



Belgian Federalism and Foreign Relations: Between Cooperation and Pragmatism

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The Belgian federation is a very special one, not in the least with respect to the organization of its foreign relations. The underlying theme of Belgian federalism is based upon a tension between the constitutional provisions on the one hand and the practical organization of foreign policy making on the other.

Belgium evolved from a unitary state into a full-fledged federal country in a 30-year period, from about 1960 to 1993. However, while the federal constitution of 1993 was an important landmark, the Belgian people continue to witness an ongoing debate over further refinements to the federal architecture. Nevertheless, Belgium's constitutional foundations are laid down. They consist of a federal level and a double federated level of three Communities – the French Community, the Flemish Community and the German-speaking Community, as well as three Regions – the Flemish Region, the Walloon Region and the Brussels Capital Region, which has a special status. The double subnational level reflects the cultural heterogeneity of the Belgian population and the economic diversity of the

Belgian territory. The communities are responsible for policies such as education, culture, media, language and preventive health care. The regions have responsibility for policies such as transport, industrial policy, employment, spatial and structural planning, environment, agriculture and trade policy. The federal level remains in charge of policy fields such as social security, justice, home affairs issues and defense.

Belgian federalism is a variant of legislative federalism, meaning that the governing authority with legislative authority over a given field also has the administrative authority over those matters. The federal constitution, rather than being based on the principle of hierarchy, provides that federal and regional laws have equivalent status. This absence of a hierarchy also has major implications for the way the Belgian federation complies with internationally binding agreements and regulations, and means that each authority has to draft and implement the international policies that fall within its jurisdiction. As a result of the absence of a hierarchy, the constitution gives the various constituent units the power to conduct foreign policies with respect to the specific competencies that fall within their jurisdiction. This is known as the *in foro interno, in foro externo principle*.

Aside from the international context, having constituent units conduct autonomous foreign policies does not raise many problems in the area of exclusive powers. Foreign aspects of education policy, for instance, are separately managed by the three communities, both in terms of foreign representation and in terms of concluding treaties. The Belgian constitution, however, separates responsibilities for many policies, making different constituent units responsible for different aspects of a single policy. European environmental directives, for example, affect the powers of the three regions and the federal level at the same time. These mixed competencies provide a first important contextual framework for the practical organization of foreign relations within the Belgian federation.

The second determining factor is the international context. While the sheer number and the activities of regional entities on the international scene are growing every day, unitary states and multilateral organizations and entities still predominantly base their policies and organization on the long-standing model of unitary nation states. However, the extensive foreign relations powers of the Belgian regions and communities place foreign partners in a quandary. Foreign bodies are inclined to look to the Belgian national government as their primary interlocutor. Thus the international dimensions of relations between Belgium's constituent units and foreign bodies are a second important contextual factor to consider in Belgium's federal system.

However, both the domestic characteristics of Belgian federalism and international practices have had the effect of softening the constitutional principles of Belgian foreign relations. In essence, an evolution has occurred, going from a dual competitive form of federalism towards a variant of cooperative federalism, combined with a large dose of pragmatism.

Cooperation among the federated units and between the constituent units and the federal authority is fundamentally important in the case of concurrent jurisdiction and classic multilateral organizations. This is particularly the case with respect to Belgium's dealings with the European Union, which cover a large variety of policy fields. As a result, extensive coordinating mechanisms have been established to avoid confusion and ensure that one single negotiator defends one single position internationally.

Although the coordination mechanisms sometimes involve very detailed rules of procedure, pragmatism remains an essential feature of Belgian foreign policies. This pragmatism has come about because federalism was embraced in Belgium as a mechanism to ensure that the interests of all partners are optimally served. To achieve this goal, all partners learned to approach

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foreign relations in a pragmatic fashion. It has been found that the successful international representation of Belgian constituent units' interests require that all the affected units participate whenever necessary. But it also means that when the international partners or multilateral organizations insist upon a single Belgian position or representative, then the country's domestic partners need to understand that a flexible approach, compromise and the willingness to mandate a Belgian representative brings about the most fruitful outcomes.

Finally, this cooperative and pragmatic attitude has resulted in a good understanding among the federated units. They determined that mutual antagonism serves only to decrease the likelihood of their success on the international stage. Instead, cooperation with the federal government yields much more, because it allows for the optimal use of its diplomatic expertise and its foreign networks. In a sense this understanding has shifted domestic conflicts away from the linguistic cleavage between Flanders and Wallonia to one in which the cleavage is systemic, between constituent units and the federal government. The cleavage between the federal government and the constituent units becomes especially apparent in foreign relations.

It is clear that Belgian federalism has unique institutional features which its foreign partners find difficult to understand. Nevertheless, the realities of the country's external environment constitute a significant factor in the gradual shaping of a cooperative and pragmatic approach to the organization of foreign relations by the constituent units and the federal government, and thus the overall Belgian federation. Despite the existence of constitutional provisions and detailed coordination mechanisms, a flexible, pragmatic and informal approach has become a crucial element in Belgian foreign policy. This can only function effectively when the constituent units support the federal system of government.