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The Belgian Federation at a Crossroad

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The Belgian Federation at a Crossroad

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ABSTRACT In the introduction, the editors present the special issue and, in particular, the issue at stake: the future of Belgian federalism. Despite the agreement on the sixth state reform, four key issues remain for Belgium's future: decision making, distribution of powers, intergovernmental relations and the role of the parties. Drawing on past and present investigations of this topic, they present the state of the federation and, in so doing, they set the stage for the remaining papers.

KEY WORDS: Belgium, federalism, territorial politics, state reform

Another Crisis and Another Compromise

Belgium set a world record in 2011. No less than 541 days were needed to form a new federal coalition after the elections on June 2010. Only in December 2011 was a six-party government led by the francophone socialist Elio Di Rupo sworn in. Forming a government is never easy in a country like Belgium. Its very fragmented and open party system, with many parties and a large number of possible combinations, makes the process often a lengthy affair. Yet 2010–11 was quite exceptional. The fact that it took 18 months to form a government was the result of deep disagreements between the parties of the Dutch-speaking north and of the French-speaking south of the country. These are not new, and tensions between the two language communities have already been responsible for long periods of institutional crisis and instability. In particular, the years between 1965 and 1991 were highly unstable with no less than 19 governments of an average length of less than one year (Deschouwer, 2012).

This earlier period of governmental instability dates back to the time when Belgium was gradually being transformed from a unitary to a federal-type state. After 1991 and with the important constitutional reform of 1993 that finalized the road towards federalism by introducing the direct election of the sub-state parliaments, the stability appeared to have been restored. The four cabinets between 1991 and 2007 all went to the end of their four-year term, and another constitutional reform in 2001 was agreed on without too many troubles. Yet, in 2004, the tensions increased again. The Flemish Parliament had at the end of its first term in 1999 already listed a number

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of demands for further devolution and increased fiscal and financial autonomy, while the francophone parties had called for a pause. In 2004 the Flemish Christian-Democrats—in opposition since 1999 after nearly 40 years of uninterrupted participation in power—concluded an electoral alliance with the Flemish regionalist party N-VA (actually defending in the long run a fully independent Flanders). Combined with the reappearance of the discussion on the possible split along the language border of the Brussels electoral constituency—a Flemish demand since 1963—this produced the ingredients for a new confrontation between the parties of the north and the south. The 2007 federal elections brought the Christian-Democrats back to power, in alliance with the N-VA. The alliance did not survive the choice of the Christian-Democrats to lead the federal government (after six months of negotiations) without an agreement on constitutional reform and N-VA went to the regional elections of 2009 and again to the federal elections of 2010 with the message that the consensus model of the Belgian federation had reached its limits and with a fierce accusation of the traditional parties to prefer governmental power over the defence of basic Flemish demands. In 2009 N-VA polled 13% of the votes in Flanders and, in 2010, 28%. That last score made it the largest party of Flanders and the largest party of the country.

The attempt to form a federal government with the N-VA as the dominant Flemish party and the Parti Socialiste as the dominant francophone party failed. But it took close to one year to finally go for the option of forming a federal coalition of the six traditional parties—Christian-Democrats, liberals and socialists—and to leave the N-VA out. To secure a two-thirds majority needed for constitutional reforms the two green parties agreed to support the federal government. A final agreement on a new constitutional reform and an agreement on the other policy domains finally led to a federal government.

The disagreements between the parties of both language groups were important. First, there was the symbolically strong discussion about the Brussels electoral district. It includes 35 local municipalities located in the Flemish region and thus allows the francophone inhabitants of the Brussels periphery to vote for the Brussels candidates of the francophone parties. Flemish parties wanted the district to be split along the language border, to create a new district for the Brussels region only, and one for the province of Flemish Brabant (Sinardet, 2010; Hooghe and Deschouwer, 2011). This issue touches the heart of the disagreement between Dutch speakers and French speakers about the location and the meaning of the language border. For Flanders it marks the line behind which the official language is Dutch. That line was frozen in 1963 and should not change. The francophone attitude is one defending the individual right to speak the language of one's choice and, therefore, francophone parties would prefer the language border to adapt to the movements of people. Especially the Brussels region should then be enlarged to comprise a number of local municipalities in its periphery where the majority language has become French. The 2011 agreement comprises the splitting of the district and no enlargement of Brussels. Inhabitants of six municipalities around Brussels can, however, still vote for the Brussels lists for federal elections. To compensate for the basic acceptance of the Flemish demand for splitting the district, the Brussels region receives an important increase in its financial means.

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The second major disagreement was about further devolution of powers. Here also the request to change the status quo came from the Flemish parties. They asked for more powers in several policy domains, but especially for matters related to employment policy and for family allowances. Francophone parties were extremely reluctant to move powers from the federal to the sub-state level, and devolving family allowances was seen as only a first step towards a full devolution of the social security system. Here also an agreement was found that includes the transfers of new powers to the regions and communities. Not all Flemish demands were met, but employment policy and child allowances are part of the package.

By far the most difficult issue was the financing of the regions and communities. The richer Flanders wanted an increased fiscal autonomy and an increased logic of financial responsibility rewarding regions with good performance on social and economic indicators. Wallonia and Brussels have a lower fiscal capacity than Flanders and are on the receiving side in the system of financial solidarity and equalization and, therefore, feared a negative impact of increased financial autonomy. After long and difficult negotiations a new system was devised. The regions (Flanders, Wallonia and Brussels) will now be able to change the level of personal income tax. The tax level of the federal state will be reduced by approximately 25%, leaving the regions the full freedom to decide on the final tax scales for their inhabitants. These can be higher or lower than the original federal scales. This new system will give the regions total fiscal autonomy for more than 70% of their financial means. The Brussels region will receive an extra federal subsidy to compensate for its expenses as the capital city and as the seat of the European institutions. A general compensation mechanism for regions with a lower fiscal capacity (which means Wallonia in the current context) will be put in place during the first ten years of the new finance mechanism for the regions, and will then gradually disappear over the subsequent ten years.

An important change was also agreed on for federal political institutions. From 2014 on the Senate will be composed only of members elected by and in the community parliaments. There will be no directly elected senators any more. And to limit the degree of 'level hopping' of the members of the federal and of the regional parliaments, candidates who are elected in an assembly will, after 2014, be obliged to take up that new mandate and resign from the other one. Until now parties put popular candidates—irrespective of the level at which they had been elected previously—on their electoral lists, but often those who were then elected did not accept their seat and remained in their regional or federal assembly, leaving the new seat to a successor on the list.

The 2011 agreement on constitutional reform is important. It is the sixth major reform of the Belgian state since the first one in 1970. It does not, however, fundamentally change the nature of the Belgian federation. All the basic characteristics of the state structure are still there and are not likely to change in the near future. In the very first place the Belgian federation is a compromise, a negotiated outcome between diverging views on its future. There has been no blueprint of the current Belgium and there is no blueprint of the future Belgium. It is not a federation by design but one by default. Nobody knows to which end point or equilibrium the constitutional set-up will lead. The Belgian state is unfinished and open ended, but that is exactly the reason why it can exist. There will probably never be an agreement on the very nature of the federation, on its major building blocks, or on its internal boundaries.

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The sixth state reform has enabled the formation of a new government after 18 months of virtual standstill, but it has not taken away the reasons for the disagreements or the reasons for the long institutional gridlock.

Four Key Issues for Belgium's Future

Decision Making

The Belgian federation remains consociational. Federal decision making requires an agreement between the two major language groups. They need to govern together. Society itself, however, and the political community, in particular, are segmented, divided into two language groups. Two party systems capture the competition for power within each language group, after which the winners on both sides need to find a compromise between positions that have been voiced while mobilizing the votes of their own language group only. The necessary federal compromise is impossible without losing face. The first and probably most important issue for the future of the Belgian federation is this weak capacity for central, i.e. federal, decision making. The consociational obligation to govern together comes with the default option that when no agreement can be found the country simply cannot be governed. This is a perfect example of a joint-decision trap (Scharpf, 1988). It is the potential problem of consociational devices that has been identified by Horowitz (1985). The guarantee for each segment to be included in common decision making does not at all guarantee the willingness to do so. To the contrary: if the obligation to co-operate is post-electoral, political leaders have no incentive for moderation before elections and will be reluctant to compromise and to lose face because at the next election they need to face their own voters again.

Belgium has regularly seen the consequences of this post-electoral obligation to co-operate without pre-electoral incentives to moderate. The *malgoverno* of the 1970s and 1980s was an illustration of that (Heylen and Van Hecke, 2008), and the very long coalition formation process of 2010–11 was another and quite extreme example. Reforms of the constitution have always dealt with distribution of competences and with the creation of the sub-state level of decision making, but never with the consequences of a bipolar and consociational federation for the quality and capacity of decision making at the central level. Whether there will be more institutional gridlock in the future is easy to answer. The only open question is when.

Distribution of Powers

The distribution of competences between the levels of government has been the crucial ingredient of each stage of the federalization process. The process has always been centrifugal, which means that powers have been removed from the centre and transferred to the sub-state level. There has not been one single example of competences that were transferred back to the federal level. The sixth state reform also contains only transfers away from the federal level and a next state reform is unlikely to deviate from that logic. The attempts to remove powers from the centre have also led to a quite dual federation. The intention was not to create a layer of competencies

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for which both levels are responsible and for which co-operation between the levels is needed. In the broad category of social and economic matters, however, the distribution of powers is not that clear-cut. The sub-states have control over some instruments for economic decision making while others have remained at the federal level. The demands from Flanders to transfer a number of powers to the sub-states was met in 2011, but the federal level has kept control over almost all aspects of social security, wage policy, prices and the social partnership (neo-corporatist agreements between interest groups).

The question of where exactly the Belgian federation will go or will end in the future is very open in this respect. On the one hand, Flanders—the now richer and more self-confident region—keeps asking for the transfer of all crucial instruments for a truly autonomous regional economic policy. That includes an increased fiscal autonomy and the development of a sub-state social security system. In particular, the latter is seen by the francophone parties as a major threat to the very survival of the Belgian state. Social security and its interpersonal solidarity marks the existence of a Belgian community in which all citizens are treated equally and in which those who need the solidarity of the others can receive it irrespective of the region in which they live or the language that they speak. Attempts to devolve parts of the social security will undoubtedly lead to high tensions and a francophone veto. Yet, in 2011, family allowances—part of the social security system—were transferred to the Communities. Here also the absence of a blueprint and the absence of a clear end point of the state reforms make things difficult. For some of the parties in Flanders the end point is independence, and every demand for further devolution of powers is an attempt to slowly make the country ready for full separation. Knowing this, the francophone parties are quite reluctant to touch the social security system, even when demands to do so come from the more moderate traditional parties. Discussions about who can do what—and especially why it needs to be distributed the way it is—have never been easy and will remain very difficult in the future. Many powers have now been transferred to the sub-state level. Nothing much is left at the federal level. And touching what is left there can more than ever before be seen as the final blow, as the beginning of the end of the Belgian federation.

The Intergovernmental Forum

Next to the capacity of decision making and the debates about the right distribution of competencies, intergovernmental relations are a third element of the Belgian political system that deserves attention if we want to understand and assess the way in which the system will evolve. Intergovernmental relations are actually fairly new. The first direct elections of the regional parliaments were in 1995 (1989 in Brussels). At that time and again very consciously in 1999 all coalitions were kept almost perfectly congruent. That was fairly easy to do because regional and federal elections were organized on the same day. With all coalitions congruent, the intergovernmental relations were not a distinct forum. If there were tensions between the governments or if co-operation was needed, negotiations among the governing parties could suffice. And that negotiation was a permanent feature of the federal governmental coalition anyway. The congruence of the coalitions and the collapse of intergovernmental relations into

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inter-party relations also produced a clear hierarchy within the parties. From 1995 to 1999 federal Prime Minister Dehaene was without any doubt number one in the Christian-Democratic party, from 1999 to 2003 federal Prime Minister Guy Verhofstadt was the leading figure of the Liberal party.

Things have changed though after 2003 as a consequence of the new electoral cycles for the federal and the regional level. Elections in 2003, 2007 and 2010 were federal only, and elections in 2004 and 2009 were regional only. After each of these elections new coalitions had to be formed, and the logic of congruence was impossible to pursue. In 2004 the Christian-Democrats came back in power and provided the prime minister of the Flemish government while remaining in opposition at the federal level. The formation of a federal coalition in 2007 was very difficult because francophone Christian-Democrats risked becoming the junior partner of two different large parties at two different levels. The formation of regional governments in 2009 excluded the liberals in Flanders and Wallonia, while they were in the federal coalition. And the grand coalition formed at the federal level in 2011 does not then match the regional coalitions of 2009. Since 2004, therefore, the intergovernmental arena has become a distinct forum for party interaction and thus for co-operation and for conflict. That has not been easy. Parties governing at one level and not at the other are confronted with conflicting loyalties. Their partner at one level is then their opponent at the other level. This tension is reinforced by the fact that the party system in Belgium is fully split. The partner participating in a sub-state government is not the sub-state branch of that party, but the party itself. And the same goes for the party active at the federal level.

One of the ingredients of the agreement of 2011 is a reform of the electoral cycles. So far the sub-state parliaments have been elected every five years, together with the European elections. The regional parliaments, thus, cannot be dissolved. The federal parliament had a four-year term but with the possibility of early elections. The sixth constitutional reform introduced a five-year term for the federal level, without, however, making that a fixed term. As from 2014 both electoral cycles thus start at the same moment and can be kept together as long as the federal level does not fall out of pace. Flemish Christian-Democrats and regionalists very much defend the idea that elections for both levels should be disconnected in time. Having them on the same day makes it much more difficult to give the regional election a real regional flavour and a focus on the specific stakes of the regional level. The position of the Christian-Democrats is an interesting illustration of the way in which intergovernmental relations and incongruent coalitions are part of the game. Since 2009 the Christian-Democrats have the lead of the Flemish government. At the 2014 elections for the regional parliament it is, therefore, important to be able to defend the good work of the outgoing Flemish prime minister. At the federal level, though, the Christian-Democrats are a junior partner and have had to accept a number of compromises on Flemish demands for further devolution. They are being criticized for that by the N-VA. Yet N-VA is a—junior—partner in the Flemish government. And obviously N-VA also prefers a federal election in which it can criticize the federal coalition and a separate election in which it can defend its position as governing party in Flanders.

The possibility to form congruent coalitions and thus to keep the tensions between the executives at a lower level is the major argument in favour of

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coinciding elections. The electoral gains and losses at the polls are then probably quite similar for the two levels and similar and congruent coalitions can then be formed. There is, however, a second element that makes the formation of congruent coalitions more difficult, and that is the different electoral result in each language group. The two language groups have always voted differently, with a more centre-left south and a more centre-right north. These differences do not disappear, especially with the rise of a new regionalist (and conservative) party in Flanders. In the south a centre-left coalition is more likely, while in the north a centre-right coalition has better chances. Neither of them is fully congruent with the federal coalition.

The Role of the Parties

Political parties play a central role in the Belgian political system. It has remained a typical 'partitocracy' (De Winter and Dumont, 2006). Parties control governments and parliaments at all levels and have kept—be it to a lesser extent than before—a grip on the public administration (Brans *et al.*, 2006). The federal political institutions that have been put in place are the results of negotiations between political parties. Constitutional reforms have been agreed on either during the formation of governmental coalitions between parties or during the life of a government that can, indeed, survive only as long as all parties agree to remain on board. And, if the governing parties do not secure the broad two-thirds majority needed for constitutional reform, opposition parties are invited to join the negotiations. Votes on constitutional reform are votes in which a strict party discipline is respected. The parliamentary party groups are not supposed to question an agreement which the party presidents have concluded was acceptable and honourable.

This said, the role of the Belgian parties in the split party system is far from easy. They obviously face the same lack of trust as the parties in other democratic systems. That is partly due to the fact that parties are increasingly unable to deliver on what they have promised, to act as representatives of their voters and to rely on input legitimacy for defending the policy choices that they have made. The limited room for manoeuvre at the national (and sub-state) level in a Europeanized and globalized environment draws parties further into their role of governing actors trying to do what is needed, rather than what their ideological orientation would suggest (Mair and Thomassen, 2010). The Belgian parties are trapped in an additional problem that is related to the split party system.

Governing at the federal level requires an agreement with the parties of the other language group. There are three reasons why this undermines the representative role of the parties. In the first place a new government should try to respond to the electoral results. Yet, in the Belgian split party system there are two results. There are two parties winning the race in their respective language group. Electoral wins and losses are increasingly different within the same party family. And the overall result of the elections is—and has always been—a centre-right majority in the north and a centre-left majority in the south. Forming a government and keeping it alive thus requires parties that are responsive not only to their own voters but also to the voters of the other language group.

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When constitutional reforms are on the agenda, this tension is very clear. Parties of the north and of the south have different views on the future of Belgium and mobilize their voters with promises for reforms that are almost self-evident on their side, but hardly thinkable on the other side. Yet, in the end, a compromise needs to be found. The Belgian federation has to be governed by parties from the north and south. The compromise found after long and, once in a while, almost endless negotiations is then always one that involves loss of face for the parties that agree on it. Keeping promises is simply impossible in the Belgian split party system. And that brings us back to the first issue discussed above: the very low capacity of the Belgian system to make decisions. Political parties are involved in the decision-making process and are needed in it. But they cannot do it without putting themselves in a position that is easily criticized as treacherous and unfaithful to the voters.

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The Future of the Belgian Federation

Governing a divided society in a democratic way is never an easy affair. Governing Belgium will never be an easy affair. The political institutions of the country are still moving. After six major constitutional reforms an equilibrium has not been found. The federal Belgium remains a complex and potentially unstable construction in which very few actors are truly satisfied with the way in which it functions. This special issue looks at the future of Belgium by focusing mainly on the ideas, proposals and perceptions of the actors. It tries to look into the future of this federation on the move.

Beyers and Bursens put Belgium in the broader perspective of the European Union. They wonder what effect further Europeanization will have on the Belgian federation. On the one hand, the presence of the EU fosters collaboration between the sub-states. They are all in a complex way part of Europe and need to co-ordinate their actions to defend their interests at the European level. Yet, on the other hand, the process of European economic integration with its open boundaries is bound to increase the differences between the Belgian regions. European integration might thus lead to more internal competition and increased discussions about economic and social policy between regions that have a quite different economic structure.

Economic actors are the focus of the contribution by Bouteca, Devos and Mus. They test the assumption that the social and economic pressure groups—both of workers and employers—defend the level at which they are active when they have to take a position on the allocation of competencies. They do so by asking the major pressure groups to explain their position on the preferred level for labour market policy and for the organization of social security. Federal organizations do defend the federal level as the most appropriate. Flemish organizations also go for their own level, but Walloon organizations also prefer these crucial powers at the federal level.

Sinardet looks at the role of the media in federal Belgium. The full split of the media makes it difficult to produce a truly public sphere in which policy preferences can be discussed. Sinardet looks, in particular, at the discussions on the fate of the Brussels electoral district and the question of whether it should be split (a Flemish demand) along the language border. He looks at two major information programmes,

one in each language groups, and looks at who is invited and at the way in which the issue is being framed and presented by journalists and politicians. He can only conclude that there is no such thing as a federal public debate. There are two of them.

This full split into two different worlds is also typical for Belgian political parties. There are no state-wide parties and these Belgian parties now have to function at different levels, with elections and coalition formations that have, since 2003, acquired a separate rhythm for the federal and the regional level. Dandoy, Matagne and Van Wynsberghe look deeper into these party strategies. They check whether parties draft a manifesto for each level and for each type of sub-state and they compare the length of these manifestos across the language border and between different types of elections. Through a qualitative and quantitative analysis of parties' preferences, their article reveals ideological differences that cross the linguistic cleavage and, therefore, shows each party has a specific position on the future of Belgian federalism that cannot be reduced to its language group.

Reuchamps looks at Belgian citizens. In the typical consociational Belgium they have not had a lot to say about the federalization process. That has been, to a very large extent, a matter for the political elites. And actually we do not know a lot about what the citizens think and believe about the Belgian federation and its possible future. Survey research shows some differences in identity and in institutional preferences between the two language groups, but also a low salience of the issue when they cast a vote. Reuchamps, therefore, looks at alternative methods to capture the perceptions of the citizens. He presents five nuanced types of opinions on the Belgian federation, based on focus groups in each language group. He reports on deliberative experiments that have shown that Belgian citizens are able to deliberate across the language border about the future of the country. And he reports about the use of mental maps to check whether the citizens of the north and south have a different perception on the nature of Belgium.

Swenden concludes with *the* question: is Belgian federalism at a critical juncture? To appraise this question, he tackles, with the light shed by the articles of the special issue, the oft-assumed triggers of the crisis: the—growing—socio-economic discrepancies between the two major language groups, the flaws in the federal design and the divisions of the political party system. This assessment leads Swenden to suggest three options for the future of Belgian federalism. The first option is a mix of accommodation and integration, which will lead to a recalibrated federalism. The second option is independence in a post-sovereign and Europeanized environment. The third option is bringing the people in with a constitutional referendum. But no probabilities are assigned to each of these scenarios.

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