

The European Rescue of the Federal State: How Europeanization shapes the Belgian state

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Abstract. This article investigates the impact of European integration on the Belgian federal polity. In particular we substantiate two propositions. First of all, we show that European integration stimulates regions, communities and central government to cooperate and, second, Europe preserves the central government level from disappearing. Europeanization seems to have a centralizing effect on some parts of the Belgian polity. In some policy areas we observe, despite a domestic pressure towards federalization, a central government that occupies a pivotal position in the policymaking process. In general, we demonstrate how the constitutionally dual nature of the Belgian federation has, due to European influences, incrementally led to a practice of cooperative and joint decision-making. These conclusions are supported by an in-depth exploration of five policy areas: the overall domestic European coordination procedures, environmental policy, agricultural policy, social policy and the European treaty negotiations.

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Introduction

One of the major puzzles for contemporary political science is how and to what extent states centralize competences or, on the contrary, shift powers to local, regional, European or international arenas. In this respect, Belgium has been subject to two evolutions over the past decades. On the one hand, a large number of competences have been transferred to the European level, while the reform of the Belgian state has led to sub-units with a substantial portfolio of policy competences, including foreign relations. Few other states went through such extensive reform-processes. Within a relatively short time span Belgium transformed from a centrally ruled state into a fully-fledged federation. This process can be seen as an attempt to adjust the scale of government to reflect better Belgium's political and cultural heterogeneity. At the same time, Belgium became intensively involved in and supportive of the process of European integration. Today it participates fully in all policy areas, including the monetary union, the Schengen Agreements and the emerging common defense policy. Belgium's integration into the European Union (EU) can be considered as an attempt to create policymaking venues that increase the territorial scope of market exchange. In sum, the combination of federalization and European integration results in a system of multilevel governance (MLG) which satisfies two seemingly contradicting considerations, i.e. coping with heterogeneity while at the same time reaping the benefits of an expanded economic market.

This paper deals with the impact of EU-membership on the Belgian federal polity. How did Belgium adapt to the requirements of its membership of the EU and did this process of adaptation transform Belgian federalism? In particular we substantiate two propositions:

1. European integration forces the governments of regions and communities, and central government to cooperate. To this end specific institutional structures are created which

enable cooperative practices in day-to-day politics. This trend towards cooperative modes of governance contrasts with the constitutional duality of the Belgian federation.

2. European integration preserves the central government from disappearing. On the contrary, instead of contributing to the hollowing out of the federal level, European integration places the federal government and the federal policy-making arena central in some key policy areas.

These two propositions fit into a broader concern with the erosion of central state governments as a result of European integration. Is central state control eroding? Is it true that regions, sub-units or federated entities are strengthened by the process of European integration, that the powers of central governments are incrementally hollowed out, and that over time central governments become an empty shell? We submit that Belgium is a critical case in this respect. If there is one state in which multi-levelness and policy fragmentation are pushed to their extremes, it is Belgium. Yet, in contrast with some writings on this topic, we argue that, despite the increased involvement of regions in European policymaking, despite a large set of devolved competences and despite some cross-border associations of regions within Europe, the political authority of regions remains fairly encased in national or federal arenas.

We frame our research questions and hypotheses within two research agendas:

Europeanization and comparative federalism. Firstly, it fits in the Europeanization literature as this research agenda deals with how member state structures can be operationalized given the impact of European integration on domestic institutional relations (Ladrech 1994; Goetz 2000; Olsen 2002; Vink 2003; Mair 2004, Graziano and Vink 2006). Europeanization research can be roughly divided into studies on the impact of European integration on domestic politics, politics and policies. Here, we focus on the politics and polity dimensions: how does the EU-level (in

interaction with domestic developments) lead to changes in the formal procedures and institutional conditions in different policy areas such as agriculture, environment, social policies and European integration? All these areas are expected to respond to what Goetz (2000) calls ‘linkage-adaptation’: as governments become more and more implicated in European policy-making, they are expected to adapt their domestic policy-making modes (see also Beyers and Trondal 2004). In addition to the Europeanization research agenda, our research problem will be situated in the literature on federalism. Such a broader institutional angle is needed in order to avoid the *sui generis* discourse which tends to infect contemporary Europeanization literature.

The following section presents how we conceptualize our puzzle. In the third part, we turn to the empirical evidence. We present a general overview of how the Belgian federation copes with European policies, and we describe the involvement of the Belgian regions and communities in European policies and the domestic coordination mechanisms. Finally, through a comparison of different policy areas we show that Belgian regions and communities are pivotal in some key policy areas (such as environment policies and agriculture policies), but that their role in other policy areas is much more limited (for instance social welfare-state policies and European treaty reform). Nonetheless, even in those areas where regions or communities are crucial, they are – partly due to EU-level restrictions which reinforce existing interdependencies among the different Belgian levels – unable to act as fully-fledged EU-level players in their own right. We will show that regions often need the federal policy-making arena to put their European policies in practice.

The Europeanization of Federal Institutional Arrangements

Looking at the Europeanization literature one is immediately struck by the abundance of contradictory conclusions and the imprecise assessment of the impact Europe has on domestic politics and the concrete mechanisms at play. Authors often arrive at contradicting conclusions, sometimes even for the same member states. Schmidt, for instance, argues that the EU has greater impact on unitary (and statist) states than on federal (and corporatist) states, because the latter 'have largely maintained the balance between executive, legislature and judiciary as well as between center and periphery' (1999, 6). Other authors, however, noted a substantial impact on federal states as well. Reflecting in a comparative way on the impact on federal states, Kassim argues that especially strong, so-called constitutional regions were successful in using the EU to strengthen their position vis-à-vis the federal level (2005). With respect to Spain, Börzel claims that this country has evolved from a system of competitive regionalism to a system of cooperative or joint federalism because the EU encourages cooperation between the central and regional government levels (1999; for a different view on Spain see Bourne 2003). In contrast, Börzel argues that in Germany domestic coordination mechanisms merely reflect the existing cooperative institutional setting (1999). Jeffrey, also discussing Germany, claims that core features of its cooperative federalism are under increasing European pressure (2003, 102).

Following Börzel we envisage two basic processes which help to conceptualize the changing balance between central state and regional authorities in a European context (1999, 578). On the one hand, regions can adopt a cooperative strategy which entails that different levels within member-states start sharing European policy competences and responsibilities. This intra-state adaptation implies that regions remain hierarchically nested within a domestic

institutional framework. This practice resembles what Hooghe and Marks call type-I MLG (2003) or what Jeffrey characterizes as mobilization through the existing member state structures (2000, 4-6). On the other hand, there is a strategy whereby regional authorities separate themselves from the central government by increasingly bypassing or acting beyond the existing member state structures (Jeffrey 2000, 4-6). While Börzel labels this as a confrontational strategy, we prefer to call it a separating strategy as ‘confrontation’ suggests severe and visible conflict among the different levels. Although political confrontations may coincide with a separating strategy, we can also imagine that gradually and incrementally regional authorities maximize their autonomous leverage and that levels of government become increasingly disconnected from each other without major or visible institutional conflicts. If this form of adaptation starts to dominate the EU and its member states, we would experience practices resembling type-II MLG of dispersed, non-hierarchical and autonomous venues of policymaking (Hooghe and Marks 2003). Then the question for this article becomes which adaptation strategy – a separating or a cooperative strategy – can we expect in a member state as Belgium?

At first sight, there are good reasons to expect a general trend towards a confrontational strategy among the Belgian regions and communities. Such an adaptation process would fit nicely in the dual nature of the Belgian federation; the constituent entities of the Belgian federation have exclusive legislative and administrative powers within their jurisdiction. In contrast to the model of cooperative federalism, which prevails in countries such as Austria and Germany, the Belgian regions hardly have to bother about uniform standards imposed by a central government. The non-hierarchical nature of the Belgian federation allows and stimulates autonomous and independent policymaking. Moreover in addition to its dual structure, the Belgian federation is characterized by competitiveness. The Belgian federal order is designed in

order to protect the rights of ethnic-national and linguistic minorities. Constitutionally it aims to preserve regional identities and to promote cultural, economic and social diversity. This implies that in its origins the Belgian system is non-cooperative, competitive and centrifugal in contrast to the German cooperative federal order in which the uniformity of living conditions is constitutionally enshrined.

Another seemingly obvious reason for the likelihood of separating strategies concerns the interaction between EU politics and the division of domestic competences. The more extensive the regional competence catalogue, the more likely that a region will be affected by EU policymaking. The idea is that, because European institutions create policies which affect the regional tier of government, EU-level rent-seeking behaviour by regional governments will be stimulated (Marks et al 1996). Moreover, especially regions with extensive competences have a strong base from which they can mobilize. They are therefore more likely to shift their political strategies to the European level (Jeffrey 2000, 12-5). Consequently, Europeanization pressures will be uneven and member states will not converge in their adaptation to the EU. Especially heterogeneous member states – which are often regionalized or federal states – are expected to face most adaptation pressures. In these states, local and regional levels become more vocal and try to strengthen their position at the expense of the central government. This idea fits into a more general argument made by Europeanization scholars who claim that European integration leads to a strengthening and a mobilization of regions at the disadvantage of central governments (Kassim 2005).

The arguments in favour of the separating hypothesis rely strongly on the notion of a strict division of exclusive powers which creates autonomous levels within the Belgian polity. However, autonomy is never absolute. Several contextual factors stimulate the sharing of

competences in dual federations and the emergence of cooperative political practices (Thorlakson 2003). This happens when constitutions allocate similar functions to different political levels and create mixed competence catalogues, when constitutions do not unambiguously assign policy areas or when political levels lack sufficient or proper means to fulfil their functions. As Swenden and Jans illustrate for the Belgian case, sorting out policy areas into watertight compartments was a precarious undertaking in Belgium and led to the installation of various cooperation mechanisms (Swenden and Jans, in this issue; Swenden 2004, 197-98). Instead of multiplying separate territorial jurisdictions, policymakers attempt to constrain the number of territorial jurisdictions by keeping the European access of regions under control and by introducing domestic cooperative devices. Policymakers systematically circumvent and complement the dual formal nature of the Belgian polity with the creation of new formal and informal links, resulting in what Benz and Eberlien call a 'hierarchical-sequential ordering of arenas of policymaking' (1999, 333). Without such cooperative devices regions and the central government would not be able to cope with over-complexity, conflicting operating logics and excessive transaction costs which result from ambiguous and incomplete constitutions. In addition, the dual and competitive nature of the Belgian polity contrasts with the cooperative nature of the European system of governance where competences are shared rather than divided (Hix 1998; Börzel and Risse 2000; Börzel and Hosli 2003; Börzel 2005).

Concluding, we expect that our policy areas will illustrate that the EU institutional framework is a contextual factor with substantial implications for the formation of and evolution in Belgian federal institutional arrangements. In general, domestic adaptation to EU membership implies an advantage for central authorities because especially the central government occupies a gate-keeping position between Europe and the domestic level. In some areas the central

government and the regional governments institutionalized and centralize their intergovernmental cooperation devices at the federal level. These domestic intergovernmental arrangements considerably increase the grip of the regional governments on the central government without necessarily provoking separating or bypassing strategies. In short, the interaction between domestic federalization and European integration results in a somewhat paradoxical situation in which regions become dominant power-centres and veto-players, while at the same time the federal level gradually develops into a key policymaking arena (Thorlakson 2003, 17).

Finally, and parallel with our two main propositions, we expect that European adaptation strategies are not uniform within single member states and that especially federal states embody a complex mixture of adaptation strategies. Whereas in unitary states or one-level polities one level may specialize in all areas, in a multi-level system each level functions as a separate niche for specific policy areas and issues. In multilevel systems different levels specialize in different policy areas. One important repercussion is that adaptation strategies may vary according to the policy areas in which different governments are specialized. Therefore, we expect that separating strategies will prevail more in areas where regions have many capabilities (formal powers, budgetary resources, expertise) and that cooperation will be less relevant in areas where the capabilities of regions are limited. This notion that those who are responsible for specific policy areas are more active in EU rent-seeking behaviour echoes much of the Europeanization literature which often claims that different sectors face different adaptation pressures and therefore europeanize in different ways. Many Europeanization studies are primarily concerned with policies (for instance how member states adapt their domestic legislation) and consider polity and politics as contextual or background variables (Bursens 2006). However, the

Europeanization literature arrives often at contradictory conclusions because sectoral variation within a polity is not always systematically taken into account. Therefore, we aim to clarify the evolutions of the Belgian federal arrangements by cross-fertilizing it with insights from different policy areas.

Central government versus sub-states in the Belgian polity: general patterns

Formally, the Belgian federation can be characterized as a dual federal system, which implies the exclusive allocation of legislative and administrative powers. Following from this is the gradual constitutionalization of the *in foro interno, in foro externo* principle. The 1988 state reform introduced this for personally bound community competences (such as language, culture, education), the 1993 reform expanded the principle to regional competences. The *in foro interno in for externo* principle gives the regions and the communities the right to conduct foreign policies – i.e. to conclude and ratify treaties, to represent itself, et cetera – within the areas where they are domestically competent. At first sight, one could argue that this principle is a clear feature of a dual competitive federal system; sub-units gain full powers, including foreign policies, in their areas of competence. However, this principle is also one of the clearest examples of how cooperative mechanisms slipped into the dual federal system and balanced its competitive nature. In practice, this principle strengthens the need for cooperation among the regions as well as between the regions and the central government. Why is this so?

First of all, international treaties and international organizations often cover policy areas with a mixed character inside Belgium. The Treaty on European Union (TEU) is of course an obvious example, but also the treaties establishing the World Trade Organization, the World Bank, the Organization of Economic Cooperation and Development and the Council of Europe

are mixed treaties as they cover composites of areas in which both the regions and the central government have competences (for instance industrial policy, transport, environment and trade). While domestically policymakers separated jurisdictions and competences, the international environment tends to reconnect these. In addition, because few international organizations or third countries recognize single regions as treaty making entities, it is practically impossible for regions to conduct their foreign policies completely independent from the federal state level. On top of these international constraints, domestic constitutional and administrative provisions oblige regions to use the federal diplomatic network when they conduct their foreign policies. Regions have own foreign representatives, but these officials are integrated and operate within the federal diplomatic network which is still controlled by the federal Foreign Ministry (for an overview see Criekemans 2001). All this triggers cooperative behavior between regions and the central government and transforms the federal arena into an inter-federal network of regional and federal officials.

More specifically, the fact that several European competences belong to the competence sphere of the Belgian regions is an important factor for Belgium. During the 1980s EU-level supranational institutions gained regulatory competences in policy areas (e.g. the Single European Act) that were domestically transferred to the newly created Belgian regions and communities. Environmental policy is one of the most obvious examples. Because of the almost exclusive allocation of powers and because of the absence of a legal norm hierarchy within Belgium, European regulations have to be implemented in many of these areas by the regions or communities and not by the central government. Thus, while regions and communities gained sometimes exclusive policy competences, they lost major parts these powers almost immediately

because of the continuing process of European integration. Here, we are confronted with a clear institutional misfit between the European and the Belgian polity.

Before dealing with the internal situation, we first need to discuss one specific EU-level institutional development that stimulated the trend towards more cooperation within Belgium. Before 1992, article 146 EEC stipulated that the EU Council of Ministers could only consist of members from national governments and that only national ministers could vote. Anxious to secure their constitutional prerogatives, the German *Länder* and the Belgian regions and communities mobilized during the 1991 Intergovernmental Conference (IGC) in order to change this system. At this IGC, the Belgian and the German delegations asked a revision of article 146 EEC into the new article 203 TEU, while the French delegation demanded a guarantee that each member state representative would bind the national state as whole and not only parts of it. The new article 203 TEU became a compromise between these two concerns. Firstly, it granted regional ministers to be actively present in the Council meetings. In this sense, it is innovative as it acknowledges that central governments are not necessarily the competent interlocutors at the European level. However, at the same time, each representative in the Council must act as a unitary actor representing the policy position of the member state as a whole and independent from the constitutional status the member state representative enjoys domestically (Franck, Leclercq and Vandevivere 2003, 73; Kovziridze 2002, 136).¹ In this sense the European institutional order confirms a traditional principle of international law implying that states act in a unitary way at the international level.

Nevertheless, article 203 TEU has substantial consequences for domestic politics in the sense that domestic regional and central authorities are stimulated to develop one single national

¹ Article 203 TEU does not allow for a decentralized representation in the sense that several sub-units of one member state can defend different policy positions and split their vote accordingly. For example, Belgium cannot split its twelve votes.

position to be negotiated in the Council. In this regard, the European level defines European competences as competences that are shared by central and regional authorities within domestic constellations. The fact that regional ministers must represent whole member states (and not single entities), forces regions to remain nested within their member state. A domestic compromise is needed if one wants to achieve anything at the EU level. Regions, therefore, depend strongly on internal arrangements.

In short, the Belgian challenge was to reconcile the foreign policy competences of the regions and communities with the European rationale of dealing only with the entire state. In 1994 the regions, communities and the central government concluded a Cooperation Agreement on EU policymaking which outlines (1) the internal arrangement for the coordination of common positions and (2) the Belgian representation at the EU level. We succinctly summarize the main issues of this agreement.²

The most important body in the coordination process is the Directorate European Affairs (DEA) within the federal Ministry for Foreign Affairs. This body organizes coordination meetings with representatives from a wide range of federal, regional and community ministries.³ Crucial is that this federal body needs to reach unanimity to back negotiation positions. In case unanimity cannot be reached, the issue is referred to the Inter-Ministerial Conference for Foreign Policy (ICFP) and eventually to the Deliberation Committee.⁴ This rule is yet another cooperative feature that softens the dual features of the Belgian competitive federal system.

Consensus is nearly always reached; only a handful cases are discussed in inter-ministerial

² More details can be found elsewhere (see for instance Beyers et al. 2004; Beyers, Bursens and Kerremans 2001; Beyers and Bursens, 2006; Bursens and Geeraerts, 2006).

³ More precisely: representatives from the federal Prime Minister and federal Vice Prime Ministers, from the regional Prime Ministers, from the federal and regional ministers of Foreign Affairs, from the – depending on the agenda – sectoral federal and regional ministers, and from the Belgian Permanent Representation to the EU.

⁴ These bodies are, respectively, composed of the federal, regional and community Ministers for Foreign Affairs (or their representatives) and the federal, regional and community Prime Ministers themselves (for more details see Jans and Tombeur 2000).

meetings and almost no cases are considered at the highest political level of the Deliberation Committee. In practice, a gentleman's agreement exists, calling upon all participants not to make use of the veto power when their competences are not at stake. This clearly shows that most governments understand that, despite their far-reaching foreign policy competences, a domestic cooperative attitude is needed if they want to be influential actors at the European level.

In sum, the 1994 Cooperation Agreement makes the federal Ministry for Foreign Affairs a crucial player, because it is the central arena for coordination meetings and because all meetings are prepared and chaired by federal administrative and political officials. This makes clear, that despite the extensive competences of the regions and communities, the role of the central government remains substantial. At the same time however, its nature has substantially changed. By incorporating representatives from other government levels and by granting these veto-powers, the Foreign Ministry is no longer an exclusive federal agent. It has become a cooperative inter-federal or joint agency within a constitutionally defined dual federal logic.

Central government vs. sub-states in the Belgian polity: sectoral patterns

Because the overall coordination meetings within the federal Foreign Ministry became overloaded, several sectoral coordination mechanisms were introduced in a series of policy areas (Kerremans and Beyers, 1996; Kerremans, 2000). These sectoral mechanisms coordinate the Belgian input in lower levels of the Council, the working parties, and appoint the Belgian representatives for these technical negotiations. They also prepare the discussions for the subsequent coordination meetings within the federal Foreign Ministry in which the Belgian input at higher political levels in the Council is determined.

By exploring the domestic organization of environmental policy, agricultural policy, social policy and treaty revision policy, we substantiate our propositions that adaptation to EU membership implies a development towards cooperative policy practices, consolidates the role of the central government and triggers differentiated cooperative arrangements.

Table 1. Comparison of environment, agriculture, social policy and European treaty revision

	EU competences	Decision-making mode at EU level	Allocation of competences	Implementation pressure
Environment	Strong regulatory	Largely supranational	Mixed, but predominantly regional	High
Agriculture	Strong regulatory + redistributive	Largely supranational	Mixed, but predominantly regional	Weak
Social policy	Weak regulatory	Weakly supranational and most intergovernmental	Mixed, but predominantly central government	Weak
EU Treaty revision	-	Intergovernmental	Central government	Weak

The Common Agricultural Policy (CAP) is a policy area where the EU has almost full legislative and executive competences. Moreover, agriculture is one of the few EU policy domains with a redistributive character. This makes domestic implementation pressures different when compared to environmental or social policies. While agriculture is mainly made through regulations and decisions, EU environmental policies are largely a matter of directives which need to be transposed by the member states (in Belgium on many occasions by the regions). At the same time, there is a large difference regarding the implementation cost of social and environmental policies. For several reasons, implementation pressures are considerably lower in social policy: social policies are mostly a prerogative of the central government, the number of social directives is very low and many European social regulations fit already quite well into existing Belgian social law. On the contrary, the implementation pressure for some environmental regulations is fairly high because competences are often mixed and spread over different Belgian levels (although the regions are generally quite dominant). In addition, the

Belgian laggard position in environmental policies enhances the adaptation pressure (Bursens 2002). The overall high implementation cost for regional environmental authorities leads to the necessity to grant regions substantial involvement in the establishment of the overall Belgian positions.

The impact of Europe on the Belgian polity is not confined to functional policy domains. Federal and regional levels are not only affected by European policies, but also by how different competences are delegated to the EU and how member states can influence European policymaking. The fact that since the Maastricht Treaty regions have direct access to the Council and the transfer of regional competences to the EU-level are two clear examples of this impact. The 'revision of EU treaties' cannot be considered as a policy domain like agriculture or environment, but treaty revisions do have substantial consequences for domestic institutional constellations. Given the recurring attempts to revise the European treaties, it is plausible to expect that member states – central and regional governments – adjust their political strategies as well as domestic coordination mechanisms in function of treaty revisions. Although EU institutional reforms affect all Belgian government levels, treaty revisions are not mentioned in the 1994 Cooperation Agreement. Therefore, coordination takes place on a case by case basis. With respect to the most recent attempt to revise the EU treaties, resulting in the so-called Constitutional Treaty, the IGC was preceded by a Convention. This offers us some interesting variation. The Convention is much more open than traditional IGCs in which central government diplomats play a more vital role than regional officials. In addition to our comparison of EU treaty reforms with traditional policy areas, we also investigate if and how the more open Convention method allowed and stimulated the regional governments to develop a European political strategy.

Environmental policy

Although the Belgian regions enjoy full policy competences in most environmental matters, the central government remains competent for important aspects such as product standards, protection against nuclear radiation, waste transit and the marine environment. The involvement of several levels calls for coordination among the three regions as well as between the central and the regional level. Typical for the areas where regions have extensive competences is the creation of inter-federal agencies and formal procedures to enable the creation of single Belgian policy positions.

Environmental policy formation takes place within the Coordination Committee on International Environmental Policy (CCIEP), set up by a coordination agreement that dates already from 1992. The CCIEP is composed of officials from both federal and regional environmental ministries and agencies (Bursens 2005; Bursens and Geeraerts 2006). It established a labor division between a plenary meeting, thematic working groups and technically specialized pilot groups. Most work is carried out in the last two groups and has to be ratified in the plenary meeting. Formally, the central government is a vital player since it is responsible for organizing and chairing all meetings. In practice however, policy positions are usually drafted by officials who meet in small pilot or thematic groups. These officials are appointed by the CCIEP plenary and they can be officials from any government level. Expertise is the most important selection criterion. Because regions are in charge of the bulk of environmental issues, they enjoy often most expertise, and therefore, deliver most of the officials. This mode of operation puts regional agencies *de facto* in charge of a considerable part of environmental policy coordination;

the role of the central government is quasi non-existent when European regulation touches upon exclusive regional competences.

The above concerns policymaking with regard the Council working groups level. Once an issue mounts to the political level – i.e. when a position for the Environment Council must be drafted – the central government regains its central position since ministerial positions have to be discussed within the Foreign Ministry's Directorate European Affairs (DEA). This means that, even when a position must be established with respect to purely federalized competences, the central government sits at the table. Since the DEA decides by unanimity, i.e. granting all participants the right of veto, the establishment of each Belgian position is shared by all governmental levels. The representation of Belgium's environmental positions in the Environmental Council is currently carried out by regional ministers (on a basis of rotation and accompanied by a representative of the federal level) who, according to article 203 TEU, act as representatives of the whole Belgian federation.

The organization of this quasi hierarchical-sequential ordering of arenas (from CCIEP via DEA via eventually ICFP or Deliberation Committee), is highly important. Although each step may entail increasing political salience, the decision-rule remains exactly the same, namely unanimity. Regions remain nested in a domestic arrangement, but as there is no hierarchical superior level that can unilaterally settle paralyzing conflicts, officials are already in the early bureaucratic stage confronted with the consequences of no agreement. The chance that higher levels will be able to solve outstanding conflicts by a unanimous decision is quite small. This stimulates lower level bureaucratic actors to find agreement and to prevent a political vacuum, while at the same time it increases their autonomy as they are less concerned that they will be effectively overruled by the political level (Hammond 1996; Jans and Tombeur 1996; Jans 2000;

Tsebelis 2002). For environmental policymaking this means that decisions taken at the level of the CCIEP, where regional officials dominate, are usually the dominant Belgian position during the whole policymaking process.

Agricultural policy

Agriculture was federalized in various steps of which the most recent state reform in 2003 led to the transfer of almost all agricultural competences to the regions.

Already in 1988 an informal system of sector-based coordination was created, establishing a unanimous decision-making venue for agricultural issues that fell within the competences of the regions (Kerremans 2000, 48). Soon thereafter in 1990, regional and federal ministers of agriculture formalized this informal coordination system, including the custom of deciding by unanimity. Similar to the environmental policy field a special entity was created composed of officials from federal and regional levels: a Permanent Working Group (PWG) was put in charge of preparing the Belgian position for the EU Agriculture Council and its working groups. In practice, the position of the regions remained weak since most substantive expertise and experience remained concentrated in the federal agricultural ministry.

Until 1992 the establishment of Belgium's European agriculture policy positions was still strongly dominated by the central government. The 1992 state reform gradually expanded the agricultural competences of the regions, but the central government remained in charge of the residual competences and most European aspects of agricultural policies (such as price setting and market regulation). Yet, the 1994 Cooperation Agreement involved the regions in all coordination meetings, even granting them veto-power. Belgium's positions in the Agriculture Council and its working groups were de facto prepared and coordinated by the PWG, thus

involving representatives from all levels. An agreement reached in the PWG had to be ‘ratified’ by the Foreign Ministry’s Directorate European Affairs but this mostly took place post factum, i.e. after Belgian officials had already represented the Belgian position in the Council. In short, after the 1992-1994 reforms, a co-decision system emerged in which the regional and the central government established a joint position by unanimity. The federal agriculture ministry set the agenda while the regions discussed the proposal. Although regions had veto powers in the agricultural domain, they seldom used it.

In 2002 most agricultural competences shifted to the regions. The federal ministry of agriculture was even abolished (Beyers et al. 2004). As a result, the regions’ position as policy-makers was obviously considerably strengthened. One of the consequences is that from 2002 on Belgium’s EU positions come down to policy positions agreed upon by two regions, Flanders and Wallonia.⁵ Both now act as veto-players: if one of them disagrees, Belgium cannot take any position in the Council while the central government is unable to hierarchically impose a position in case of such a deadlock. The central government now participates merely as a provider of information and opinions in the domestic coordination process. By the end of 2002 Flanders and Wallonia created a new agency in order to formalize the policy-making between the regions: the Coordination Office for Agriculture. This agency took over the role of the PWG. The regions and the central government now second officials from their ministries of agriculture (and for the central government from the Federal Economy Ministry) to this new inter-federal agency which prepares all Belgian interventions in the EU Agricultural Council and its working groups.

⁵ Legally, three regions – the Flemish, the Walloon and the Brussels Capital Region – have agricultural competences. However, in practice, only the Flanders and Wallonia play a role in the preparation of Belgium’s position in the European Agricultural Council. Due to its urbanized character, there are nearly no agricultural activities in the Brussels Capital Region.

Although this picture is correct, it is incomplete. It underestimates the enduring importance of the central government and the relevance of the federal arena as a policymaking venue. Firstly, the central government remains competent for public health aspects of food security as well as for the farmer's financial situation (although central government's policies in this area need assent by the regions). More important, and in contrast to environmental policymaking, is the central government's representation monopoly, entailing that the central government negotiates on behalf of Belgium in the EU Agricultural Council. As such, the central government functions as an agent or a policy-taker of political positions agreed upon by Flanders and Wallonia. It allows the central government to keep a close eye on the EU level and grants it a substantial information advantage. Equally important is that the Common Agricultural Policy still stands for nearly 50% of the EU budget. Decisions with regard to the EU Budget are not taken in the Agricultural Council, but in the European Council and the Ecofin Council, in which Belgium is more than anywhere else predominantly represented by the central government. The impact of the regions on decisions taken in these venues is very low.

Social welfare-state policies

Compared to environment and agriculture, the EU is only weakly involved in social welfare-state policies. Within Belgium social policy is covered by both levels. Regions and communities are basically competent for social housing, worker placement, and some aspects of unemployment policies, personal aid (child protection, disabled persons) and health care (hospitals, prevention). All social security aspects (family allowances, pensions, child benefits, health care and unemployment insurance), as well as labor market policies and the management of industrial relations, remain centralized at the federal level. In Belgium social policies emerged

in the course of first half of the 20th century in the context of strong state centralization, while the Belgian federal political system was established after social welfare programs and labor market regulations generated powerful constituencies (mainly nationally organized labor and employers associations). Therefore, regionalist and nationalist movements had for a long time little institutional leverage on the development of the welfare state (Béland and Lecours 2004, 271).

Typical for the social policy area is, in contrast to agriculture and environment, the absence of one single overarching cooperation system with regard to EU policies (efforts to create this failed in 1994; Kerremans 2000). Instead, reflecting the fact that over time regions and communities gained more responsibilities in social and labor issues, a growing number of specialized agreements covering very specific topics were concluded (De Troyer and Cortese 2004). Because regional social policy competences have generally limited EU relevance, less formal and extensive domestic coordination is needed. Within the existing informal networks officials from the federal Labor and Employment Ministry play a central role; they consult regional or community agencies if relevant issues arise. Representation at the different levels within the EU Council is dominated by the central government; regions and communities are only indirectly involved (Kerremans 2000).

Despite growing demands for federalizing Belgium's social welfare-state policies, social policies remain firmly embedded in the central level (Béland and Lecours 2004). The central government stays competent for wage policies, collective bargaining and social security, which are, in addition, areas that are hardly covered by the European level. This situation is strongly supported by federally organized labor unions and employer unions who manage important branches of the social security system. Decentralization within Belgium or centralization on the

European level would deprive them from legitimacy in running federal social benefit schemes (Beyers 1998, Beyers and Bursens 2006).

The crucial position of the central government with regard to social policies is not only related to its relationship with the regions and communities. Belgium is known for its bipartite neo-corporatism in which labor and employers unions are key players with regard to wage policies, labor market regulation and social security. Collective bargaining can only take place at the central level and the central government has to be involved as it is their competence to ensure that outcomes of collective bargaining become legally binding. However, the traditional dominance of the social partners has started to erode during the eighties when the central government became a much more active player with regard to social policymaking. Examples are the legislation by decree between 1982 and 1986 in order to improve Belgium's international economic competitiveness, different laws on industrial competitiveness (1989, 1993, 1996) which constrained the ability of social partners to increase wages without taking into account wage increase in Belgium's main trading partners, and the legislation by decree in order to implement the Maastricht criteria during the early nineties (Witte et al 1997). Especially the laws on industrial competitiveness are important as they gradually increased the central government's powers to set the boundaries of social bargaining and enable the central government to unilaterally impose policies if labor and employer unions are unable to compromise. In addition to these domestic developments, membership of the European Monetary Union led to a fiscal environment wherein strict budgetary rules prevail; the exchange-rate instrument and other national monetary policies disappeared. All this implies that the central government carries a crucial and pivotal responsibility in implementing European monetary policies, a responsibility for which it can only use economic and fiscal instruments. The centralization of social and

economic policies by the central government means that especially the central government, and not the regions or the communities, is the key interlocutor for the EU-level institutions with some competences in the social policy domain.

European treaty revision

As mentioned above, the central and regional governments are not only affected by European policies, but also by the way competences are transferred to the EU. European treaties are formally amended in an Intergovernmental Conference (IGC), but the most recent IGC, resulting in the so-called Constitutional Treaty, was preceded by a Convention which functioned as an important agenda-setter for member states' negotiations. The Convention method is much more open and public than a traditional IGC, where central government diplomats are vital. Therefore, it can be expected that regional officials are more able to gain access and influence. Although EU institutional changes impinge on all Belgian government levels, EU treaty reform is not mentioned in the 1994 Cooperation Agreement and, therefore, political coordination can take place on an ad hoc basis. The importance of EU treaty revisions for the regions and communities, the increased openness of European treaty reform, as well as the absence of formal domestic coordination mechanisms could encourage a separating strategy among the regions, for instance by allying with other like-minded regions in Europe or by directly addressing other member states or the European institutions.

At the same time, however, just like for the functional policy areas, some form of cooperation among the multiple Belgian governmental levels is equally necessary since paralyzing non-agreement on a united Belgian position, and hence the obligation to abstain in IGC negotiations, would deprive Belgium from any influence whatsoever in the important institutional reform debates. Involvement of the regions and communities in the treaty-making is

relevant because of the *in foro interno, in foro externo* principle which entails that treaties that touch upon all government levels have to be ratified by six parliaments.⁶

Despite the absence of formal rules, the preparation of Belgian positions in IGCs is generally coordinated within the setting of the 1994 Cooperation Agreement. Both with respect to the Amsterdam IGC and the Nice IGC (Bursens 2004), the Foreign Ministry (Directorate European Affairs) coordinated the establishment of the Belgian position and operated within the confines of the composition, the formal rules and the informal habits of the cooperation that exists in functional policy domains (see above). On top of this, the Belgian Permanent Representation became an informal setting for additional coordination. Especially the regions and the communities were fond of this latter evolution as they consider the Permanent Representation as a representative of the overall Belgian federation and not just as an extension of the central government (Kerremans and Beyers 2001).

However, some important qualifications should be made. While for all past IGCs cooperative behavior was somewhat present during the establishment of the Belgian position, the representation of this position was almost completely in the hands of the central government. Negotiations on the level of the ‘Representatives of the Government’ were conducted by highly ranked diplomats of the federal Foreign Ministry and one representative of the Belgian Prime Minister. In case regional or community issues were on the IGC agenda, the latter could be replaced by one representative of the regions or the communities on a rotating basis. Although the rotation forced regions and communities to coordinate among themselves, the composition of

⁶ It concerns the Belgian federal parliament (Chamber and Senate), the Flemish parliament, the parliament of the Walloon Region, the parliament of the Francophone Community, the parliament of the German Community and the parliament of the Brussels Capital Region. All these legislatures have to ratify. This is also the reason why under the signature of the Belgian Foreign Ministers of the TEU, one reads, in the three official languages Dutch, French and German, that ‘This signature equally commits the French Community, the Flemish Community, the German-Speaking Community, the Walloon Region, the Flemish Region, and the Brussels Capital Region’.

the Belgian delegation clearly pointed into the direction of central government dominance. During meetings at the ministerial level, regional involvement was not always guaranteed. Finally, regions and communities were totally absent in the General Affairs Council and the European Councils meetings that discussed the Amsterdam and Nice Treaties.

Surprisingly, the central government dominance was even more outspoken during the European Convention in 2002-2003 (Bursens 2004 and 2005; Crombez and Lebbe 2005). The Convention formula did not necessarily cause an involvement of the standing coordination bodies (such as those established by the 1994 Coordination Agreement), but could have stimulated the installation of new procedures granting regions and communities a more influential role. The Convention procedure was new and the broad, inclusive membership could have triggered a more expansive participation of regional actors. The federal Foreign Ministry, however, managed to organize the establishment of the Belgian position along the lines of previous occasions. In fact, even more than before, the central government was able to nearly monopolize the whole process. For instance, while Germany had a representative from the *Länder* governments in the Convention, the Belgian representation in the Convention was completely determined by the federal government and did not include a direct and visible representative from the communities or the regions. Partly referring to their traditional central position in this area and taking advantage of the absence of formal rules with respect to a Convention in the Cooperation Agreement, the federal government succeeded in a centralized coordination of the Belgian position. Moreover, most of the experts that were interviewed with respect to this issue confirmed that trans-European alliances among regions had only a minor impact on the Convention (Bursens, 2004). Generally, the regions preferred to work through their national governments.

Conclusion

Table 2 summarizes our findings. The practice of sectoral European coordination in the environmental policy domain clearly shows cooperative elements. The environmental sector is a policy area in which there are few homogeneous competences within the Belgian federation. Confronted with the external pressures of European integration, this heterogeneity needs to be adjusted by cooperative measures. These are operationalized through a system that allows all competent government levels to take part in position drafting bodies, that grants officials from each level far-reaching coordinating and representative competences and that installs a consensus-reaching policy-making culture. The cooperative practice, however, does not imply that the central government disappears from the scene. On the contrary: also our second proposition is confirmed. Both on the administrative level and on the political level, the central government remains an influential actor, even with respect to issues that do not belong to its competences. With respect to agricultural policies, domestic policymaking has been organized according to three different models since 1988. In a broader sense, the successive development of these models sketches a development in which regions became dominant veto-players. In order to be able to reach a single Belgian position, regions complemented the constitutional provisions with new coordinating institutions, hence again confirming our first proposition. Regarding our second proposition, it is clear that the central government kept important powers because of its representation monopoly and because of its indirect access to negotiations with regard to the EU budget. Policymaking with regard to social welfare-state policies is very informal and the limited involvement of regions and communities in EU social policy issues does not lead to extensive formal cooperation devices. In addition, and highly related to the forgoing, the central government enjoys a pronounced strong position in the social policy area. Finally,

also Belgium's involvement in European Treaty reform did not alter the core features of its dual federal set-up. The stickiness of Belgian federalism, however, was somewhat softened by cooperative behavior of all governmental levels. At the same time, the central position of the federal government in the coordination process, and in particular of the Foreign Ministry, grew stronger during the most recent treaty reforms.

Table 2. Degree of cooperation and federal dominance in Belgian EU policy-making

	Degree of cooperation	Degree of federal dominance	Regional capabilities	Dominant pattern	Involvement of regions
Environment	High (especially between regions and the federal level)	Low	High	Non-hierarchical, regions and central government are veto-players	Strong, but not an independent second level player, nested within domestic constellation
Agriculture	High (especially among the regions)	Moderate	High	Non-hierarchical, regions are veto-players	Strong, but still highly dependent on the central government, nested within domestic constellation
Social policy	Low	High	Low	Central government is veto-player	Rather weak
EU Treaty revision	Very low	Very high	Very low	Boundary of sub-state involvement is shaped by the central government	Very weak

It is striking is that we found no strong evidence in support of a separating strategy and even more importantly is the observation that especially extensive (not minor) regional capabilities coincide with high (not low) levels of cooperative behavior within Belgium. With regard to social policy and EU Treaty reform the central government has been able to centralize policymaking. In the area of environmental policies and agriculture, we observe that regional involvement remains nested in the federal state and that the regions themselves centralize joint policymaking through the creation of specialized inter-federal agencies. In short, European integration encourages the federal level, the regions and the communities to install cooperation mechanisms within the margins of the constitutional provisions of Belgian dual federalism.

Regions and communities are increasingly important, but do not dispel the central government from the theatre. In both regards, Europeanization mitigates or softens the dual nature of Belgian federalism and it has stimulated a gradual development towards more cooperative forms of formal and informal governance.

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