Agalev, PS, SP, PRL-FDF-MCC, VLD) replaced more men who had been directly elected by women substitutes than the 1995 coalition, i.e. PS, SP, PSC, CVP. As mentioned above, a rough measure of the effect of legislation on quotas in the 1999 assembly sex composition is to compute a variable with two categories: before and after the law enforcement. The .108 coefficient shows that the effect of law, albeit small, has been significant and positive. Analysing the 1995 and 1999 models, it is interesting to note that, while the strongest factor to predict parliament's sex balance is still the number of women in eligible positions for 1995, this is not so for 1999. Parties' differences in terms of seats between 1995 and 1999 have now become the most powerful factor, followed by the number of women in eligible positions.

Although the section's main aim is to present the effect of quota law in the Belgian Federal Chamber of Representatives and to illustrate variations in representativity, it is clear that quotas are only one of the factors that can influence the candidate and representative selection process. In a political system strongly dominated by the role of political parties, the mechanisms of recruitment within each of them should not be neglected. Another important component is the strength and impact of women's branches within the different political parties, as they have often encouraged gender equality reforms.

Summarizing, the findings show that the importance of the parties' electoral gains has increased since the law on quotas was introduced, which shows the weakness of the law. This difference is even more important in the case of parties that already had positive actions within the party. These parties

should in theory be those who attach more importance to the sex-equilibrium (in this statement we are disregarding the fact that the particular attention given to gender equality can come from strategic reasons, or from being forced to do so by the female branch of the party). This means, in other words, that in those parties, more women have been placed in fighting positions, right after the eligible positions, and therefore only an electoral gain for the party will bring these women into office. This raises a number of questions, such as, for instance: what happens if the other parties, e.g. the Socialists or the extreme-right, gain a majority of the seats in the elections? Or, given that female candidates are basically occupying 'fighting positions', what happens if (in a hypothetical situation) there are no big winners, but that all political groups get about the same number of seats in the Chamber?

#### 4. New Legislation introduced in Belgium and in Other EU Member States

Most recently, it seems to be *'dans l'air du temps'* to discuss measures which favour the equal representation of men and women within the framework of what has come to be called 'parity democracy' or 'duality democracy'.<sup>30</sup> This has come to be a battle on two fronts, with subsequent impasses concerning both the *form* and the *content* of the mechanism. It was mentioned earlier that the idea behind quotas contradicts the essence of some political regimes: the first impasse was about the hard *form*. In the cases where the parliament tried to make legislation which provided for positive action, the laws were turned down by constitutional courts, which declared the underpinning principle to be illegitimate. As the following examples illustrate, the legislator then changed strategy and decided to modify the constitution in order to anticipate the court's rejection by ensuring that positive actions would be drawn from a constitutional principle itself. Yet, once parity is accepted as a principle, because it has been constitutionalised, concrete mechanisms must follow: the second impasse was about the hard *content*. Passing legislation which provided for output-oriented political equality, *de facto* equality and not just *de jure* equality, has always been highly controversial. In the light of the lengthy policy processes in countries where this kind of legislation has been discussed, gaining the first parliamentary majority for a law on quotas already seems to be a huge achievement. In addition, once this first law on quotas had been repealed by the court, gaining a second majority for a constitutional reform, and then a third majority for a new law on quotas, is the announcement of an everlasting legislation story. How can one convince some sceptical MPs who believed that, with parity, the 'equality-stuff' was over, that it was just a way of reforming the electoral law by (re-)creating a quota? I would like to illustrate this from my own experience when I was interviewing members of the Belgian parliament at the end of 2001-beginning of 2002, when the principle of parity was being discussed and voted on. One of the questions that I was asking was about the attitudes of MPs towards the law on quotas (1994). This question was followed by another one on parity. The MP that I will quote here belongs to the French-speaking Socialist party. On the question about quotas he answered: 'I have always said that I was against a female-quota. I think it is good that women access politics the way they do, and they do not need a quota.' But then, I was surprised to hear in response to the second question about parity: 'Oh, you must know, my party leader is also fighting for parity now. [...] Then, I must say, I am for a male-female parity. [...] I am not against parity, of course. I am for a good male-female parity. [...] I am for parity but I am also for competence.' In other words, he did not seem to realize that the transposition of the principle of parity into the electoral law that would follow the constitutional reform would, in practice, be a 50-50 quota, that would replace the 1/3 quota that existed at that time.

Yet, since its approval in France, and despite the fact that it has proven not to be efficient in actually getting more women into parliament (*Assemblée Nationale*), parity seems to have found a 'fan club' in other EU Member States, such as Belgium, Italy, and Spain. Following the French example, the principle of parity has been inserted into the constitutions of both Belgium and Italy. However,

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30 Both terms, 'duality democracy' or 'parity democracy', are often used in the political debates and the literature, to refer to the French model after the constitutional change which inscribed the principle of parity.

together with the statement of principles—which is, of course, important as a first, and not only symbolic, step—some regulatory, or legally binding measure is required. It is important that this second step follows. The efficiency of the quota system for reaching the goal for which it was designed depends on: (1) the transposition of the principle in the electoral law, and thus parity necessarily needs the creation of a quota in practical terms; and (2) the adequacy of the adopted mechanism with the existing political and institutional reality concerning the election process to the representative assemblies. In this regard, one begins to wonder whether the discussion in France remained at the level of theoretical and philosophical principles (*i.e.*, *hard form*), because, once the principles had been acquired, the attention paid to the design of the concrete mechanisms in order to achieve it was remarkably poor (*i.e.*, *soft content*). Indeed, it proved to be a relative failure in the light of the 2002 election's results to the *Assemblée Nationale* (from 10.9 in 1997 to 12.3 in 2002).

Portugal is an interesting case, given that the principle which provides for the active role of the state in the promotion of the equality of the participation of men and women in politics, together with equality of access to elective and public mandates, was already incorporated in the constitutional text in 1997 (*i.e.*, *hard form*).<sup>31</sup> However, up to the present moment, the effective mechanism has not been put into effect (*i.e.*, lack of a *substantive* dimension). The law proposals that have been submitted on this matter have never obtained a parliamentary majority, not even among the female members of parliament (which are, at the time of writing, 19.1%).<sup>32</sup>

In the following, the latest legislation in this area will be considered for the cases of France, Italy, and Spain, presented as counterpoints to the Belgian case. For the latter, a there will be longer discussion on the indirect and combined effects of the existing and the new electoral legislation.

*France.*<sup>33</sup> After a couple of unsuccessful attempts aimed at reforming the electoral law by adding a sex-quota, the legislative assembly moved from the idea of directly reforming the electoral law to that of first modifying the Constitution.<sup>34</sup> This has to be put into the context of a significant change in public opinion, which was highly passive when it came to support quotas during the 1980s, but was highly receptive to the parity movement in the 1990s. This mobilising success was a response to the new strategy adopted by the parity movement, which moved the debate from a question about the representation of women, to that of making the 'French political system more democratic' (see Baudino, 2003:386-7).

Coming back to practical issues, the idea of modifying the Constitution was that once the constitutional law provided the parity principle, any measures deriving from it in the electoral law should be logically accepted by the Constitutional Court. In June 1998, a law proposal was submitted to the Ministerial cabinet, and, in July 1999, the constitutional law No. 99-569 concerning equality between men and women, was accepted.<sup>35</sup> In January 2000, the French parliament also accepted the

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31 See Article 109 on the equality of participation of men and women into politics, and the equality of access to elective and public mandates; and Article 9, under clause h), in which the state has a commitment to promote equality between men and women. See the Constitutional text at [http://www.parlamento.pt/const\\_leg/crp\\_port/index.html](http://www.parlamento.pt/const_leg/crp_port/index.html).

32 See the website of the Portuguese parliament (Assembleia da Republica) at <http://www.parlamento.pt>.

33 For an enlightening discussion of the parity reform in France, see Baudino, 2003.

34 A quota was first approved by the French parliament in 1982, reforming the elections for the local councils. For the communes that have more than 3,500 inhabitants, the lists presented by parties should not have more than 75% of candidates from the same sex. A few months later, the law was declared unconstitutional by the Conseil Constitutionnel (Decision 146 DC, 18/11/1982). The quota was considered illegitimate according to the Constitution's Article 3 on popular sovereignty, and Article 6 of the Déclaration des droits de l'homme et du citoyen (1789) on equality among citizens before the law. A second attempt was made in 1998. This time it was a 50-50 sex-quota that should be respected in the lists of candidates presented for the regional councils, and the Corse's assembly. The law was once more declared unconstitutional, and thus confirmed the previous sentence (Decision 98-407 DC, 14/01/1999).

35 Article 1. The Constitution's Article 3 (4/10/1958) is completed by the following paragraph: 'The law favours the equal access of women and men to the electoral mandates and elective functions.' (L'article 3 de la Constitution du 4 octobre

law that gave equal access to electoral mandates. It may be noted that, since several MPs were absent, the session was qualified by some observers as a matter of ‘women’s business’.<sup>36</sup> The law finally came into force on the 6 June 2000.<sup>37</sup> Parity was then applied for the first time in the elections to the Senate in September 2001, and in the elections to the Chamber of Representatives in May 2002. However, the concept came to be implemented differently in both elections. In the election of the Senate, the mechanism took the form of alternation of men and women on the lists, better known under the label ‘zipper’. In the election to the Chamber of Representatives, the parties were penalized if the gap between the male and female candidates in the first ballot for the 577 constituencies was bigger than 2 %. If such a discrepancy occurred, the sanctions would be proportional to the extent of the infraction. In terms of the effectiveness of the law on the equal access of men and women in actually bringing more women into office, the results offer an ambivalent picture. Although it was a clear success for the local elections with 47.5 % of female representatives elected in the communes with more than 3500 inhabitants,<sup>38</sup> it was quite unsuccessful in the *Assemblée Nationale*.<sup>39</sup>

To explain this disparity, it is essential to comment on the electoral formulae used in each election. In this regard, the voting systems for the representative assemblies at the different levels, *i.e.*, local,<sup>40</sup> regional, national,<sup>41</sup> and European, vary significantly. For the elections to the *Assemblée Nationale*, a candidate needs to fulfil two requirements in order to be elected in the first round: (1) he or she must obtain an absolute majority of the valid votes cast; and (2) the number of votes obtained has to be at least equal to a quarter of the number of registered voters in a given constituency. If she is not elected in the first round, the candidate needs at least 12.5% of the votes, out of the total number of registered voters, in order to qualify for the second round. This means that, even if the law provides for equality of candidatures between men and women on the electoral lists, it is up to the party to promote and advertise a candidate, and, ultimately, it is up to the voter to decide which candidate he or she wants to vote for. Thus, it was to be expected that the law would not prove very effective in this case, given that its real scope was highly limited, by the very nature of the voting system, namely, a majority formula with open lists. Indeed, the female composition of the assembly changed slightly between the two legislative terms: from 10.9 % after the 1997 elections, to 12.3 % after the 2002 elections. Only nine women legislators more than in 1997! Four parties respected parity: the *Parti communiste*, the Greens, the *Ligue communiste révolutionnaire*, and *Lutte ouvrière*, which all happen to be relatively small

(Contd.) \_\_\_\_\_

1958 est complété par un alinéa ainsi rédigé: La loi favorise l'égal accès des femmes et des hommes aux mandats électoraux et fonctions électives).

Article 2. The Constitution’s Article 4 is completed by the following paragraph: ‘They [political parties] ought to contribute to the implementation of the above mentioned principle in Article 3 under the conditions established by the law. This law will be executed as a State Law.’ (L’article 4 de la Constitution est complété par un alinéa ainsi rédigé: Ils contribuent à la mise en œuvre du principe énoncé au dernier alinéa de l’article 3 dans les conditions déterminées par la loi. La présente loi sera exécutée comme loi de l’Etat.)

36 Perrignon, J., ‘Dialogue de femmes à l’Assemblée. Débats consensuels pour l’examen du projet de loi instituant la parité’. In *Libération*, 27 janvier 2000.

37 For the European and senatorial elections (proportional representation / one ballot), the law stipulates the alternation of men and women on the lists. For local and regional elections, plus the elections to Corsica’s Chamber (proportional representation / two ballots, allowing melting lists), the law stipulates parity by groups of six. Finally, for legislative elections (majority formula / two ballots), the law stipulates a penalty for parties where the gap between man and women candidates in the 577 constituencies at the first ballot will be bigger than 2%. Financial sanctions will be proportional to the magnitude of the infraction.

38 25.7 % of female representation after the 1995 elections.

39 See ‘La parité entre les femmes et les hommes: une avancée décisive pour la démocratie’, *Observatoire de la Parité entre les hommes et les femmes*, mars 2002 (<http://www.observatoire-parite.gouv.fr/dossier/plaquet.pdf>).

40 At local level, there is a distinction between the communes that have less than 3,500 inhabitants and the rest. The law on the equal access of men and women to the electoral mandates only concerned the latter.

41 Within the national elections, the Senate is elected through two different voting systems: proportional and majority in two rounds. For the elections to the *Assemblée Nationale*, the voting system is a majority in two rounds. (See Inter-parliamentary Union, [http://www.ipu.org/parline-e/reports/2114\\_B.htm](http://www.ipu.org/parline-e/reports/2114_B.htm)).

parties (with respectively 21, 3 and 6<sup>42</sup> seats in the assembly, out of 577). One could also say that, whereas the big parties did not mind paying the sanctions, the small parties could not afford it. One could therefore wonder as to whether the small parties were truly equally-minded, or if it was just a matter of practical necessities for fulfilling the requirements of the law.

*Italy.*<sup>43</sup> Two different reforms were adopted in Italy during the year 1993 for the elections to the Chamber (*Camera di Deputati*). A first reform established that, in the lists of candidates, the number of candidates from one sex could not be above 2/3.<sup>44</sup> The second reform adopted in August 1993, modified the election rule, and converted it into a mixed system in which 75 % of the seats (475) were assigned by simple majority vote, and the remaining 25% (155 seats) were assigned through proportional representation and a party-list system. For the voting system, proportional representation, Article 4 clause 2 provided for alternation of male and female candidates on the lists presented by the parties, which also implied a strict parity (50-50) in the numerical composition of the lists.

As in the French case, the idea of quotas for the arrangements of the lists of candidates was declared unconstitutional by the Constitutional Court (*Corte costituzionale*).<sup>45</sup> The law, which established that a 50-50 quota should apply for the proportional elections to the Chamber, together with the zipper logic of male and female alternation, applied only once, in the 1994 elections. Comparing the results for female candidates in 1992, without any measure (8.1%), with those of 1994 when the quota was applied (15.1%), and finally with those in 1996 and 2001 without it (11.1% and 11.5% respectively), the significant recession in the second and third electoral terms speaks for itself.

After different attempts at quotas, and underpinned by the French example of ‘dual democracy’—as one can see by looking at the transcriptions of the parliamentary debates<sup>46</sup>—the legislative assembly also decided to opt to precede with constitutional reform before moving onto specific positive actions in the electoral law. To Article 51 of the constitution (definitively approved by the Parliament on 7 March 2003) the following sentence was added: ‘To this aim [that of equality of access of members of both sexes to elective and public mandates] the Republic promotes parity of opportunities between women and men with specific instruments.’ The interest of this addendum is that positive actions could hinge on this ‘*appositi provvedimenti*’ which has been translated here as ‘specific instruments’.<sup>47</sup> Once again, although the mechanism has taken the *hard* form of a Constitutional principle, further legislation to translate formal equality into substantive equality, giving the mechanism a hard content, has now to follow.

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42 6 seats for various left.

43 For a discussion of the debate on women’s quotas in the Italian electoral legislation, see Guadagnini, 1999.

44 ‘Nelle liste dei candidati nessuno dei due sessi può essere di norma rappresentato in misura superiore ai due terzi’, Article 5, clause 2, and Article 7, clause 1, of the law No. 81, enacted the 25 March 1993.

45 The quota was considered illegitimate according to the sentence 422, enacted in July 1995. This sentence considers the reform illegitimate according to the Constitution’s Article 3 on the principle of equality among citizens before the law, and to Article 51 on the equality of access of members of both sexes to elective and public mandates. See sentences of the Constitutional Court at <http://www.cortecostituzionale.it/indexita.asp>. See also Articles 3 and 51 of the Italian Constitution at

<http://www.cortecostituzionale.it/ita/documenti/download/doc/Costituzione.doc>, as off 29/04/2003 (before the reform on parity has been introduced).

46 See the transcriptions of the debates in the websites of the Italian Senate (<http://www.senato.it>) and the Chamber (<http://www.camera.it>).

47 The new Article 51 reads as follows: ‘Tutti i cittadini dell’uno e dell’altro sesso possono accedere agli uffici pubblici e alle cariche elettive in condizioni di eguaglianza, secondo I requisiti stabiliti dalla legge. La legge può, per l’ammissione ai pubblici uffici e alle cariche elettive, parificare gli italiani non appartenenti alla Repubblica. Chi è chiamato a funzioni pubbliche elettive ha diritto di disporre del tempo necessario al loro adempimento e di conservare il suo posto di lavoro. A tale fine la Repubblica promuove con appositi provvedimenti le pari opportunità tra donne e uomini.’ See <http://www.senato.it>.

Efforts to promote parity in the elections to the European Parliament in June 2004 did not look very promising either. The measures taken comprised both stick and carrot. A sanction has been imposed in so far as any party which does not respect the new requirement imposing a maximum limit of 2/3 of one sex on the lists of candidates may lose 50% of the subsidies designed to cover electoral campaign expenses.<sup>48</sup> On the other hand, the parties may be rewarded with an extra 5% funding to cover expenses where 1/3 of the elected party candidates are women. The reform in itself is weak in that both sanction and reward are based on subsidies. It may transpire (as has happened in France) that the larger parties take a strategic decision not to respect the law because they quite simply can afford to lose the subsidies. On top of that, the quota of a maximum limit per sex of 2/3 only regulates the quantity and not the positions of the candidates within the party lists. This, as we will see below, was the problem with the first Belgian law on quotas. Nevertheless, a further action has been undertaken for the Italian elections to the European Parliament but this time in the guise of a sensitisation strategy, designed to change public attitudes towards the election of female candidates. A campaign called 'Vote for Women' (*Io Voto Donna*) has been initiated by the Ministry for Equal Opportunities,<sup>49</sup> and publicised on national TV during the election campaign. At the moment of writing there are no official results disaggregated by sex published.

*Spain.* In Spain, too, the introduction of a quota in the electoral system has been discussed. It has not, however, produced any visible results in terms of legislation at national level. Nonetheless, two laws on parity were enacted by the regional assemblies of Castilla-La Mancha (27-6-2002) and the Balears (18-6-2002). The electoral law established that the lists of candidates should be provided with an equal number of male and female candidates, and used the zipped practicality to ensure that they were equally distributed across the list. On initiative of the Cabinet of Ministers (27-9-2002), an appeal was made to the Constitutional Court.<sup>50</sup> As a result, the laws on parity were suspended by the Spanish Constitutional Court on the 17 October 2002, until a decision on whether or not they are in accordance with the Spanish constitutional law has been taken.

In both cases, this law was opposed by the Popular Party, who argued that parity should not be achieved by means of a law but through the political will of the parties. They also opposed the law because it violated constitutional measures which give exclusive competence for the guaranteeing of equality among citizens when it comes to the exercise of their rights, the maintenance of public liberties, the electoral law and the access to public mandates, to the central state. To put everything in context, one should remember that, although the Spanish government and the national parliamentary majority are controlled by the Popular Party, the Socialist Party controls the majority in the two Regions in which the law on parity had been voted.<sup>51</sup> This also meant that, pending this appeal, the law on parity was not in force for the regional elections, held on 25 May 2003. On 17 January 2003, the law was once again suspended by the Constitutional Court. After the 2004 general elections, the new government expressed its determination to reform the electoral law in order to achieve parity in all the lists of candidates presented by parties in successive elections.<sup>52</sup> It remains to be seen whether this declaration of intent will materialise into legislative action and *if* and *how* the statement of principle will translate into effective mechanisms.

To summarise, the reforms in France have produced a mechanism with a hard form (*i.e.*, constitutional revision), but a soft content (*i.e.*, inefficient electoral reform). In Italy and Portugal,

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48 Law of 8 April 2004, n. 90 Norme in materia di elezioni dei membri del Parlamento europeo e altre disposizioni inerenti ad elezioni da svolgersi nell'anno 2004, Gazzetta Ufficiale no. 84, 9 April 2004. See further at <http://www.parlamento.it/parlam/leggi/elelenum.htm>.

49 See further at Ministero per le Pari Opportunità, <http://www.pariopportunita.gov.it>.

50 The Government invoked Article 161.2 of the Constitution, which provides for a full suspension of the regional law for at least five months, whenever this one is appealed by the government.

51 The respective presidents of the Castilla-la-Mancha and the Balears Regions were José Bono y Francesc Antich.

52 El Mundo, 11 May 2004.



whereas the reform has taken a hard form along the lines of the French case (*i.e.*, constitutional revision), the substantive mechanism has not yet followed. Among the example presented here, the worse scenario is that of Spain, in which, despite a number of debates at national level and a couple of attempts at regional level to provide for a formal mechanism, the situation remains still unchanged.

In the following, the latest policy-reforms introduced in Belgium will be discussed. Confirming our theoretical expectations, when both form and content are strengthened, the efficiency of the mechanism in bringing about proportionality increases. Whereas the first law was characterised by a hard form (*i.e.*, electoral legislation) but a soft content (*i.e.*, applying only to the numeric composition of the lists of candidates), the second wave of reforms strengthened both, the form (*i.e.*, through both, constitutional and electoral revisions), and the content (*i.e.*, by regulating not only the quantity of female candidates, but also the positions that they should occupy within the party lists).

### **New Legislation in Belgium, and the Combination of Measures Favouring the Equal Representation of Men and Women with Other Electoral Reforms**

*A priori*, Belgium did not need a constitutionalisation of the parity principle because quotas were already accepted and established in the electoral law from 1994. However, given that the quota was given a dynamic nature, *i.e.*, it was supposed to increase over time, the principle of parity offered an ‘easy way’ of justifying an increase in the existing 1/3 quota to a 50-50 proportionality regarding the sex-composition of the lists of candidates. In 2002, together with the reforms favouring the equal representation of men and women, several revisions of the electoral law were also enacted. Among the latter, one can name four revisions that could have an effect on the presence of women in the representative assemblies. The majority of the new measures concerning the electoral law were adopted by the Chamber of Representatives on 25 September 2002, and by the Senate on 7 November 2002.<sup>53</sup> They were applied in the elections of the 18 May 2003, though with transitory provisions in some cases. The following paragraphs will discuss these reforms.

(1) *The amendments to the Articles 10 and 11b of the Constitution* (enacted in February 2002). On 24 January 2002, the Federal Chamber of Representatives voted for an amendment of Article 10 of the Belgian Constitution, stipulating that ‘equality between men and women is guaranteed.’<sup>54</sup> The Senate had previously adopted the same amendment unanimously. To Article 11 of the Constitution a clause *11b* was also added, establishing that men and women are guaranteed equal access to public and elected positions by law, and that both sexes shall be represented in all executive bodies.<sup>55</sup>

(2) *The transposition of the parity principle into the electoral law* (enacted in July 2002). In order to make these two principles effective, the Vice-Prime Minister, L. Onkelix, proposed changing the principle of quotas with that of parity, this time in the electoral law. Two concrete measures were put forward: (1) Both a man and a woman must be listed as candidates for the top two positions. (2) On each list, the gap between male and female candidates cannot be higher than one. In May 2002, the members of the Chamber of Representatives in favour of the bill did not succeed in obtaining a majority for the zipper principle on the whole list.

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53 See documents: Chamber 2001-2002, Doc. 50.1806/1 to 18, and 2035; Senate 2001-2002, Doc. 2-1280/1 to 5, and Doc. 2-1281/1 to 5. The law providing for changes in the electoral legislation and the law providing for changes in the Electoral Code have been signed by the King on the 13 December 2002, and published in the *Moniteur belge* on 10 January 2003.

54 ‘L’égalité entre des femmes et des homes est garantie.’ Article 10.

55 See the Belgian Constitutional text at

[http://www.senate.be/www/webdriver?MIval=index\\_senateandM=1andLANG=fr](http://www.senate.be/www/webdriver?MIval=index_senateandM=1andLANG=fr).

The final law, as appeared in the *Monitor*, is provided with the following two instruments:<sup>56</sup> the first proposition was partly maintained, meaning that, on each list, the gap between male and female candidates (both effective and substitutes) cannot be higher than one. And both men and women must be listed as candidates for the top three positions. This was a temporary measure for the 2003 elections. From the next elections onwards, the law is to be fully respected, in other words, both a woman and a man must be listed as candidates for the top two positions. As regards the positions of the candidates in the lists, the order remains unspecified and it is up to the parties to decide, although the proportion of 50/50 is to be respected in the whole list.

In the light of the shortfalls that the first law on quotas of 1994 has proven to have, this new legislation should be more efficient in achieving the aim for which it was intended. One of the main criticisms stated earlier in this paper was the disregard that the law had for the positions occupied by candidates within the lists. Even though the zipper principle of strict alternation was not approved, the compulsion of having at least one female candidate within the three—for the 2003 elections—and two first positions—in all subsequent elections—is likely to enhance the presence of women in the Chamber significantly. On the other hand, the fact that the quota *per se* has increased to 50 % should also help female candidates in obtaining, at least, ‘fighting positions’, which in the event of unexpected electoral gains to the party, will bring them into office. The first results after applying the new reforms clearly support this assessment, given that the number of women in the Federal Chamber has gone up to around 35 %, and in the Senate to 37.5 %.

(3) *The reduction by a half of the ‘devolution effect’ from the top of the list* (enacted in December 2000). As already mentioned, the devolution effect gives priority to candidates in the top positions, thus disadvantaging the candidate who occupying lower positions on the list, who may have received more personal votes. In theory, this reform should be positive for female candidates, given that, in previous electoral terms, they did not, in general, occupy the top or eligible positions.

(4) *The re-introduction of the distinction between effective candidates and substitutes* (enacted in November 2002).<sup>57</sup> In December 2000, a reform was passed which cancelled the distinction between effective candidates and substitutes.<sup>58</sup> But, as it is well-known that ‘old times are always better’, the distinction was re-introduced in 2002. However, the lists of substitutes was shortened by a half, meaning that the number of substitutes could not be higher than half of the effective candidates. Once again, though a full suppression would have benefited female candidates, a reduction in size should still have a positive effect. Given that a strict parity is to be respected in the composition of both lists, *i.e.*, the lists of the candidates and substitutes, the number of women presented as candidates should increase.

(5) *The introduction of an electoral provincial threshold of 5 % and (6) the increase in the sizes of the constituencies* (enacted in November 2002).<sup>59</sup> The size of the constituencies for the elections to the Chamber of Representatives was increased, and a 5 % threshold was established. For a party to gain access to parliament, it needs to obtain 5 % of the valid votes in the constituency (*i.e.*, province). Now, each constituency matches the administrative partition of the country into provinces. Therefore, the

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56 The law was enacted on 18 July 2002, and published in the *Moniteur belge* on 28 August 2002.

57 Adopted by the Chamber of Representatives on 25 September 2002, and by the Senate on 7 November 2002.

58 A first law, enacted in July 2000, concerned the local, provincial and European elections. In December 2000, a second law effected the federal elections, and the parliament of the German community.

59 These two measures do not apply for the following constituencies (the Court of Arbitration’s ordonnance No. 30/2003, on 26 February 2003): Bruxelles-Hal-Vilvorde, Louvain and Brabant wallon. In these three cases, the old legislation is maintained; in other words, there will be no 5% threshold, and the ‘*apparentement*’ is kept (*apparentement*, *i.e.*, the grouping of the lists of candidates, in such a way that the remainders from one constituency were re-distributed in the other constituencies belonging to the same province).

original 20 multi-member constituencies have been sized down to 11.<sup>60</sup> Together with the threshold, an increase on the size of the constituencies is, in theory, a way of preventing party fragmentation, so that the bigger the constituency, the less likely small parties are to obtain representation in the parliament. Hence, these two laws combined should prevent the smaller and newer parties from entering parliament.

Not only the is the degree of party fragmentation to be considered among the possible effects of these reforms; a change in political culture can also be envisaged. *A priori*, one should expect that the smaller the size of the constituencies, the more the political culture will be 'local'. The bigger the constituencies, the less likely it is that the local basis of the party will be strong, and the greater the chance that the party leadership will have to have control over the selection of candidates at national level. The relationship between the voter and the candidate is no longer based on what we might call 'existential' proximity (favoured by arrangements in which constituencies are small in size), but on the popularity of the candidate, gained through, for instance, the media, or prestigious political mandates at national level (see Frogner and Mateo-Díaz, 2003). This can be good and bad for women, as will be discussed later in the combined effects.

*Indirect and combined effects.* So far, we have been discussing the **direct** effects of measures to enhance proportionality in representative assemblies, and, in particular, quotas. I would now like to address the **indirect** and **combined** effects of the different reforms in brief. To do so, I will also refer to the material collected in the interviews with 20 Belgian legislators, in which a 50-50 gender balance was respected. From their experiences, one can deduct three different indirect effects of quotas, namely, (1) the so-called 'blackmailing power' within the party; (2) the 'image effect' regarding the relationships both between parties, and between parties and voters; and (3) the 'symbolic effect' that changes public opinion.

(1) *The 'blackmailing power'*. The imposition of a quota gives a certain blackmailing power to female candidates. Power based on the fact that parties need women in order to fulfil the legal requirements. This is interesting because one criticism of the law on quotas was that it gave priority to numbers rather than to the position on lists. However, from this observation, the law has an indirect effect on the positions which female candidates will occupy on the lists, depending on how these candidates play their cards:

Every place given to a woman is a place that men cannot have. This is the point. [...] Now each list has to have women on the list, and therefore you can ask for a place, and if you do not get it, you can say no, I will not run. (Belgian female MP from the Flemish Christian Democratic party)

However, there is only a minority of women who are willing or able to exploit this opportunity, since women are, in general, put either in fighting and in ineligible positions on the parties' list of candidates and, thus, have less chance of getting elected.

(2) *The 'image effect'*. The discussions of quotas, and thus, of an enhanced presence of women in parliaments, reflect the fact that parties need to preserve a certain image in relation to the voters and other parties. As a Belgian female from the extreme right party states:

But after so many years now, I have a position in the party. If I have to work against the structures so much that I finally give up, and I leave the party, they know that it would not be good for them.

(3) *The 'symbolic effect'*. The concentration of power in the hands of one group places the other groups in a position of 'political minors'. Enhancing the political presence of women will change society's opinions about the political competence of women. By changing public opinion about female

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60 1Hainaut=Mons-Soignies, Tournai-Ath-Mouscron, Charleroi-Thuin; 2Liege= Liege, Huy-Waremme, Verviers; 3Luxembourg=Arlon-Marche-en-Famenne-Bastogne-Neufchateau-Virton; 4Namur= Namur-Dinant-Philippeville; 5Louvain (Brabant flamand)= Louvain; 6Bruxelles-Hal-Vilvorde= B-H-V; 7Brabant wallon= Nivelles; 8Anvers= Anvers, Malines-Turnhout; 9Limbourg= Hasselt-Tongres-Maaseik; 10Flandre orientale= Gand-Eeklo, Saint-Nicolas-Termonde, Alost-Audenarde; 11Flandre occidentale= Bruges, Furnes-Dixmude-Ypres-Ostende, Coutraï-Roulers-Tielt.

political leaders, voters are more likely to vote for female candidates. In this sense, surveys show that attitudes have changed, and that the electorate shows very positive attitudes towards female politicians. Clearly, one can argue that this can be explained by the role played by the so-called ‘social desirability’ bias of the respondents, *i.e.*, that they answer *a priori* according to what they think society considers to be right. However, even if the change can be partially explained in this way, ‘social desirability’ can, *per se*, be considered as an indicator of a change in mentality. Talking about this change, a Belgian male MP from the Flemish Christian Democratic party argued:

I think that mentalities have changed so much that, for example, in my constituency, if a party was to present a list with 80% men and 20% women, the other parties would find an argument to criticise us by saying: ‘here, you have an old-fashion party, a macho-party; there are too many men.’ The media also have a very important role to play.

One can also expect two more combined effects of quotas with other reforms, namely, (4) quotas combined with unlimited preferential voting (UPV) within the same list of candidates; and (5) quotas combined with UPV and the increase in the size of the constituencies.

(4) *The effect of quotas plus UPV within the same list of candidates.* One of the possible effects is the strengthening of the so-called ‘*stemblok*’. The ‘*stemblok*’ is a phenomenon which is observed in Brussels, in particular. It consists of a call to vote not just for a candidate but for a series of candidates. The ultimate purpose is to bring into parliament, within the same party, the candidates belonging to the same tendency or group, albeit ideological, linguistic, ethnic, or sexual. It has not yet been studied whether this is a strategy which stems from the candidates themselves, from the voters, or from a sort of interaction between both. Following this line of thinking, one can also have a cumulative effect of different ‘*stembloks*’, *i.e.*, one can, for instance, vote for young, plus immigrant, plus female candidates within the same party list. But why is this important? It is important for two main reasons: (1) the determination of what the role of a group representative entails; (2) the instrumental use of newcomers by the party for political ends, such as for electoral purposes. These two reasons respond to some of the dangers that may ensue from insisting on a utilitarian justification for more female representatives. First, the fact that they may reduce the autonomy of the female representatives (Sawer, 2000). When their political legitimacy comes from complying with certain expectations, for example, in terms of the issues that they campaign for or for which they have responsibility, this will severely limit the scope of their political action and will create a strong determination of what being a female representative entails. If those who were the most affected by a problem were legitimized to politicize those issues, then we would be on the road towards a *ghettoization* of politics. This brings us back to what a Swedish male MP from the Social Democratic Party was denouncing:

Look at the immigrants in the Social Democratic Party... we are too bad at enrolling immigrants in our party, but when one immigrant comes, the party members say: ‘Oh, great! Great that you are here! Can you work on immigrant issues?’ Why? Why? It is all over. I have been out in so many local party branches, and there is always an immigrant and he says: ‘Yes, I am responsible for immigrant policies’. Why? He does not know. But I know why. The other party members think: ‘What are we going to do about immigrant policies? We do not know anything about that!’ ‘Oh, look! Here, we have an immigrant! You take care of it!’ And I think it is so wrong... so wrong... And it is exactly the same when it comes to male and female. Some things are female issues, what are called ‘soft issues’, such as education and health care and so on... And men should take care of taxation and economy and so on... I do not believe that there is a difference. It is the environment that creates such a division of tasks... Absolutely! (Swedish male MP from the Social Democratic Party).

Along these lines, another danger that may ensue from utility arguments is that the newcomers may themselves be used instrumentally for political ends. So far, the idea behind quotas has been approached ‘from above’, *i.e.*, the discussion has turned around ‘who our representatives are’ and ‘who should our representatives be’. It was considered as a means of enhancing the representation of groups in parliament. Yet, conceptually, quotas are based on the idea that representation is about standing for group interests. It assumes that the representative shares social characteristics (*e.g.*, gender, race, locality, class, *etc.*) with those represented, which result in common policy preferences.

Let us approach it ‘from below’ now: when the voters truly believe that, for instance, sex and ethnic origin are more formative than politics, and that the person they are voting for is more similar to them than to the other members of parliament, they are likely to support this candidate, hoping for a political renewal that will hopefully result in new legislation which is close to their policy preferences. This is a very powerful and appealing instrument in the hands of parties when it comes to the selection of the candidates who will be the image of the party during the electoral campaign. To illustrate this, I will just refer to one example that the 2003 election context offers. Hatice Ciftci was a candidate in the elections of 18 May 2003 for the Belgian Chamber of Representatives. Her profile was that of young (30 year old) female, with an immigrant background (of Turkish origin). She directs a team of 200 people in a big Danish multi-national. She was on the lists of the French-speaking Liberal Party (MR) for the first time, in the 17<sup>th</sup> position. She represents some kind of *political parachuting*, in which the party is looking for the most attractive combination for the voter. And what kind of issues did she campaign for? The access of women to top positions in private enterprises, and questions concerning the integration of immigrants.<sup>61</sup>

Surrounded by this context, it is very likely that the new representatives will temporarily profit from an increase in popularity. The parties and existing institutions will employ them and use their popularity to increase their own prestige and use them as a way of finding a new source of increasing legitimacy. For instance, gender balance can be used purely for politically strategic aims, without a real commitment to promoting the role of women in public life.

(5) *The effect of quotas, plus UPV, and the increase on the size of the constituencies.* Another possible combined effect could be that of an increase in the control of the selection process of candidates by the national party leadership. The role of Belgian parties in the nomination process is already fairly strong (Deschouwer, De Winter and Della Porta, 1996). With this reform, the parties are likely not only to keep but also to increase this power. However, there is a possibility that, in the future, one will see a transfer of power from the local basis to the national leadership, with the subsequent effects in terms of the political culture of both parties and voters that these changes may entail. As regards the possible effects on the access of women to parliament, democratic processes, for example, elections within the parties, are not necessarily successful in giving new, under-represented actors a higher presence on the lists. In contrast, the oligarchic system, *i.e.*, decision-making made from the party’s élite or top-down processes, could be more effective.

Another possible effect of an increased control by the national party leadership is that of so-called ‘political parachuting’. It has been argued before that the larger the size of the constituencies, the less likely it is that the local basis of the party will be strong. This means that the party leadership has more chance to control the selection of candidates at national level. One of the combined effects of the increase in the size of the constituencies and the measures which favour the equal representation of men and women, is an increase in the political parachuting of female candidates. It is, indeed, likely that a significant number of female candidates were parachuted in 1999, given that the political parties had to find the 1/3 of female candidates required by law. Considering that the presence of women in top decision-making bodies is significantly limited, there is a possibility that the political parachuting observed here would be ‘extra-political’, in other words, that parties searched for relatively salient women but outside the political sphere; saliency or popularity that can basically come from the professional activity they pursue, such as medical doctors, lawyers, professionals of the mass-media, *etc.*. An empirical analysis examining the 1999 legislative assembly, has confirmed this hypothesis (see Frogner and Mateo-Díaz, 2003).

Connected to this, another effect of a transfer of political control from local level to national level, is that of the increasing importance of advertising and media coverage for candidates. Hence, the role of party programmes and ideological positioning on different issues in motivating the vote can be

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61 La Libre Belgique, 25/04/2003 (<http://www.lalibre.be>, as off 26/04/2003).

significantly reduced, whereas the role of advertising and media coverage that candidates receive can significantly increase. *A priori*, the reform should benefit the big media personalities, which is not necessarily positive for female candidates. However, against this expected effect, one can argue that already eligible positions are partly attributed according to popularity criteria. Therefore, this second effect can, in my opinion, be played down.

The analysis of the different reforms and the expected effect of a combination or interaction between them has largely forecast an enhanced presence of women legislators after the May 2003 elections. The first law on quotas from 1994 had a significant number of shortfalls which the new legislation has tried to remedy. For instance, one of the main criticisms was the lack of attention given by the law with regard to the positions occupied by candidates within the lists. Even though the zipper principle of strict alternation was not approved, the compulsion of having at least one female candidate within the three—for the 2003 elections—and two first positions—in all subsequent elections—has certainly played a fundamental role in achieving the 35% of female MPs in the Chamber and 37.5% in the Senate. The fact that the quota *per se* has increased to 50% has certainly helped female candidates in reaching, at least, ‘fighting positions’, which in the event of unexpected electoral gains to the party, will bring them to office.

## Conclusions

Provided that ‘a given electoral system will not necessarily work in the same way in different countries’ (Reynolds and Reilly *et al.*, 1997:8), and that, the effectiveness of institutional settings depends upon the given structural context in which these institutions take place, one of the conclusions of this paper is that institutions matter when it comes to bringing about some kind of redistribution between different groups.

The evident disparity in the composition of some of the EU parliaments shows that gender equality cannot be taken for granted. It does not just happen, but requires effort and affirmative measures to bring it about. When examining the performance of mechanisms for obtaining *de facto* equality, one should look both at the scope of the reform and the legal means that it is given to translate this content into practice. For a mechanism to be effective in bringing about *de facto* equality, it should be given both hard content and form. In other words, the mechanism has to be far-reaching in its scope, as well as being legally binding, and thus, subject to sanction. The case of Belgium, with its subsequent and stronger reforms in terms of scope, shows the efficiency of this kind of strategy for enhancing the presence of women in parliaments: women accounted for 12% in the Federal Chamber of Representatives in 1995, then went up to 23.3% after the 1999 elections with the reform on quotas, and up again to more than 35% in 2003, after further reforms, both of a constitutional and of an electoral order, in which the requirements for the composition of the party lists were not only based on the quantity, but also on the positions occupied by the female candidates on the lists. Confirming our theoretical expectations, when both form and content are strengthened, the efficiency of the mechanism for bringing about proportionality increases. Whereas the first law was characterised by a hard form (*i.e.*, electoral legislation) but a soft content (*i.e.*, applying only to the numeric composition of the lists of candidates), the second wave of reforms have strengthened both, the form (*i.e.*, through both, Constitutional and electoral revisions), and the content (*i.e.*, by regulating not only the quantity of female candidates, but also the positions that they should occupy within the party lists).

However, the poor presence of women in some EU national assemblies reveals a clear disparity between principle and practice. This does not require a simple constitutionalisation of quotas or the principle of parity. Together with the statement of principles—which is, of course, important as a first, and not just symbolic, step—some regulatory, or legally-binding measures are required. It is necessary that this second step follows the first, and its efficiency in reaching the goal for which it was designed depends on: (1) the transposition of the principle in the electoral law, and thus parity requires the

creation of a quota in practical terms; and (2) the suitability of the adopted mechanism to the existing political and institutional reality regarding the election process to the representative assemblies.

All in all, passing legislation which provides output-oriented political equality, *i.e.*, *de facto* equality and not only *de jure* equality, is not an easy task. In the light of long-lasting policy processes in the countries in which this kind of legislation has been discussed, subsequent legislative and constitutional obstacles seem to repeat themselves in an almost systematic way: (1) when the principle has been approved, there are problems with enacting the practical measures; (2) when measures have been approved, they are declared unconstitutional. Finally, (3) when one escapes from this no-win situation and both the principle and the measures are acquired, the actual scope of the mechanisms is sometimes so limited that they do not have any significant impact. This can be attributed to the fact that, very often, these mechanisms are too much dependent on other existing institutional factors (such as the electoral system or the party structures) to have a visible impact on the patterns of representation.

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