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## The Belgian EU Presidency Setting Europe Back into Action and Laying the Future Institutional Groundwork (ARI)

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**Theme:** Belgium took over the Presidency of the EU on 1 July 2010 from Spain and began it in the midst of a national political crisis.

**Summary:** Belgium took over the Presidency of the EU on 1 July 2010 from Spain and began it in the midst of a national political crisis. Following the examples of the Danish (1993), Italian (1996) and Czech (2009) Presidencies, it is Belgium's turn to preside over the Union with a government in resignation. The Presidency comes in a context of European economic, financial and social crises and at the end of a transitional period for the implementation of the new Lisbon Treaty. In this difficult context, will Belgium be able to confront the double challenge of managing the EU Presidency in this crucial period while at the same time overhauling its own national constitutional foundations?

### Analysis:

#### *A New National Political Crisis*

The impromptu resignation of the Belgian government on 22 April 2010, following the withdrawal of the Flemish liberal party from the coalition government, resulted in early elections on 13 June 2010 which consecrated the victory of Flemish nationalists (N-VA led by Bart de Wever – *informateur*) in the north of the country and Walloon socialists in the South (PS led by Elio di Rupo – *pré-formateur*). These are the two opposing political forces which must now, against all odds, assume the political leadership in the search for a new coalition and the formation of a future government. This is a government whose first mission will be to negotiate a constitutional reform towards more federalism, perhaps even a new form of confederalism between Flemish, Walloon and Brusselois. In this sensitive political context, Prime Minister Yves Leterme's current government will direct the country as well as the rotating EU Presidency with the sole prerogative being the administration of everyday affairs. This situation has the effect of considerably limiting the scope for manoeuvre of this provisional government as much nationally as internationally.

However, various political leaders strike a rather more reassuring tone and insist that the national political situation and the negotiation of a new federal government will not interfere with the duties of this Presidency. In addition, the ambition of the different actors appointed by the King for negotiating and forming a new government (*informateur, pré-formateur & formateur*) is to see the negotiations concluded as quickly as possible in

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order to have a new government in place before next October. Moreover, the fact that the European machine more or less halts during the months of July and August provides a very welcome respite for those involved.

Nevertheless, what might be the destabilising and potentially damaging impacts on the Presidency's effectiveness of a mid-term team change? This question is particularly sensitive given the possibility that certain new ministers might be novices, without major European or international experience. In this regard, it falls to the political families in power to choose ministers with the requisite experience for the most exposed positions. Nor is it guaranteed that the position of Secretary of State for European Affairs will necessarily exist as such, or, if that position will be held by its present incumbent, Olivier Chastel. Be that as it may, this political vacuum will inevitably affect the Belgian Presidency of the EU, though not completely destabilise it. Indeed, incontestably, this latest Belgian political crisis has not only cast doubts among its European partners regarding its capacity to handle its European Presidency, all the more so in a period of crisis, but also engendered a loss of political credibility which may be detrimental to its leadership on certain issues.

It is, nevertheless, necessary to put into perspective the apocalyptic scenarios of Belgium's dissolution in the months to come, or of its total paralysis while in the midst of its EU Presidency. One must first of all recall that Belgium, a founding member of the Union, benefits from a rich communitarian experience and will assume the Presidency for the 12<sup>th</sup> time in its history. Belgian diplomacy and administration are indeed extremely well rehearsed in this kind of exercise, so Belgium can draw upon an excellent preparation for its Presidency. From the beginning, this process was as inclusive as possible, including in the preparation of its programme the different regional and community entities (*Communautés linguistiques*) implicated as well as the different political groups involved in the various echelons of power. The programme of the Presidency and the Belgian position, which were approved by all Regions and Communities following numerous meetings within two cooperative bodies (follow-up group and Task Force 2010), draw upon a genuine national consensus which will not be affected by a potential change in government in mid-Presidency. Furthermore, a number of Sectoral Ministerial Councils (Economy and Finance, Justice, Agriculture, Internal Market, etc.) will be presided over by ministers of federal, regional or other decentralised bodies, again much more so than in the past (National Agreement of Cooperation of 1994). These regional and 'community' entities, which are not affected by the change in government, will be in full operation: for example, it is the Flemish Minister of the Environment, Joke Schauvliege, who will represent the Union at the Climate Summit in Cancun. Ultimately, the Belgian Presidency can draw upon the excellent teamwork carried out in the preparation of the rotating Trio Presidency done in cooperation with Spain and Hungary. The three countries were involved from the very beginning in an unprecedentedly collective way in the development of a common agenda, the temporal division of responsibilities and the joint establishment of good institutional practices. This agreement and the common understanding that exists between these three countries further guarantee the proper administration of the Belgian Presidency and of the necessary continuity between each of the three Presidencies.

One must keep in mind that the Belgian rotating Presidency is taking place under a new Treaty which modified the role of two key traditional national figures, namely the Prime Minister and the Minister of Foreign Affairs, in favour of newly-created posts, the Permanent President and the High Representative for Foreign Affairs, which in a general way lessens the role of the rotating Presidency. This redistribution of institutional roles

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within the Union has the effect of taking away a large portion of prerogatives from the rotating Presidency, such as the Presidency of the European Council and the representation of the Union on the international scene.

*A Sober, Pragmatic and Realistic Presidency*

In a twist of fate, it was at the end of the last Belgian Presidency of 2001 that European leaders launched the idea of a Convention on the future of Europe which was entrusted with preparing a new Constitution for the EU. It is today under the Belgian Presidency, nearly 10 years later, that the period of transition should be finished for the complete implementation of the new Lisbon Treaty. It is therefore resolutely towards action, and not towards great introspection on the future of Europe, that Belgium intends to lead its Presidency. Hence, one should expect a sober, pragmatic and realistic Presidency.

Generally, the Belgian Presidency denies that it has no ambition but prefers to underscore the fact that its ambitions are above all for Europe. It intends to favour realism to media hype and other damaging flights of lyricism, refusing to expend itself on dozens of objectives and priorities, as some others have done in the past. This should also allow the Belgian Presidency to avoid bitter disappointment at the end of the day. Belgium will concentrate on its principal tasks such as the Presidency of Sectoral Councils and other meetings and, above all, the promotion of the adoption of its legislative acts. The Belgian Presidency also claims to be sober, as is demonstrated by its relatively modest budget (€118.5 million). It hopes in this way to avoid inciting controversy regarding the cost of its Presidency in this time of crisis, as was notably the case under the French Presidency in 2008.

The Belgian Presidency claims from the very beginning to be resolutely pragmatic. Rather than launching new large-scale projects regarding the future of Europe, it will look, above all, to resolve concrete problems, and notably to address old and complex legislative dossiers. It intends to reduce the legislative arrears which have been accumulated since 2009, a year marked by crisis and institutional transition. Belgium has also selected dossiers which seem mature and which can thus be finalised in the months to come. There will therefore be activity, but concentrated above all on legislative work. Finally, the Belgian Presidency will pursue the work undertaken under the preceding Presidencies with the goal of implementing the Lisbon Treaty.

*Implementing Good Institutional Practices: The Treaty, the Whole Treaty and Nothing but the Treaty*

Rather than suffering from these institutional innovations, Belgium, an adept of the community method, intends to take full advantage of the implementation of the Lisbon Treaty in order to leave its mark on the coming practices of the rotating Presidency and thus to create the 'right precedents', with an underlying theme of full and sincere support for the new institutions put in place by the Treaty, mainly the Permanent President of the Council (PPC) and the High Representative of the Union for Foreign Affairs and Security Policy (HR), that is to say, the Belgian Herman Van Rompuy and the Briton Catherine Ashton, respectively. Belgian diplomacy will apply itself to these institutions in order to facilitate their work and take particular care to avoid misunderstandings or even conflicts between the rotating and permanent Presidencies.

In a general way, the Belgian Presidency intends to play more the role of intermediary, or mediator, even, rather than that of a genuine leader, in order to encourage a new inter-institutional equilibrium, no longer within the classical institutional triangle, but instead a

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new 'magic square' represented by the European Commission (and its President), the European Parliament, the PPC and the HR (and its diplomatic service). The country wishes to encourage favourable relations with each entity, and wishes to ensure that these four have regular discussions. The Belgian Minister of Foreign Affairs, Steven Vanackere, remarked in this regard that the rotating Presidency was perhaps no longer the 'shepherd', but rather the 'sheepdog' whose task it is to ensure the herd moves forward together.

The fact that the PPC is Belgian and unanimously respected in his country can only encourage favourable cooperation between the rotating Presidency and the permanent Presidency. In this way, Belgium directly defends the action taken by the PPC by arguing that it will not affect the community method in any way, but, on the contrary, that this new top down approach should foster a sense of positive emulation with other institutions, notably with the European Commission. This line of argument has been demonstrated to a certain extent through the debate over economic governance of the Union, and the fact that the Commission has come out with its own proposals on economic governance and the monitoring of national budgets without awaiting the results of the Task Force presided over by Herman Van Rompuy. Ultimately, the Belgian Presidency wishes to underscore and to reinforce the complementarity of these two actors as well as a better sharing of roles. This should allow the European Commission to regain and exercise its full capacity for ambitious political initiatives and confirm the PPC's responsibility to ensure that Commission proposals correspond to political reality and to seek compromise between member states based on these proposals.

With respect to the HR and the European External Action Service (EEAS), the Belgian Presidency intends to play a necessary supporting role, and to place its diplomatic resources at the disposal of the HR. More specifically, the Belgian Presidency wishes to have the EEAS operational by next December.

The Belgian Presidency also intends to leave its stamp on other institutional dimensions, notably with respect to the new role of the General Affairs Council (GAC). The Belgian Presidency will insist upon the role of the CAG in the monitoring and coordination in the implementation of the Council's decisions rather than on its upstream role regarding the preparation of the European Council, a task which instead would revert to the PPC. It justifies this position by arguing that it is the most often in the implementation of the decisions that the EU has sinned in the past, as was notably the case in the framework of the Lisbon Strategy.

Furthermore, the Belgian Presidency has decided since it began the preparation of its Presidency to particularly emphasise the increasing role of the European Parliament after the Lisbon Treaty (and which intends to further reinforce its leadership). The Belgian Presidency wishes to reinforce the link between Council and Parliament through monthly meetings for legislative development in the EU. It thus aims to develop in a regular way informal meetings between the Presidency and the Parliament at the margins of plenary sessions at Strasbourg as well as Brussels. Moreover, the Belgian Presidency intends to draw lessons from the SWIFT accord, and, in the future, to avoid confronting the Parliament with a *fait accompli*. The Belgian Presidency must nevertheless convince and reassure certain member states who do not necessarily see the validity of such a rapprochement. Finally, this position vis-a-vis the European Parliament will allow the Belgian Presidency to gain its trust and much needed support on numerous difficult dossiers, such as financial supervision, etc.

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Last but not least, several member states, including Hungary and Poland who will subsequently assume the Presidency of the EU in 2011, have already expressed their fears that Belgium will allow the authority of the rotating Presidency to slip into the hands of these permanent institutions, leading to a genuine dilution of the rotating Presidency. Belgium does not deny that it means to set numerous precedents which will be points of reference for the following presidencies, but underscores that it will do so in concert with all actors concerned, and that the work methods and sharing of responsibilities thus consolidated and stabilised will be in full conformity with the Lisbon Treaty. The Belgian Presidency must be very convincing and inclusive vis-à-vis its counterparts if it does not want this *acquis* to later be called into question by the Hungarian and Polish Presidencies.

#### *A Mainly Legislative Work Programme*

The programme of the Belgian Presidency follows in the continuity of work realised by the Spanish Presidency, as well as the guidelines jointly decided upon with Spain and Hungary in their Common Trio Presidency Programme. The Programme of the Presidency such as it was presented is predicated around five grand themes and 10 chapters (for 10 groups of the Council). The five principal themes each of which has its own objective are as follows:

- (1) Socio-Economic theme whose objective is 'Reviving sustainable growth and competition'.
- (2) Social theme whose objective is 'Stimulating social progress'.
- (3) Environmental theme whose objective is the 'Transition to a green economy'.
- (4) Freedom, Security and Justice theme whose objective is the 'Deepening and finalising of the European Freedom, Security and Justice Area'.
- (5) External Dimension theme whose objective is 'Reinforcing the power of attraction of the Union in the world and its role as an actor for peace and security'.

More specifically, the programme accentuated several specific and urgent dossiers which had been identified as priorities, such as the implementation of the EEAS, the adoption of the European budget for 2011, the European patent, financial supervision, the SWIFT dossier, the citizen's initiative and the adoption of guidelines for employment.

2011 budget: the Belgian Presidency wishes to once again establish good practices in the implementation of the new features of the Lisbon Treaty in straightforwardly adopting the European budget for 2011 according to the newly established budgetary procedure. Beyond the adoption of the 2011 budget, it could, if political conditions allow, begin the debate on budgetary revisions to come and on the future multiannual financial framework, such as the question of the Union's own resources, the revision of the common agricultural policy and of the cohesion policy, or the question of the financing of the new EU 2020 Strategy. The Communication of the European Commission introducing this debate should be released by September 2010 and will allow a debate at the European Council which ideally could adopt certain 'general conclusions' on these major questions, then leaving it up to the Hungarian Presidency to further negotiate these potential 'general conclusions' in more detail.

Economic governance: the Belgian Presidency will have to follow up on the proposals that the Task Force on economic governance presided over by Herman Van Rompuy and composed of Finance Ministers as well as the European Commissioner for Economic and Financial Affairs, the President of the ECB, and the President of the Eurogroup will present in October 2010. This Task Force should address the measures and reforms

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needed to ensure the convergence of economic policies and respect for greater fiscal discipline to the Union. It remains to be determined to what extent these proposals will go unheeded, or rather will be shared by member states and the European Parliament, as well as whether they will be enhanced by genuine Commission proposals, but probably not before 2011. In general, Belgium's preference in this debate tends towards strengthening the role of the Commission. Belgium would also like to broaden the debate on economic governance to the social dimension, to include the Ministers of Social Affairs and social partners, and to push for an increased role for the EPSCO Council alongside the ECOFIN Council.

Financial supervision: the Belgian Presidency aims to make progress on the sprawling and complex issue of the supervision of financial activities within the Union, following the proposals of the *Larosière* report. The Belgian Presidency wishes to move beyond the deadlock(s) that exists between the Parliament and the Council, and to find a compromise on such sensitive issues as the power of the three supervisory authorities in Europe (banks, capital markets and insurance) and the status and functioning of the European Committee of Systemic Risk (ECSR). In addition, the Belgian Presidency would like to reach an agreement in principle on a possible tax on financial transactions and a final agreement on the taxation of banks. Regarding the latter proposal, Belgium would favour a global solution and, if not possible, a European one. If a solution at the level of the 27 member states were to prove impracticable, Belgium would be prepared to promote the use of tools of enhanced cooperation among countries in the euro area. Europeans, whose credibility is at stake, should not waste time on this issue while the US has adopted comprehensive reform regarding their financial markets.

Social issues: Belgium intends to develop the social dimension of its Presidency, with the ambition of giving life to the new social clause (Article 9 TEU) found in the Lisbon Treaty according to which the Union must take social requirements into account (the promotion of social inclusion and the fight against poverty) in the definition and implementation of all Union policies and for any new legislation. It is up to Belgium to make concrete proposals that give substance to this clause in concert with the social partners. The Belgian Presidency also wishes to adopt integrated guidelines for employment and to implement the social guidelines (nrs 7-10) for social issues and employment contained in the new EU 2020 Strategy.

European patent: the Belgian Presidency will seek a political agreement on the European patent, which, ironically, had already figured on the agenda of the last Belgian Presidency of 2001. It wishes to reach an agreement on the language regime, while leaving open the possibility of reaching this agreement with only some member states, and using, if necessary, the instruments of differentiated integration provided for by the Treaty allowing a group of member states to move forward in some areas without waiting for the more recalcitrant ones. In general, Belgium is not opposed to the use of enhanced cooperation if the need arises, as was the case for the first enhanced cooperation regarding cross-border divorces.

Citizen initiative: the theme of the European citizenship has always been one of Belgium's European priorities, and it thereby wishes to exercise its Presidency directly 'in the service of European citizens'. Thus, it intends to achieve this other new aspect of the Lisbon Treaty, namely the citizens' initiative, allowing one million citizens (at least) from a significant number of member states to ask the Commission to submit a proposal on a

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given topic. The Belgian Presidency hopes to reach a final agreement on the EU regulation, making the new initiative available for the citizens.

EEAS: the Belgian Presidency wishes the EEAS to be operational on 1 December 2010, the anniversary of the entry into force of the Lisbon Treaty, so that the work of the HR can be supported by this new indispensable diplomatic instrument and need no longer rely on the diplomatic services of the rotating presidencies. It will be a true race against the clock to obtain the financial settlement, the recruitment of personnel, and the new status, as well as the establishment of Union delegations. The fact that the Parliament, Council and Commission reached a political accord at the beginning of July on a compromise text regarding the organisation and functioning of the EEAS will allow concerned actors to focus on the practice and operational implementation of the External Service. Finally, the general philosophy of the Belgian Presidency on this dossier is that the EEAS must be rendered operational as quickly as possible in a progressive that is approach, rather than simply sketching out today what it should be by 2050. It insists, therefore, on the potential review clause of 2013 as a security net in order to adapt the EEAS after two years, according to changes in practice and needs.

External relations: still in the field of the external relations of the Union, but this time with regard to sectors other than CFSP and, more specifically, the external dimension of internal policies, the Belgian Presidency is seeking to clarify many issues linked to shared or exclusive competences and the exercising of these powers, following the changes introduced by the Lisbon Treaty in these domains. Many community policies are affected by these changes, including environmental policy, energy, trade, etc. Beyond the question of competence arises an equally fundamental question regarding the Union's external representation, for which a new system replacing the former Troika, abandoned but not yet replaced, must be created. It will propose a new pragmatic arrangement for the next upcoming negotiations, satisfying the European Commission and the member states. As such, it is unclear if it will attempt to address this issue on a case-by-case basis rather than by establishing a new stable and consensual horizontal system allowing the Union to speak with one voice on the international stage and be represented in international organizations. More specifically, the first decisive test will be the preparation of international negotiations post-Copenhagen. This should allow for the pitfalls of Copenhagen to be avoided at the Cancun Summit where the EU had a common position that it was however unable to negotiate in a unified way, but instead did so incoherently and separately by the Commission, the Presidency and several other member states. Finally, the Belgian Presidency will be responsible for organising the Asia-Europe Summit (ASEM) on 4-5 October in Brussels, which will be chaired by the Permanent President of the Council and not by the Belgian Prime Minister.

Enlargement: regarding the question of future enlargement and other candidates for membership, Belgium wants to be limited to the role of an honest broker and to avoid any ill-considered haste or any fatal procrastination. The Presidency wishes to engage in the 'last step' towards the accession of Croatia, and to quickly and effectively advance in negotiations with Iceland. It is also ready to make progress on the Turkish dossier, albeit solely on the candidate's merits.

There are many other dossiers to be found in Belgian Presidency's programme, but Belgium has already made known that the success of its Presidency will be evaluated on the basis of these above-mentioned priority actions. In this regard, it must be mentioned that a definite agreement has been obtained for the SWIFT accord regarding the transfer

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of financial data to the US under the framework of the fight against terrorism at the very beginning of the Belgian Presidency.

**Conclusions:** The Belgian political crisis will inevitably bring to mind fundamental questions such as the compatibility between the further deepening of federalism in Belgium and the deepening of European integration. The way in which Belgium will come out of this latest crisis, again demonstrating its willingness to compromise and a certain amount of unity, in avoiding the breakup of the country, will be very instructive for many other member states also concerned with sensitive questions of regionalism, federalism, etc. and, in general for European construction which has been tainted by both renewed nationalism and rampant Euro-scepticism.

The rotating Presidency will also be an opportunity for Belgium to offer its organisational capacities, its sense of compromise and the extent of its European commitment to the Union. Thus, this Presidency will be successful if it is actually able to have current legislation passed. Nevertheless, it should again be noted that the margin of manoeuvre for the six-month rotating Presidency is tight, and subject to the vagaries of circumstance that include the legacy of the previous Presidency, the proposals of the Commission, and the compromise between the Parliament and the Council. Often in the past, it only took a few weeks for the work programme carefully constructed by the Presidency to fall to pieces. Everyone still remembers the last Belgian Presidency of the second half of 2001, in which its programme was called into question as a result of the international crisis which followed the September 11 attacks, yet whose administration by the Belgian Presidency at the European level was unanimously hailed by its peers.

The Belgian Presidency will ultimately be a chance for Belgium to reaffirm its attachment to the community method, often in doubt since the accession of Herman Van Rompuy to the Permanent Presidency of the European Council and the suspicion of intergovernmental drift felt by numerous of his observers. The implementation of institutional innovations of the Lisbon Treaty will be a unique occasion to do so. It should be underscored that a principal effect of this last was the reduction of the scope and importance of the national Presidency. The primary roles will no longer be played by members of the Belgian government but by the stable institutions of the PPC and the HR. Therefore, the relative weakness of a government expediting current affairs coupled with both the European *savoir-faire* and vision that characterizes Belgium represents an opportunity to be seized for the new Lisbon Institutions, a unique chance for them to truly take hold.

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