5 Belgium's response to COVID-19

How to manage a pandemic in a competitive federal system?

Peter Bursens, Patricia Popelier and Petra Meier

5.1 Introduction

Belgian federalism is characterized by a ‘falling apart’ evolution. The centrifugal nature of Belgian federalism is exemplified by six constitutional reforms since 1970, each one resulting in more autonomy and more competences for the federated levels. The state reforms did not follow a masterplan but rather responded to ad hoc demands from the dominant political parties to solve political and policy discord (Deschouwer 2012). The competitive logic of Belgian federalism puts all government levels on equal footing while granting them exclusive powers in allocated competences. The *bricolage* character of the state reforms gave the country a complex division of competences that crosscuts policy domains. Moreover, Belgium ended up with two separate party systems and four electoral colleges resulting in different government coalitions defending diverging interests across the levels of government (Swenden and Jans 2006). The Belgian response to the first two waves of the COVID-19 crisis has been a textbook illustration of how these features (mal) function in practice.

In the remainder of this chapter, we first discuss core data regarding the crisis, such as the number of infections and the economic impact. We present split data for the Belgian government levels and put them within the broader EU context. Next, we briefly present the core institutional set-up of Belgian federalism. The core of this chapter gives an account of how the federal set-up dealt with the response to the COVID-19 threat, during the first wave from March to July 2020 and the second wave from August to December 2020, hence covering both the sanitary, civil protection and economic measures in both waves as well as the exit strategy from the first wave. We end our analysis in the final weeks of 2020 when, after a second peak in the fall, infections stabilized again, be it at a rather high level. The last week of 2020 also marked the symbolical start of the vaccination campaign which started for real in January 2021. Our main conclusion is that Belgium, as many other countries – both unitary and federal – struggled to adequately respond to the pandemic. Yet, some features of its federal set-up impeded an effective Belgian response, especially during the first wave. The dual and, in many ways, competitive character of the system, but also the complex interdependent division of competences, caused burdensome coordination across government levels, leading to calls for another round of state reform, yet, at the same time, also triggered cooperation among the various levels of government (Table 5.1).

Table 5.1 Key Statistics on COVID-19 in Belgium as of 10 January 2021

<i>Cumulative Cases</i>	<i>Cumulative Cases per 100,000 Population</i>	<i>Cumulative Deaths</i>	<i>Cumulative Deaths per 100,000 Population</i>	<i>Case Fatality Percentage</i>
664,261	5,731.5	20,069	173.2	3.0

Source: World Health Organization Weekly epidemiological update – 12 January 2021. Geneva: WHO, 2021. Available from <https://www.who.int/publications/m/item/weekly-epidemiological-update>

Table 5.2 Percentage of Population, Cases, Hospitalizations, and Fatalities in Belgium in 2020

	<i>Flanders</i>		<i>Wallonia</i>		<i>Brussels</i>	
Population (%)	57		32		11	
	Wave 1	Wave 1+2	Wave 1	Wave 1+2	Wave 1	Wave 1+2
Cases (%)	57	43	30	43	10	13
Hospitalizations (%)	50	48	35	36	15	16
Fatalities (%)	55	50	30	37	15	13

Note: Wave 1 refers to the period until 31 July 2020 and Wave 1+2 refers to the period until 31 December 2020.

5.2 Some data on COVID-19 in Belgium

During the first wave, Belgium was hit quite hard by the virus, compared to other countries in Western Europe. COVID-19 struck Belgium less hard than Spain and Italy, but, in many respects, a lot harder than its neighbors France, Germany, and the Netherlands. The federal scientific health institute Sciensano (2021) reported more than 70,000 cases and nearly 10,000 fatalities on a population of 11.5 million for the five months of the first wave (until 31 July 2020). Over 80 percent of the deaths were 75 years old or older. Half of the fatalities happened in retirement homes. Sciensano argues (2020) that the relative high number is partly due to the method of counting as Belgian statistics also include not confirmed but suspected cases as well as fatalities in retirement homes. After the second wave, the number of detected infections increased to nearly 650,000, mainly caused by a very high second wave peak of cases in the fall and by a much higher number of tests since the summer of 2020. The number of fatalities doubled to almost 20,000 by the end of 2020. Hospitals and intensive care units were put under severe stress during both waves but did not come close to a point of saturation.

The three Belgian regions suffered in an almost equal way during the first wave of the pandemic, measured by the relative number of inhabitants. Nearly 6 out of 10 live in Flanders, 3 out of 10 in Wallonia, and 1 out of 10 in the Brussels Capital Region. The relative number of cases, hospitalizations, and fatalities did not deviate very much from this relative number of inhabitants (see Table 5.2; Sciensano 2021). The share of cases almost perfectly equals the share of the regional population. Yet, Flanders had a slightly lower share of hospitalizations and deaths. The only significant difference was the higher share of hospitalizations and fatalities in the Brussels Capital Region. The second wave hit Wallonia – and to a lesser extent also Brussels – harder than it hit Flanders. By the end of 2020, Wallonia and Flanders had an almost equal share of infections, while Flanders is much more populated. At the same time,

Table 5.3 Economic Forecast for Growth, Budget Deficit, and Public Debt in Belgium, the EU, and the Euro Area for 2020/2021

	<i>Belgium</i>	<i>EU</i>	<i>Euro Area</i>
GDP Growth forecast (2020/2021) (%)	–8.4/+4.1	–7.4/+4.1	–7.8/+4.2
Budget deficit (2020/2021) (% GDP)	–11.2/–7.1	–8.4/–6.1	–8.8/–6.4

the Flemish share in hospitalizations and deaths decreased less sharply than the Flemish share in cases. Overall, the regional pandemic data do not deviate dramatically from the regional population share.

Economic consequences were correspondingly severe. In its Autumn 2020 Economic Forecast, the European Commission predicted for Belgium an 8.4 percent drop in GDP for 2020, slightly below the EU and Eurozone average. The 2021 growth forecast for Belgium was predicted to be similar to the EU and Eurozone average (European Commission 2020), somewhat more pessimistic than the November 2020 forecast for Belgium of the Belgian Federal Planning Bureau (–7.4 for 2020; 6.5 for 2021). Again, according to the Belgian data, percentages for the Regions differ somewhat, but not spectacularly. In addition, regions that are expected to suffer most in 2020 are also expected to recover more in 2021 (FPB 2020). Belgium has been suffering from a high budget deficit and high public debt for years. Ever since the financial and sovereign debt crisis that hit the Euro area in 2008, consecutive Belgian governments have been struggling to remedy this. Despite continuous problems to install stable federal governments, the figures were evolving slowly toward Euro area requirements (Table 5.3).

The response to COVID-19, however, returned Belgium to base one. In July 2020, Eurostat estimated the 2021 Belgian budget deficit at 7.1 percent of its GDP and its public debt at 117.8 percent of its GDP, significantly above the EU and Euro area averages (European Commission 2020). It will take years to get back on track, despite the NextGenerationEU Recovery Plan (European Commission 2021).

The high numbers of cases and fatalities are remarkable in light of the highly performant health care system, as noticed inside and outside the country (Moens 2020). Next to referring to the counting method, Belgian politicians and medical experts have tried to account for the numbers by pointing to a set of specific features such as the very high population density, the extremely open economy situated on the crossroad of European trade routes, and the effects of returning holiday tourists. This contribution, however, will focus on how the federal institutional set-up has affected the Belgian response to the COVID-19 health crisis.

5.3 Competitive federalism meets pandemic management

Belgium has been transformed from a unitary state to a federal state following six state reforms since 1970. It is an atypical federation featuring a double layer of constituent units. The Belgian territory is divided into three Regions: the Flemish Region, Walloon Region, and Brussels Capital Region. In addition, three Communities – the Flemish Community, the French Community (which calls itself the Federation Wallonia-Brussels), and the German-speaking Community – cover the three language groups. The Flemish Region and Community merged their institutions under the label

Flemish Community. On the French-speaking side, Region and Community have not merged, but increasing efforts strengthen the linkages between French-speaking inhabitants of the Brussels Capital Region and Wallonia, showing not the least in the rebranding. Similarly, the German-speaking Community has steadily extended its competencies in regional matters. Overall, competences that matter differently for different Communities (education, culture) and Regions (economy, environment, agriculture) have been devolved to the constituent units. The federal level is still in charge of large parts of the budget, law and order, infrastructure, and social security, which also greatly affect the Communities and Regions (Meier and Bursens 2020). The underlying logic of the federalization of Belgium has never been to stimulate co-operation between the Regions and Communities nor between the constituent units and the federal level. Competencies were downloaded to pacify conflicting interests (Caluwaerts and Reuchamps 2014), leading to constituting entities that to a large extent function independently from one another. Belgium is characterized by largely exclusive but not coherent packages of policy competences. The result of the pacification of antagonism and tension between ethno-linguistic groups is a competitive state architecture, with a centrifugal dynamic continuously dismantling the center (Popelier 2015). The latter is also exemplified by the juxtaposition of the levels: federal and constituent units' acts stand on equal footing: the exclusive character of allocated competences prevents levels from overruling one another. Compared to the extensive regional political and policy autonomy, fiscal autonomy of the Communities is rather limited (Popelier 2019). Intergovernmental relations are organized along inter-executive and inter-party lines, as political parties as well as the rest of civil society are divided along linguistic lines, except for employer organizations and trade unions. All this has resulted in not only a centrifugal competitive but *de facto* also bipolar federal context (Reuchamps 2013).

The Belgian allocation of competences regarding pandemics is a true patchwork not only because it involves a series of policy domains but also because competences are scattered across different government levels (Van Nieuwenhove and Popelier 2020). With respect to health care policies, the Communities are – among other issues – responsible for specific preventative health care measures (including quarantine measures, track and trace procedures, and the related data-collection) and retirement homes. The federal level and the Communities are each competent for parts of the regulation of hospitals and health care professions. The intricate division is amplified by the institutional complexity of Brussels, resulting in no less than nine responsible ministers, all member of Inter-ministerial Conference for Public Health (Fallon et al. 2020). In addition, the federal level has the competence in matters of civil protection, such as lockdown measures, but problems arise where they touch upon competencies of Communities (schools) and Regions (public transport).

The complex division of competences necessitates effective coordination among government levels. An administrative protocol (Protocol of 5 November 2018) between the federal government and the Communities has created a federal focal point (also as a liaison with the EU and the WHO), a Risk Management Group (RMG, composed of representatives from the various government levels), and a Risk Assessment Group (RAG, composed of medical scientists and other experts). This protocol recognizes the federal level as the coordinating level in case of a pandemic. In addition, stemming from the federal competence for civil protection, the federal level hosts a Coordination and Crisis Centre (CCC). The federal Minister for Internal Affairs

can trigger a ‘federal phase’ of crisis management that activates the RMG and RAG. The latter reports to the evaluation body CELEVAL, which reports to the National Security Council (NSC, composed of core members of the federal government). In other words, the coordination of the complexity is also quite complex.

How did all this play during the first wave of the COVID-19 pandemic? The so-called federal phase of crisis management, also in use after the 2016 terrorist bombings in Brussels, was announced in response to the COVID-19 outbreak on 13 March 2020. This federal phase implied that all decisions to fight the virus were taken by a crisis management committee composed of the federal prime minister, the federal ministers responsible for the relevant policy domains, and the prime ministers of the Regions and Communities. This federal crisis management committee sought advice from several risk assessment groups, including the NSC, CELEVAL, RMG, and RAG. Because COVID-19 affects competences that are scattered among government levels, the prime ministers of the Regions and Communities were also exceptionally added to the NSC.

The federal crisis management committee implemented extensive virus control measures on March 13. These included closing down primary and secondary schools, bars, restaurants, and shops (apart from food shops, pharmacies, and those providing other essential services), cancelling recreational activities, and limiting public transport. These measures were extended on March 18 putting the Belgian territory in a *de facto* lockdown. All non-essential movement, including travel abroad, was forbidden, and companies and administrations were ordered to switch to remote working. The decision to implement these measures was taken only after long and fierce negotiations, pitting Flemish against French-speaking politicians. The former preferred the Dutch approach of remaining relatively open to support economic activities, while the latter leaned toward the French approach of prioritizing public health by installing a far-reaching lock-down (Faniel and Sägerser 2020). The federal crisis management committee decided to prolong the measures (first until April 19 and later until May 3). Alongside the crisis-management measures, both the federal level and the Regions took several measures to support businesses and professions suffering from the lockdown.

At the time of determining the initial series of COVID-19 control measures, the federal government had been for a significant period only administering current affairs, as negotiations to set up a new federal government had been going on for almost a year. Ever since the elections of May 2019, Flemish nationalists and French-speaking social-democrats – the largest parties in Flanders and Wallonia respectively – had been unable to find a compromise. As it was becoming clear that the response to COVID-19 would require decisions affecting civil liberties and engendering major budgetary consequences, the crisis proved to be the catalyst for the installation of a temporary federal government with full powers. The solution was found in upgrading the resigning caretaking government of Prime Minister Wilmès to an emergency government with full powers. While the parties in this government lacked a majority in parliament, it received wide parliamentary support from opposition parties (only the two Flemish nationalist parties and the radical left party refused to support this course of action). In addition to installing a full-blown federal government, the wide parliamentary coalition granted the new government special powers, implying that it would not be required to ask for parliamentary approval for six months in taking urgent measures to fight COVID-19 and mitigate social-economic and administrative

consequences. However, in the end, the special powers law was not used for preventative measures. Instead, during the first and the second wave, these measures were based on a simple Ministerial Decree, without parliamentary approval.

Assured by a decreasing number of cases, hospitalizations, and fatalities, the NSC announced on March 24, a phased exit strategy, to start early May, gradually allowing more social and economic activities, including the gradual reopening of schools (a Community competence). During the exit phase, the NSC leaned on advice from a multidisciplinary (i.e., not exclusively medical) expert group (GEES). The advisory body switched again to CELEVAL when the epidemiological situation deteriorated in July.

The control measures taken by the NSC had an impact across all levels of government in Belgium, as they affect law and order and social security (federal competences), territory-related domains (Region competences), and person-related domains (Community competences). This explains why the membership of the NSC was expanded to include the prime ministers from the Regions and the Communities. The ensuing response highlighted the often-complicated division of competences. In some domains, decisions were taken by separate levels of government. For instance, following a federal Ministerial Decree, supported by all levels of government, all three Communities closed down primary and secondary schools within their respective jurisdictions, while the federal level itself closed the borders to non-essential travel. In other policy areas, however, major coordination efforts were necessary to align federal, community, and regional competences. Several examples highlight this complexity. The Regions guaranteed minimal public transport services for local service (buses and trams), while the federal level did the same for national rail network (trains). The Regions put in place a series of financial compensations for businesses that were closed or limited in operation while the federal government extended its temporary unemployment support scheme for employees of those same businesses. The crucial domain of public health presented a major conundrum of policy competences. While the federal level remained responsible for overall crisis management in times of a pandemic, at the operational level, the Community has responsibility. For instance, the three Communities prohibited visits in retirement homes and activated the emergency plans for hospitals. Policies regarding the regulation of pharmaceuticals and health insurance are federal competences, while all levels of government (and some municipalities on top of these) simultaneously engaged in the procurement of medical supplies such as facemasks and protective gowns (see Popelier and Bursens 2021). Major issues regarding quality requirements for materials and usage of testing kits surfaced in mid-April. The responsible federal minister himself complained about ‘absurd’ situations regarding competences and coordination in this respect (Andries 2020).

One final peculiarity of Belgian federalism relates to its EU membership, which extends the multilevel character of COVID-19 response from two to three levels of government. Some of the EU-level measures must be approved by the Council of Ministers. The Belgian position in the Council must be adopted through a coordination procedure that involves all levels of government. The equality among levels within Belgium necessitates the approval of all governments for all positions and votes taken in the Council. If one or more governments do not agree, the Belgian representative in the Council needs to abstain. This has happened at least once during the first wave of the crisis: Belgium abstained when EU legislation was approved to immediately release €37 billion of EU cohesion funds to strengthen health care systems and

support businesses. The abstention was caused by the position of the – by nationalists dominated – Flemish government, which considered the distribution of the funds unbalanced as Wallonia, being a less wealthy region, would receive more than Flanders. In a similar move, the Flemish government, critical toward ambitious EU climate policies in general, blocked Belgian support for a Danish initiative that called for the application of post-COVID-19 investment in a way that would support the European Green Deal.

While the number of infections, hospitalizations, and fatalities stabilized at a low level in May and June, they started to increase again from mid-July, first in the northern province of Antwerp, but soon also in the rest of the country. This evolution prompted the provincial governor of Antwerp to reinstall restrictive measures such as a curfew and mandatory work from home in many professions. Such specific local measures were made possible by a decision of the federal government. When by late summer also other parts of the country were hit by a rise in infections, the federal government reinstalled some of the measures it had taken in the spring, be it in a less severe way. Examples include an extension of mandatory mask wearing in public places and commercial locations (to be identified by local authorities) and a cap on the number of people that were allowed to gather at events and festivities. Similar to the first wave, the renewal of restrictions was taken at the federal level and agreed upon with the regional executives in intergovernmental bodies and based on the scientific reports and recommendations of multidisciplinary advisory bodies. Despite the rapidly deteriorating epidemiological situation, the outcome of the intergovernmental decision-making marked a status quo and, in some areas, even a relaxation of preventative measures.

The start of the second wave in August and September coincided with the final months of the federal caretaker government. Sixteen months after the elections, the leaders of seven political parties were finally able to install a new federal government. Francophone and Flemish social-democrats, liberals, and greens supplemented by Flemish Christian-democrats eventually succeeded in agreeing on a common platform for the remaining years of the legislature. The composition of the federal government reflected notable congruence with the composition of the regional governments in Brussels and the Francophone part of the country and also marked the absence of the Flemish nationalists, the dominant party in the Flemish government.

The incoming federal government changed course in dealing with the pandemic in several ways. Confronted with a rising second wave of infections and hospitalizations, it opted for a gradual tightening of preventative measures, such as the closing of bars and restaurants, restrictions on the number of people present at events, a curfew, and mandatory working at home. Many of these measures were to be implemented by regional and local authorities, resulting in divergent rules in different parts of the country. For instance, the provinces installed different curfew hours. In addition, the new federal government installed new advisory bodies, clearly prioritizing medical expertise above other disciplines. Clearly, the new government wanted to break with the more relaxed approach of its predecessor. While the Flemish nationalists, banned from the federal government, at first opted for fierce opposition to the new approach, they quickly adapted their discourse and behavior. Noticing that a substantial part of the population, also in Flanders, was rather in favor of the restrictions (and of the accompanying economic support measures), they chose for a more cooperative style in the federal led intergovernmental bodies.

Also, in terms of decision-making, the federal government took a new approach. It made clear that the federal structure of Belgium called for continuous cooperation in fighting the pandemic. The government appointed a ‘corona commissioner’ to streamline cooperation procedures among all levels of government, including local authorities. It also shifted the main decision-making locus to the Concertation Committee, the highest body of intergovernmental relations, composed of the federal prime minister and the prime ministers of all the regional governments, supplemented by the relevant functional ministers. The parties of the new government made explicitly clear that they intended to introduce a more cooperative style of federalism, also beyond the fight against the COVID-19 crisis.

5.4 COVID-19: a wake-up call for more cooperative features in a competitive federal context?

If anything, the COVID-19 outbreak has made clear that coordination and cooperation among government levels are major challenges for the Belgian federal system during public health crises. Representatives of doctors, hospitals, and retirement home networks called for a thorough audit of the division of competences in the public health domain. They additionally berated the absence of unity of command which slows down decision-making and swift response to quickly changing epidemiological evolutions. The practitioners were joined by almost all political parties who advocated either a further devolution of competences to the regional level (the nationalists) or a return to more federal powers. However, not so much the division of competences, but the coordination among levels and the cooperation between actors seems to be crucial. Pandemics affect a plethora of policy domains making coordination necessary in each type of polity, be they unitary or federal. Yet, in federal systems, the underlying principles of constitutional hierarchy between levels and the nature of intergovernmental relations shape the potency of actors to take decisive measures and guarantee their effective implementation. The COVID-19 pandemic will most probably not change the dual and competitive principles of Belgian federalism nor reset its split party system. However, this may not prevent parties and governments to implement more cooperative practices in day-to-day decision-making. Reforms will probably take place within the existing confines, for instance, by means of more formal cooperation such as cooperation agreements regulating coordination horizontally between federated entities and vertically between the federated entities and the federal level. Nevertheless, for the Belgian specific double layer of constituent entities, the Communities and Regions, with their highly interdependent competencies, will keep on turning any effort to achieve efficient coordination into a major challenge.

5.5 Conclusion

Most European countries and EU Member States, in particular, struggled to implement an effective response to the COVID-19 pandemic. Yet, the Belgian approach to COVID-19 crisis management seems to be crucially shaped by its federal structure and related political landscape. In particular, the coordination between government levels, which is indispensable given the heterogeneous allocation of competences across levels, turned out to be spokes in the wheel of an adequate response. Moreover, the

dual and competitive nature of its federalism and the resulting party politics posed severe challenges to an effective response to a major public health crisis. These became clear issues at the peak of the first wave, for instance, those related to the understaffing and undersupply of equipment to retirement homes, and the insufficient quality of facemasks delivered by Chinese providers. The second wave coincided with a new federal government that made effective coordination a major goal of its approach. The changes in decision-making bodies and procedures seemed to have increased cooperation among the various levels of government, undoubtedly helped by the temporary political truce from the side of the Flemish nationalists. As soon as the health crisis is over, however, a thorough evaluation will be made of the functioning of the federal system in responding to COVID-19. Our analysis of the response during the first and second wave indeed supports changes in the federal set-up, definitely with respect to reforms that ameliorate coordination and allow for transverse decision-making. At the same time, it would be illusionary to expect that such reform would be overly effective against the background of a complex double layer of Communities and Regions with interdependent competencies and an unchanged party system.

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