



# Some Reflections on the Results and the Working Methods of the Belgian EU-Presidency in 2010

*Willem Van de Voorde*

**In this Policy Brief, Belgian diplomat Willem Van de Voorde offers his hands-on view on the Belgian EU-Presidency in 2010; including the key lessons of this post-Lisbon Treaty “new style” rotating presidency. He argues that despite the major implications of the Lisbon Treaty, notably the new permanent President of the European Council, the rotating presidency can still play a central role in the EU decision-making process.**

## Introduction

Belgium exercised the presidency of the Council of the European Union for the 12<sup>th</sup> time in the second half of 2010. It was obvious to an even superficial observer that this experience would again be completely different from all the previous times. With

the introduction of the new Lisbon Treaty came indeed a transitional period in which new power relationships and balances had to be found, moreover in a very difficult situation of economic and monetary crisis. The efficient implementation of the new treaty and the fight against the financial and economic crisis were the two main threads running through the Belgian EU presidency programme.

Having been involved very closely at headquarters level in the preparation and conduct of the EU presidency by Belgium, this contribution contains a personal analysis of how the EU presidency “new style” was working and of some likely trends in the future. Since then several detailed studies have been published at academic level, most often however based on extensive interviews with the principal actors.<sup>1</sup>

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<sup>1</sup> Two major publications are: VAN HECKE, S. and BURSENS, P. (eds.), *Readjusting the Council Presidency - Belgian leadership in the EU*, ASP, Brussels, 2011, 288 p.; Res Publica, Themanummer:

Although an EU presidency also presents a huge logistical and financial challenge for a Member state, the main emphasis of this Policy Brief is on the preparation and the implementation of the programme.

The incoming Belgian presidency operated during an institutional transition phase in which significant new functions or procedures of the European Union were applied for the first time. On top of that the Belgian government fell in April 2010 and entered in a very long period of current affairs. Although the initial expectations were somewhat tempered by these challenging circumstances, the members of the Belgian government and their staff felt from the beginning of their term that they enjoyed the full confidence of their European partners. These told us openly that the experienced, proactive, Europe-friendly Belgian government system was actually ideally placed to steer the EU through this delicate transitional period, which was moreover suffering under the worst economic crisis since World War II.

### Priorities of the Belgian EU Presidency

As a result of the dizzying growth of European action in the past twenty years, the coordination of an EU presidency programme has become a very complex and comprehensive activity. During an inventory exercise in the final stage of the preparation, approximately 500 subjects or legislative proposals under discussion (though of varying importance) were found, covering all council formations and subordinate working groups. Some 200 subjects were eventually mentioned in the official Belgian presidency

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programme.<sup>2</sup> In order to present and grasp the multitude of issues at stake, the programme was structured around 5 major clusters of themes, to which was added a horizontal cluster of issues associated with the implementation of the Lisbon Treaty.

The *fight against the financial and economic crisis* and the strengthening of European economic governance was without doubt the most important cluster, both in the planning phase and later in the table of results.

The second major area of activity involved *foreign relations*. It concerned not so much the traditional European Common Foreign and Security Policy which had come under the auspices of the High Representative since 1 December 2009, but rather external trade policy and enlargement negotiations.

The cluster *climate, environment and energy* was a third important axis. In the second half of 2010 two major international conferences were scheduled, where the Belgian presidency was responsible for coordinating the European position and its negotiation on site: the 10th Conference of the Parties to the Convention on Biodiversity in Nagoya (Japan) between 18 and 29 October 2010 and the 16th Conference of the Parties to the International Climate Conference<sup>3</sup> in Cancun (Mexico).

The strengthening of the *social dimension* of the EU was the fourth major field of action.

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<sup>2</sup> See the [website of the Belgian Federal Parliament](#).

<sup>3</sup> United Nations Framework Conference on Climate Change (UNFCCC).

A fifth major thematic cluster was built around the vast area of *justice, home affairs, asylum and immigration*.

A final cluster of issues concerned a number of diverse and important measures to *implement the Lisbon Treaty*, such as the creation of the European External Action Service (EEAS), the citizens' initiative and the European budget for 2011.

### Evaluation of the Belgian EU Presidency

The overall evaluation of the Belgian EU presidency was very positive and this was not only due to the somewhat tempered expectations by the end of June 2010 as a result of the difficult government formation in Belgium. Both the domestic and foreign media praised in particular the seriousness, the perseverance, the professionalism of the Belgian presidency and the high number of concrete results, all related to the EU agenda. A calculation of the Council Secretariat shows that in the second half of 2010 an agreement was found between the Council and the European Parliament on 39 legislative texts.<sup>4</sup> Some 15 other important but non-legislative decisions, conclusions or realizations could be added to that.

In his closing speech to the European Parliament on 18 January 2011, Prime Minister Yves Leterme concluded that the EU and the Lisbon Treaty “worked well”.<sup>5</sup> In his opinion, the following factors of success were relevant: first, the deliberate choice of the Belgian government(s) to focus on completing a European rather than a national

agenda. This also means that the different chairmen pursued the role of “honest broker”, aiming at a favourable European negotiation result by implementing the European agenda (which is largely inherited from previous presidencies), while keeping a certain distance from the national position. A second factor of success was the option to use right from the beginning all the opportunities of the new Lisbon Treaty, to keep the transition periods, which are sometimes unavoidable, as short as possible and to give full political space to the new actors of the Lisbon Treaty, namely Herman Van Rompuy and Catherine Ashton. Finally, one may add some famous Belgian negotiating attitudes that bear fruit in the complex European context: compromise oriented pragmatism, patient perseverance and cooperative listening capacity.

### First experiences with the EU Presidency “new style”

The Lisbon Treaty has undoubtedly had a major influence on how Member States have exercised the EU presidency from 2010. It is obviously still too early for definitive or thorough evaluations. Yet three things are already clearly visible: first, the rotating presidency keeps a central place in the European decision-making process, whatever some observers may have said ; second, the management of the European agenda has not become easier, rather on the contrary ; and finally, Belgium has from the beginning of the implementation of the Lisbon Treaty used the chance to prove that the complex governance of the Lisbon European treaties *can* work and produce results provided a number of constructive attitudes are present.

<sup>4</sup> Consilium, [Dossiers en codécision clôturés après l'entrée en vigueur du Traité d'Amsterdam](#).

<sup>5</sup> LETERME, Y., [Concluding speech before the European Parliament](#), 18 January 2011.

Nine out of ten council formations remain completely under the responsibility of the rotating presidency, i.e. from working group to ministerial level. The presidency of the European Council has become permanent, but almost all its subordinate preparatory bodies remain in the hands of the rotating presidency: the General Affairs Council, COREPER, and most of the underlying working groups. The biggest change has occurred in the area of the Common Foreign and Security Policy, where most bodies have been given a permanent president, with the High Representative at the top of the pyramid. The Lisbon Treaty has in the end not resolved the struggle<sup>6</sup> between supporters and opponents of a rotating presidency and we have to live now with a hybrid system. Both configurations have advantages and disadvantages. After nearly ten years of intense negotiations and debate, one can only conclude that the European "constitutional" legislators have deliberately chosen for a rather ambiguous system. Practice will prove whether this system works and whether the success of the Belgian presidency in 2010 was exceptional or whether it is fit for emulation.

The following sections address specific key issues of the practice of the EU Presidency under the Lisbon Treaty.

### **Increasing complexity requires a new form of cooperative federalism**

As mentioned above, in a number of council formations the vertical "chain of command" has been broken: the Foreign Affairs Council, the European Council and,

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<sup>6</sup> VAN de VOORDE, W., *Plädoyer für das Rotationsverfahren in der Ratspräsidentschaft der Europäischen Union*, Integration, 25. Jahrgang, Oktober 2002, p. 318-325.

previously, the Eurogroup/ECOFIN Council.<sup>7</sup> Compared with the situation now, the presidency of the European Council seems to have been a simple matter in the past: the Prime Minister of the Member State holding the presidency set the agenda and was able to steer his ministers and the underlying working groups in the desired direction through their national government work. The same was true when themes of foreign policy were involved. Since 2010, however, this practice belongs to the past: the President of the European Council sets the agenda for its meetings, albeit in consultation with the rotating presidency and probably also in consultation with the High Representative (the rules of procedure do not formally require the latter consultation).<sup>8</sup> The Belgian EU presidency has demonstrated that this complex collaboration can work, provided additional consultation procedures are maintained. The Treaty of Lisbon rightly wanted more continuity and top down impulses to the Council and the creation of permanent chairmen was a logical answer to these needs. But this gain has a downside, because the complexity of decision-making has increased, and the new treaty has not provided specific consultation or arbitration processes. One of the major challenges of the Belgian presidency was to organize for the first time systematic consultations between the rotating presidency, the High Representative and the Presidents of the

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<sup>7</sup> To the Eurogroup belong the ministers of finance of the eurozone and they form an informal meeting of ministers separate from the ECOFIN council to which they also belong. The Eurogroup was formally acknowledged in the Treaty of Lisbon and played a key role during the crisis years of 2009-2010.

<sup>8</sup> Rules of Procedure of the European Council: Official Journal of the EU, L, 2009, nr. 315, p.51-55.

European Council, the Commission and the Parliament, at both the administrative (Permanent Representative, Secretary General) and the political level.

The Belgian presidency was eager to maintain regular contacts with the leading persons of all major European institutions in order to follow-up and handle smoothly the key issues on the negotiating table. These meetings were essential in shaping the governance of a renewed and more complex EU. Sometimes the rotating presidency played the role of moderator by bringing together actors who would otherwise hardly talk to each other. Deputy Prime Minister Steven Vanackere, Chairman of the General Affairs Council in the second half of 2010, at his final news conference on 20 December 2010 strikingly compared the new EU presidency with the differential in a car: this is not an additional wheel of the car but a mechanism to coordinate the smooth running of the four existing wheels of a car<sup>9</sup>. The role of the national Prime Minister has been formally reduced and he receives much less visibility, but it turned out that he continues to play an important role behind the scenes as coordinator of his own government team; thanks to targeted contacts with the presidents of the Commission or the European Parliament he was able to intervene helpfully in specific cases. It is now the challenge for the next rotating presidencies to further develop this moderating role between the different permanent presidents, with respect for the respective competences of each. In so doing a more structured dialogue between the institutions may arise, in addition to the already well-established negotiations between

<sup>9</sup> See the [website of the Belgian EU-presidency](#).

Council, Commission and Parliament, i.e. the traditional role of the presidency. It is therefore no exaggeration to say that the Treaty of Lisbon has established for the first time a promising but demanding new kind of cooperative federalism.

### **Greater attention is required for the increased role of the European Parliament**

The legislative and supervisory role of the European Parliament (EP) has been substantially expanded by the Lisbon Treaty, requiring a different approach by the rotating presidency. It is sufficiently known that the “ordinary legislative procedure”<sup>10</sup> (the former “co-decision”, based on qualified majority voting in the Council) has become the normal rule for the legislative work in the EU, exactly as the name suggests. Less known is that the Lisbon Treaty has caused a revolution in the voting procedure of the annual budget. Council and Parliament are now equally responsible for the adoption of the annual budget, whereas the European Parliament previously used to play a minor role. This change not only made the discussion of the annual budget of the EU for 2011 much more difficult, but its effect was also immediately felt in unrelated areas that have however budgetary implications.

Discussions in 2010 between the Council and the Parliament on the establishment of the European External Action Service (EEAS) were a good example of this trend. The European Parliament could only give an opinion on the basic act, a Council decision of 26 July 2010.<sup>11</sup> This decision, however,

<sup>10</sup> Art. 294 TFEU.

<sup>11</sup> Official Journal of the EU, L, 2010, nr. 201, p. 30-40.

could only be applied after the approval of an amendment to the financial regulation (which gives the EEAS the status of a separate entity with budgetary autonomy) and of an amendment to the staff regulations of the European civil servants. These two complementary but necessary decisions were subject to the ordinary legislative procedure, giving the European Parliament as much power as the Council. Moreover, the EEAS needed an operating budget from the 1 December 2010, its official start of operations, requiring an amendment to the 2010 budget and to the budgetary procedure 2011 that had already had been started. For both budget amending procedures the approval of Parliament was required.

From the beginning of 2010 it became clear that the European Parliament would consider all the elements for establishing the EEAS as a single package, thereby circumventing its limited participation in the decision of the basic act. In so doing it hoped to increase the influence of the Commission and its own controlling functions of the EEAS. On 21 June 2010, in the last days of the Spanish presidency, the Council, the High Representative, the Commission and the European Parliament reached a political agreement on the basic parameters and procedures of the EEAS and on 26 July 2010 the Council approved the basic act. The additional decisions (staff regulations, financial regulation and budgetary amendments) were finally agreed in early November, after rather difficult negotiations with the EP.

This is in fact an example of a rather unusual negotiation. The conduct of negotiations in the ordinary legislative procedure is probably more relevant: here the negotiations between

the Council and the Parliament in several cases proved to be very arduous and time-consuming. The conduct of these discussions nowadays is one of the most important tasks of a presidency. Many observers still think a presidency essentially means presiding meetings of ministers or civil servants in the framework of the Council, but that role has been substantially expanded with a parliamentary dimension since the introduction of the Lisbon Treaty.

Gradually, the presidency has had to adapt to a certain degree of unpredictability in the political negotiations with the Parliament: it may well chair and organize the Council work, but it has no say in the decision-making process or the organization of the work of the Parliament. It can only try to optimize the mutual cooperation by setting up a relation of confidence with the key members of the EP. That is exactly what the Belgian EU presidency has aimed to do from the preparatory phase of the presidency onwards.

The necessary preparations were made well in advance: the parliamentary cell in the Permanent Representation was strengthened; the State Secretary for European Affairs, Olivier Chastel, undertook extensive rounds of preparatory contacts with key members of the EP; and finally, timely and well-prepared individual contacts were established in the last days before the beginning of the presidency term between all the responsible ministers and officials and their counterparts in the European Parliament. All incoming presidencies will have to pay careful attention to this dimension from now onwards.

### Reduced visibility as a political price for more consistency and uniqueness

The reduction of the political visibility for the rotating presidency in the field of external relations is a remarkable side effect of the entry into force of the Lisbon Treaty: according to the Treaty (Article 15 TEU), the President of the European Council “shall, at his level and in that capacity, ensure the external representation of the Union on issues concerning its common foreign and security policy, without prejudice to the powers of the High Representative of the Union for Foreign Affairs and Security Policy”. The introduction of this principle is considered one of the major achievements of the Lisbon Treaty. Some aspects of this principle were felt in practice rather soon, such as the President's responsibility for the organization of summits with foreign heads of government. It is understandable that this change initially caused a certain confusion about the respective roles of the President of the European Council and e.g. the Spanish Prime Minister in the preparation of the EU-US summit, which was initially foreseen in Madrid in February 2010 (it was eventually cancelled). But what are the implications of this new approach in the longer term? What are the effects on third countries or on the perception of the EU by third countries? What are the effects on the effectiveness of European foreign policy, supposing this is measurable? What are the effects on the role of the national diplomacies of Member States? The consequences are potentially wide ranging, but it is still too early to make accurate estimations.

A complaint one often hears is that the new system negatively affects the “ownership” of the Member States in matters of foreign

relations. Member States would not only lose the direct contact with foreign affairs, but also gradually lose their interest in it. This evolution – if it is true – would be deplorable for the European institutions, because they need a continuous interest of the Member States in order not to act in a vacuum. There is no simple recipe to make up for this potential loss of interest: all players will have to recognize that the gain in coherence and unity (one of the objectives of the Lisbon Treaty) carries the price of a reduced ownership of the Member States involved. But this need not be the end of the story. The new permanent chairmen of the geographical Council working groups (which now no longer fall under the rotating presidency, but are presided by an official of the EEAS) will have to be aware of this need and will have to develop mechanisms in order to generate the interest of the Member States and to keep their feeling of ownership as intact as possible. This obviously applies equally to Baroness Ashton and to the new permanent President of the Political and Security Committee (PSC). The Member States, on the other hand, will have to resist “abdicating”, should remain active at every level of the decision-making process and should continue to think along with the presidency, in order to provide it with impulses.

In the second half of 2010 two major summits took place: the ASEM summit in Brussels on 4-5 October and the EU-Africa Summit on 29-30 November in Tripoli. In addition, eight bilateral summits between the EU and third countries were held.<sup>12</sup>

<sup>12</sup> With Russia, the US, Brazil, South-Africa, China, India and South-Korea. Apart from the summits

According to the new treaty, Herman Van Rompuy chaired these summits, even though he had to rely largely on the preparatory work by the Belgian EU presidency, given the transitional arrangements that were still valid at that time. The Belgian Prime Minister Yves Leterme was hosting the ASEM Summit in Brussels and this offered him of course a certain visibility, but the agenda was fixed by Van Rompuy and he led the discussions. For subsequent presidencies, which are not so lucky to have their national capital coincide with the European capital, it will be harder to accept this change.

### **A stronger top-down steering process, created and consolidated in times of crisis**

Above it was stated that the role of the rotating presidency remains substantial, as it stays in the driving seat in nine out of ten council formations. At the same time it is obvious that top-down driving forces have gained significantly in importance – exactly what the authors of the Lisbon Treaty wanted in the context of an ever growing and diversifying EU. This transformation happened at a vulnerable and crucial moment in European history, amid an economic and financial crisis that shook the foundations of achievements such as the euro or the European social and economic model that were supposed to be unassailable. Suddenly, the President of the European Council received the opportunity to demonstrate how this permanent function, looking far beyond the limited 6-month time horizon of the traditional presidency, could give an added value to the new governance of the EU. By

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with Brazil and the US, they all took place in Brussels.

introducing continuity, trust and experience at the top of the EU, his role cannot be overestimated in bringing on track, together with Commission President Barroso, the new Europe 2020 Strategy for Growth and Jobs, or in defining a more integrated European economic governance,<sup>13</sup> or in the rescue plans for Greece and Ireland, and thus also for the Eurozone. For her part the High Representative, after difficult initial months, gradually managed to catch the attention of the Member States to reassess, for instance, the relations between the EU and its “strategic partners” and succeeded in developing her role as principle point of contact for the EU in the Middle East Peace Process. Such processes take a lot of time, top-down leadership and perseverance, and could never be developed efficiently by rotating presidencies.

The stronger guiding role from the top can also be derived from a notable trend in 2010 to shorten the conclusions of the European Council, particularly in the field of external relations: rather than undergoing time-consuming discussions about public texts that considerably restrain their negotiating margins, the Presidents of the European Council and the Commission chose for more freedom by proposing brief conclusions, allowing them more bargaining room in their contacts with leaders of third countries.

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<sup>13</sup> Another permanent president played an important role in this context: under the chairmanship of Jean-Claude Juncker, the Eurogroup prepared e.g. the budgetary rescue operations for Ireland and Greece and designed the main characteristics of the future European financial Stability Facility (EFSF): declaration of the Eurogroup of 28 November 2010.

## Conclusion

In conclusion one may say that the driving role of new permanent presidents in times of crisis and the simultaneous transformation of the traditional EU presidency have given a fairly widely accepted legitimacy to these centralizing tendencies more quickly. The dramatic economic circumstances of 2009-2010 may have eased the major transformation of the traditional EU presidency. However, the adaptation of the EU to its new power structures and working methods will require several more years of trying and searching. It is obvious that the rotating presidency can play an important moderating role in this. The Belgian EU presidency has tried with some success to develop this role, but less constructive episodes cannot be excluded in the coming years.

*Willem Van de Voorde is a Belgian Diplomat. He currently is deputy head of cabinet of the Belgian Foreign Minister; between august*

*2008 and June 2011 he was deputy to the Director-general for EU affairs at the Belgian Foreign Ministry, in charge of the preparation of the EU presidency program.*

*This text is a shorter version of his article "Het Belgische Voorzitterschap van de Raad van de Europese Unie in 2012", *Recht in Beweging - 19de VRG alumnidag 2011, Antwerpen Maklu 2011, pp. 119-140.**

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### EGMONT

Royal Institute for International Relations  
Naamsestraat 69  
1000 Brussels  
BELGIUM

> [www.egmontinstitute.be](http://www.egmontinstitute.be)

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