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**INSISTUTIONAL
INNOVATION IN THE EU:
THE ‘PERMANENT’
PRESIDENCY OF THE
EUROPEAN COUNCIL**

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Introduction

Institutions are designed as responses to diagnosis of problems and/or requirements in specific political and institutional contexts. In designing them, actors try to calculate the eventual effects and performance of new institutions, but these may evolve along a path uncalculated. In the case of the Presidency of the European Council, this path has been identified in connection with its growing ascendance within the EU institutional order in the interregnum period between ‘big bangs’ of European integration (Blavoukos, Bourantonis and Pagoulatos 2007: 237) or in its evolution from an institutional intergovernmental guarantee towards communitarization and a more stringent defence of Community interests (Fernandez 2008). One of the mechanisms for reducing uncertainty about performance is institutional mimesis (institutional isomorphism), i.e., the adoption at the EU level of domestic institutions. Some of the EU institutions respond to this model (see Kourtikakis 2010) while others respond more to the *sui generis* nature of the Union, being the European Commission (and earlier the High Authority) paramount of this model.

The Permanent Presidency of the European Council responds also to this second source of institutional innovation. It was designed at the critical juncture defined by the negotiation of the European Constitution, in which a bold overhaul of the Union was discussed. In this context, the Permanent Presidency represented a relatively minor innovation, and it remained unchallenged and unchanged in the passage from constitution to treaty. The formal design draws a relatively modest organ, and the political profile of its first incumbent, former Belgium Prime Minister Van Rompuy, seemed initially to confirm these perceptions. From the theoretical standpoint of the principal agent framework, though, setting up this post (an agent of

¹ I am grateful to Jean Claude Piris for his valuable comments to early drafts of this paper. The word ‘permanent’ here is used in a lax sense (and in contrast with the rotating one) since purely speaking, the presidency is not permanent and can last a maximum of five years.

the European Council) is a contractual agreement which is to one extent or another incomplete: In the fulfilment of his formal role, the agent enjoys a zone of discretion that goes beyond his formal role (Blavoukos, Bourantonis and Pagoulatos 2007: 235; Thatcher and Stone Sweet 2002: 5; Calvert, McCubbins and Weingast 1989: 589) and, on this assumption, early formative periods are decisive (Blavoukos Bourantonis and Pagoulatos 2007 *passim*).² In the case of the Permanent president, the critical juncture jointly created by the need to implement the treaty provisions and the 2010 fiscal crisis provided an opportunity for performance shaping the contours of the post in a more defined way and, eventually, setting a path that will condition its exercise in the future. Van Rompuy has skilfully exploited the opportunities jointly provided by a scarcely defined institution and an unexpected economic environment that demanded high doses of political leadership to assert his role further and thus create a stronger organ. Van Rompuy's performance will affect the definition and scope of the post as much as Solana's performance shaped the post of High Representative.

Genesis of the Proposal

Differently from other institutional innovations in the EU, the Permanent Presidency of the European Council established by the Treaty of Lisbon did not have a long process of gestation, discussion and negotiation. In 1984, Giscard d'Estaing supported the idea of electing a president of the European Council by universal suffrage,³ in what can be perceived as a mere attempt to institutional mimesis of French models. Successive round of reforms in the 1990s did not pick up the idea. However, a growing frustration with the inefficiency of the body lay at the origin of the design, (while considerations on democracy and accountability have remained confined to the academic debate (Pernice 2003; Crum 2009; van de Steeg 2009). The extended practical role of the European Council, not only as agenda setter but also as highest decision-making body of the Union, the discontinuity of the successive presidency agendas in the rotating presidencies system, the diffuse and uncertain responsibility for implementation of its decisions and the lack of sustained leadership featured consistently as arguments supporting the creation of this new

² Piris (2010: 208) shares the same intuition.

³ *La Libre Belgique* 23 May 1984.

post. The growing size of the Union from the early 1970s summits created an increased sense of lack of mutual knowledge and personal contact among European leaders and this anticipated frustration from its even bigger size deriving from the large 2004 enlargement.

Frustration led Tony Blair, after leaving the Nice European Council in 2000 to declare, *'We cannot go on working like this'* (Kaczyński et al. 2010: 8). In an attempt to provide partial solutions, the Secretary General of the Council, Javier Solana, drafted a report on the functioning of the European Council that led to a number of agreed procedural changes in the 2002 Seville European Council. Some of the changes were that COREPER and the GA Council prepared the draft conclusions prior to the meeting of the European Council, and the size of delegations was reduced as were the number of points in the agenda and the length of conclusions.

Still, these changes barely eliminated inefficiencies, and, hence, the theme was bound to reappear on the agenda. The negotiation of the EU Constitution provided an excellent environment. According to Peter Norman's account of events (Norman 2005: 138), Jack Straw insinuated first the idea that rotating chairs⁴ of the European Council should be reconsidered.⁵ Jacques Chirac spoke for the first time about a 'President of the European Union' (sic) on March 2002, arguing that the current system of rotating presidencies would not be viable in an enlarged Union, and, hence, EU leaders should elect a person who would hold office for a sufficient period and would represent the Union.⁶ Spanish Prime Minister Aznar added his own views shortly afterwards: The president should not hold national office, he/she should probably be a former head of state and/or government and he/she could be helped by a team of five to six heads of state on a rotating system.⁷ In his view, the powers of the European Council should be increased with some additional prerogatives such as the capacity to dissolve the European Parliament on an initiative from the Commission. Finally, in November 2002, Tony Blair criticized the system of rotating presidencies, which he maintained had reached its limits and

⁴ According to (Fernandez 2008: 623) the system of rotating presidencies was inspired by the pre-war Council of the League of Nations.

⁵ Speech in The Hague, 21 February 2002. Speeches available at: www.fco.gov.uk.

⁶ Speech, 6 March 2002. Available at: www.elysee.fr.

⁷ Aznar, J.M. (2002), speech held at St Antony's College, University of Oxford, 20 May 2003.

stood in the way of Europe being taken seriously and limited the development of the common foreign and security policy (Blair 2002). The proposal for a President of the European Council became known as the ABC in relation to its three proponents. Giscard also added his bitter criticism, arguing that the rotating system carried the germ of the great deficiencies of contemporary politics: anonymity and instability.⁸ Theoretical reviews confirm these efficiency-driven perceptions: Blavoukos et al. (2007: 247) argued that the permanent presidency had, *caeteribus paribus* (all things being equal), an increased potential vis-à-vis the rotating presidency to perform the required functions effectively and efficiently.

The first draft of the Convention mentioned the possibility of a Presidency of the European Council. Giscard's first drafts added a so-called European Council board composed of the European Council Vice-President, two European Council members and the presidents of the three main Council formations (Crum 2004). Thus, initial proposals hinted at a very powerful figure with a strong element of presidentialization away from parliamentary control, and this triggered opposition from small states and the federally minded members of the European Parliament. The first feared domination of big Member States while the second mistrusted the lack of EP control and the hyper-presidential design of the proposal. Thus, Belgium Prime Minister Verhofstad (2002) argued against and the Benelux countries delivered a Memorandum to the Convention stating that they never would accept a presidency from outside the Council.⁹ Initially, proponents presented the proposal (and opponents perceived it) as an excluding alternative to the rotating presidency. Arguments against the new post underlined the virtues of the latter, such as its closeness to the citizens, the socializing effects and the efficiency of presidencies of small Member States (such as Finland in 1999 and Portugal in 2000). Academics made the case that the rotating presidency is one of the constitutional mechanisms that prevent the dominance of bigger Member States (Bunse et al. 2005).

⁸ Valéry Giscard d'Estaing Allocution de Valéry Giscard d'Estaing Président de la Convention sur l'avenir de l'Europe devant l'Assemblée Nationale Paris, le 3 Décembre 2002. Available at: <http://european-convention.eu.int/docs/speeches/5793.pdf>.

⁹ Memorandum from the Benelux: a balanced institutional framework for an enlarged, more effective and more transparent Union (4 December 2002). Available at: <http://www.ena.lu/>.

But when the Franco-German paper on institutions in January 2003 picked it up, the case was won over among the most important governmental actors.¹⁰ The Franco-German paper¹¹ already contained the key aspects to appear later in the treaty. Strong opponents included German Foreign Affairs Minister Joschka Fischer, Christian Democrats and Liberal leaders Hans-Gert Pöttering and Andrew Duff and the Commission itself. Criticisms pointed towards the weakening of the Commission role, the eventual growth of intergovernmentalism in detriment of supranationalism, the eventual dominance of big states and the continuing external cacophony that the new post will ensure. Finally, actors compromised on a hybrid system that included the *rotating national Council* presidencies plus the *permanent presidency of the European Council* and, additionally, the three Member States *team presidencies*. The provision passed unchallenged¹² and unchanged in the transition from the EU Constitution to the EU Treaty.

Institutional Design

The regulation of the Permanent President is contained in a handful of norms: Article 15 of the Lisbon Treaty, the European Council Decision on its Rules of Procedure¹³ and the written Practical Agreements Regarding the External Representation of the EU at Presidential Level.¹⁴ Practice has provided additional flesh on this normative skeleton.

The Rules for the Designation of the President

The constituency directly electing the president is very limited: 27 heads of state and/or government. This has implications on the legitimacy and the accountability of the post. Crum (2009: 694) claims that the election of the president is put in a chain of delegation that can be traced all the way to the vote of citizens in national elections. This, however, does not provide

¹⁰ For an extended analysis of the Convention debates, see Pernice (2003) and Crum (2009). For a summary of debates on the first institutional proposals, see Convention on the Future of Europe (2003), Summary Report of the Plenary Session 15–16 May 2003 (CONV-748/03) Brussels 27 May.

¹¹ CONV 489/03.

¹² For instance, the Belgium government removed early objections. See the speech of the Belgian Foreign Minister in May 2007 at the EUI Speech by Karel DE GUCHT at the European University Institute in Florence, Italy, 17 May 2007, *Towards a Union that is fit for the global era*.

¹³ European Council Decision of 1 December 2009 adopting its Rules of Procedure. (2009/882/EU) Official Journal of the European Union L 315/51.

¹⁴ Practical Arrangements between President Van Rompuy and President Barroso regarding External Representation of the European Union at Presidential Level (16 March 2010).

any basis for the president eventually claiming that his authority derives from the citizens. Furthermore, the selection procedure is more reminiscent of the one providing a chairperson of an organization rather than the election of the President of the Union (as it occasionally has been termed). Accountability is exclusively due to the members of the European Council who have the power to nominate him/her and to renew the mandate. Justification of the president's actions will be primarily addressed to that forum.

The selection rule requires a qualified majority of the votes in the European Council. The no-necessity of unanimity may stimulate concerted unilateral action by some governments and may have, in certain cases, the effect of alienating the support of some prime ministers. Crum (2009: 699) argues that consensus would have prevented privileged access of bigger Member States. In practice, it seems difficult, though, that consensus (understood as agreement in the absence of strong opposition on a given name) is avoided.

Further than formal rules, the balance among EU top offices also influenced selection. Declaration Six of the Treaty of Lisbon establishes that in the election of the President of the Commission, the President of the European Council and the High Representative, the need to respect the geographical and demographical diversity of the Union must be taken into account. The EP (Dehane 2009) demanded that criteria based on political and gender balance should also be taken into account for the selection of these posts.

No personal requirements were explicitly added although some of the proposals discussed in the Convention required that the president should be a former prime minister. Even though the formal requirement does not remain in the treaty, in practice, it seems that this rule will inform selection. The fact that the president will not be a practicing politician in national governments was already criticized in 1987 on hypothesis: being detached from national politics and a position of authority, the mobilizing effect of the presidency would be lost. Drafters supported instead the idea of appointing the President of the Commission for this post (Bulmer and Wessels 1987: 145). Finally, the mandate lasts 2.5 years, extendable once to a second term. Drafters may have wanted to limit the possibility of a real 'permanent' presidency lasting longer in office than the terms of office of some of the European Council members.

Functions of the Presidency

These functions (by and large, a formalization of the implicit functions traditionally associated with the rotating presidency) have to be pondered against the substantive increase in the role of the European Council itself after becoming an EU institution (for instance, the possibility to adopt decisions on EU external action, the imposition of sanctions to Member States that violate EU values or the examination of the right of withdrawal from the EU, just to quote some).

The functions of the president are spelled out in Article 15.6 (consolidated version) and further specified in the rules of procedure of the European Council (approved on 2 December 2009). These basically repeat the wording of the treaty, but they add something in the coordination functions (which is one of the main weaknesses of the new post).

Agenda setting and management of meetings

The largest number of functions (which would greatly rely on the personal skills of the president and his ability to engage and mediate between members of the Council) refers to the internal management of the European Council. These include:

- Convening the meetings
- Chairing and driving forward its work
- Facilitating cohesion and consensus within the European Council

Institutional coordination

Although perhaps not sufficiently noticed, the main innovation of the Permanent Presidency is its detachment from the Presidency of the Council, which, it must be remembered, remains in the current design. At a minimum, this raises issues on the eventual hierarchy between both presidencies (the second being national ministers with no direct connection with the Permanent President). The new *status quo* seems to require *a priori* larger efforts of coordination, and the panoply of instruments afforded does not seem sufficient enough. The treaty assigns the president the function of ensuring preparation and continuity of the work of the European Council in cooperation with the President of the Commission and on the basis of the work of the General Affairs Council. The rules of procedure have specified a bit further this function: thus, the president is mandated to hold regular meetings with the Presidents of the Council and the

Commission (Art. 2 RP). Additionally, the agenda of the meetings of the European Council and the draft conclusions will be prepared by the president in collaboration with the General Affairs Council (Art. 3.1 RP).

One of the moot points of the design referred to the relationship between the prime minister of the country holding the rotating presidency and the president. While the respective ministers of the rotating presidency have a clear role as presidents of the respective sectorial councils, the prime minister was the big loser of the new design. In fact, his/her only roles are described in the rules of procedure (not the treaty), which is in itself a relative downplaying of its role. Thus, the prime minister of the country holding the rotating presidency, named as ‘member of the European Council holding the rotating presidency’ reports to the European Council (Art. 4.1 RP). He/she retains the function of presenting the priorities of the rotating presidency to the EP (Art. 5 RP). Perhaps the most significant (potential) function is acting as substitute of the president in case of sickness or something similar (Art. 4.2 RP).

Reporting to the EP after every session of the European Council

Rotating presidencies have held informative sessions with the EP at the beginning and the end of each six-month term (these sessions remain under the Lisbon Treaty rules). Strictly speaking, these were not accountability but information procedures; in fact, the president could leave after his/her opening statement and he/she was not obliged to listen to the comments and questions of parliamentarians nor to react to the questions in a closing statement. Scholars have raised the issue of European Council’s accountability in relation to the EP (Williams 1990; Harlow 2002), which the EP itself has not raised as a case. Truly, since 1996, the presidencies have treated the EP as if it were an almost ‘normal’ accountability forum, even though it has no formal obligation to do so (van de Steeg 2009), but, in any case, accountability of the president does not mean accountability of the whole European Council. Additionally, a constitutional custom has developed in parallel: At least once during the semester, the Committee of Presidents of the Parliament and the political groups met informally with the European Council Presidency for informal discussion.

In formal terms, the relation of the Permanent Presidency vis-à-vis the EP has not changed much in relation to that of former rotating presidencies. The president remains accountable to its principal (i.e., the European Council). However, the leverage of the EP may be greater: Since the president is a specific EU organ (i.e., does not derive from holding national office) and he/she will not be an in-office prime minister, the Parliament may be tempted to demand political responsibility for European Council performance. Given the salience of the discourse on democracy in the EU and the EP claim to be the truly EU democratic institution, the EP may be tempted to expand its function further than the mere reception of information. Crum (2009: 689–99) argued that the personalization inherent to the new post may facilitate the democratic control of the office and improve accountability although this seems conditional upon the attitude of the Permanent President towards the EP. Additionally and given the growing importance of ideological family ascription in the selection of the president, minority groups may be tempted to exert stronger control on the post. For the president himself, increasing accountability to the EP might be in exceptional circumstances a mechanism to increase his autonomy vis-à-vis his principal or, rather, part of its members. This seems however, an unlikely situation.

External representation

The attribution of functions of external representation to the president does little for the clarification of the classical external cacophony of the Union, and legal experts anticipated a not easy task delimitating tasks (Piris 2010: 208). The Permanent President represents, *at his level and in that capacity*, the Union on issues concerning its common foreign and security policy (Art. 15, Lisbon Treaty). The EP (Dehane 2009) suggested a division of functions among the three posts with foreign dimension (President of the European Council, President of the Commission and High Representative) that assigned the Permanent President the representation of the Union at the level of heads of state or government *in matters concerning the CFSP* (but leaving the conduct of political negotiations in the name of the Union to the High Representative/Vice-President). In the EP outline, the Permanent President may also be called upon to fulfil a specific role of representation of the European Council at certain international

events. On the other hand, though, the powers of the European Council in foreign policy are very broad (see Art. 22 of Lisbon Treaty). As will be illustrated, this area has been swiftly occupied by Van Rompuy.

Performance under Strain

Successful formal leadership depends on a host of factors, such as the particular rules of interaction in any given institutional *milieu*, the limitations deriving from the constituent agreement on the settling of the organization and the personal characteristics of the person (Schechter 1987; Burns 197; Blavoukas, Bourantonis and Pagoulatos 2007: 234).

Two traits marked Van Rompuy's commencement of office. The first was the succession of two presidencies (Spain and Belgium) with a marked favourable attitude towards Europe, the Permanent President and Van Rompuy himself. At the start of his term, Zapatero declared: Should anyone call Europe, the phone number is Van Rompuy's.¹⁵ The following Belgian rotating presidency offered an additional opportunity for Van Rompuy: Elections were held barely two weeks before the commencement of the rotating presidency, and the interim caretaker government adopted a totally cooperative attitude. The Secretary of State for European Affairs described the Belgian rotating presidency as a rupture, meaning that it would take a backstage role and it would yield to Van Rompuy (and Ashton).¹⁶ Coincidentally, rotating presidencies in the following years do not include any larger Member States (with the exception of Poland in 2011), which may ease the consolidation of the new post.

Second, Van Rompuy initiated his office in the middle of the economic crisis. While the omens seemed highly negative given the novelty of his office, his apparent lack of leadership and the deepness and boldness of the situation (with eventual bail-outs of EU Member States being discussed for the first time in history), Van Rompuy emerged as a solid leader. As a seasoned commentator put it, the crisis helped to enhance the role of the European Council: It

¹⁵ Zapatero: Si alguien llama a Europa, el telefono es el de Van Rompuy El Pais 08/01/2020. Available at: http://www.elpais.com/articulo/espana/Zapatero/alguien/llama/Europa/telefono/Van/Rompuy/elpepuesp/20100108elpunac_14/Tes.

¹⁶ Belgium promises 'rupture' during EU presidency EuroActiv 02 June 2010. Available at: <http://www.euractiv.com/en/priorities/belgium-promizes-rupture-during-eu-presidency-news-494765>.

confronted it with a major challenge that only heads of government could resolve out of which Van Rompuy emerged as a decisive player (Ludlow 2010: 1).

The 2009 Election of the President

The election of the first Permanent President, Herman Van Rompuy, was part of a larger settlement involving the top EU offices (Commission President and commissioners, EP President, High Representative and even Secretary General of the Council). The June 2009 elections delivered a political map in which the EPP remained the largest party in the EP, and it also won the elections in the six larger EU Member States. This created a context (given the rules for election of the Commission President) to select, first, Jose Manuel Durao Barroso, President of the European Commission, and then, move on jointly with the election of the two new positions. In the early quizzes about the post, Tony Blair always appeared as one of the top contenders for the job¹⁷ although his candidacy did not seem acceptable to broad sectors of public opinion and some European leaders. According to Barber, the Benelux governments leaked a memo that established the profile for the new president: he or she should be someone who had demonstrated commitment to the European project and had developed a global vision of the Union's policies, who listens to Member States and institutions and who is sensitive towards institutional balance (Barber 2010: 60).¹⁸ This had the effect of making Blair's race difficult and eroding Sarkozy's support for him. The French President and German premier Merkel had agreed to support the same candidate for the post, and on 28 October 2009, they discussed and agreed on Van Rompuy, who did not appear in most of the early quizzes.¹⁹ Thus, the election seems to have been born in a deal between Sarkozy and Merkel in which the opinion of other leaders was not taken into account, and this prompted critical reactions in some

¹⁷ See Wintour, Patrick (2008), I'll be president of Europe if you give me the power- Blair. *The Guardian*, 2 February 2008. Available at: <http://www.guardian.co.uk/uk/2008/feb/02/world.politics>. Accessed 14 September 2010.

¹⁸ See further Mahony, Honor (2009), Barroso fears powerful 'European president'. *EU Observer* 8.10.2009. Available at: <http://euobserver.com/9/28799>.

¹⁹ The magazine *Foreign Policy* listed as many as 11 contenders. Van Rompuy was not included. See Lowrey, Annie, European idol *Foreign Policy* October 9, 2009. Available at: http://www.foreignpolicy.com/articles/2009/10/09/european_idol. Accessed on 14 September 2010. One month later, Van Rompuy was reputed already as the top contender for the job. See EU president: names in the frame *BBC News*. Available at: <http://news.bbc.co.uk/2/hi/europe/7371840.stm> Accessed on 14 September 2010.

capitals (i.e., Warsaw) although the final decision seems to have been adopted consensually.²⁰ Some reports tied their preference to Van Rompuy's opposition to Turkish accession to the EU. Others presented British Prime Minister Gordon Brown as the key power broker in his selection (in agreement with Sarkozy against Juncker's candidature).²¹ Van Rompuy was perceived as a consensus builder without personal ambitions to outstage the most salient among European leaders. His pragmatism (vis-à-vis more ideological profiled candidates) also counted in his favour. It marked a choice between the two eventual profiles of the post: On the one hand, the external dimension demands a person of political stature who could serve as interlocutor for the Union's big partners worldwide. On the other hand, however, consensus and ability to craft agreements seem to go hand in hand with a personal profile that does not upset the salience of main national leaders. In fact, Howorth (2010: 456) argues that Van Rompuy's appointment sent the message that the Union per se would not be setting any agenda or taking any initiative on the world stage.

The designation was presented as an ideological agreement of the Christian Democrat family while the Socialists would nominate the High Representative. Being then the larger group by far among EU leaders (and in the EP), the outcome seemed natural, and whether this was a useful alibi to close the way to Blair or an honest ideological alignment remains a moot point. In any case, the ideological majority of the European Council during the president mandate (2.5 years extendable to five) depends very much on national electoral cycles, and it is not totally unlikely a lack of agreement between the initial and final ideological majority in the European Council during the mandate.

The Exercise of the Presidency Functions

Facing the relative lack of definition of his role, Van Rompuy moved to shape the contours of the post. He rejected being the President of Europe and constructed instead the profile of the President of the European Council: the incumbent must express the views of the collectivity of the heads of state and government. The role is not merely one of being a chairman, giving the

²⁰ Traynor, Ian Franco-German deal on European Council President causes anger. *The Guardian* 18 November 2009.

²¹ Hoyng, Hans and Hans-Jürgen Schlamp. The technocrats at the top of the EU *Spiegel Online* 23/11/2009. Available at: <http://www.spiegel.de/international/europe/0,1518,662732,00.html>. Accessed on 14 September 2010.

floor to one or another member. The task of preparing and then following up European Council meetings and representing the Union externally, and his role as bridge between the national capitals and the institutions clearly go beyond the task of merely chairing meetings. The role of the Permanent President is to enhance a sense of direction.²² In his second speech to the EP, Van Rompuy contested the views that considered him either a ‘spectator’ or a ‘power grabbing dictator’. He instead affirmed his role: ‘The Permanent President of the European Council has to be a facilitator and a builder of consensus in an institution that can only work by finding the necessary and sufficiently ambitious compromise’.²³

Van Rompuy outlined three substantive changes in relation to the former rotating presidency of the European Council. First, longer-term office means a larger continuity that allows developing long-term strategies. Second, the full-time nature of the job gives a better chance to play a role within the EU institutional system. Third, the elective character of the office helps to improve the support on which the president can count.²⁴ Truly, facts have provided evidence for these points. He has clearly identified strategies in the domain of economic governance, and he is aiming at doing the same in a number of other realms. In relation to the full-time nature of the post, during the first three months of his presidency, Van Rompuy visited all 27 capitals to promote his plan for economic recovery, something a rotating presidency has vast difficulties to do because of time consumption needed for this. Full dedication allows him a meticulous preparation of all meetings.

Finally, Van Rompuy has eagerly underlined the obvious but often neglected parallel transformation of the European Council. In constructing a role for it as the masterpiece in EU economic governance, he disputed the view that the European Council is ill equipped to deal with common interests and, further, contended that the Council could be considered a purely intergovernmental institution. In fact, the meetings should not be considered as ‘summits’ but as

²² Speech by Herman Van Rompuy, President of the European Council, at the European Parliament Brussels, 24 February 2010 PCE 32/10. Available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/113028.pdf.

²³ Speech by Herman Van Rompuy, President of the European Council, at the European Parliament, 07/04/2010 PCE 59/1. Available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/113661.pdf.

²⁴ Speech by Herman Van Rompuy, President of the European Council, at the European Parliament Brussels, 24 February 2010 PCE 32/10. Available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/113028.pdf.

regular – even routine – meetings of *an EU institution* that is embedded in the institutional framework of the Union.²⁵ His strategy (Kaczyński et al. 2010: 68) is putting the European Council at the heart of the political process and, then, placing himself at the driving seat in preparing that process. And to reinforce the feeling of corps of the European Council, one of the very first movements of Van Rompuy was deciding that Foreign Affairs ministers will not attend the meetings, a move that did not meet the slightest signal of rejection from European Council members.

Management of the European Council sessions

Unexpected crises marked three of the four meetings held until 30 September 2010, and they affected Van Rompuy's management. Among these, the first one on 11 February 2010 shaped decisively Van Rompuy's management style. At the end of 2009, he had a clear sense of purpose: The two main priorities on the EU agenda should be possible strategies of dealing with the economic crisis and climate change. To address these issues, he had convened unexpectedly an extraordinary European Council for 11 February. The turn of the crisis towards the Greek fiscal problems had two effects on the president's agenda: It introduced a new problem with a degree of urgency, and it prompted the activity of additional players (both institutional – the Eurogroup and the ECB – and governmental) that somehow diminished his visibility and, at the same time, increased the coordination demands.

National players were brought in with unexpected intensity. Germany feared particularly the effects of an eventual Greek bailout (and its polluting effects on other euro area members) because of the exposure of some of its banks to Greek bonds but also because of the sheer effect on the whole euro area. Whether she wished or not, German Chancellor Angela Merkel was prompted to act and, with the opportunity of a summit with French President Sarkozy, they voiced what was perceived as the European position on the issue. The situation triggered the traditional Franco-German partnership, and this, again, may have downplayed the role of the president.

²⁵ Speech by President Van Rompuy at the European Parliament on the outcome of the European Council meeting of 16 September, PCE 192/10 22/09/2010. Available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/116668.pdf.

Thus, the context (i.e., the Greek drama) conditioned Van Rompuy's agenda, and he had to adjust quickly to a different environment since the meeting was increasingly perceived as the moment of truth (Ludlow 2010: 7), and, instead of informal discussion on the scheduled topics, tough bargaining around the Greek question was expected. But 12 hours before the European Council started, the EU did not have a common line (Ludlow 2010: 9). Van Rompuy managed the situation well with a skilful management of the timing and the personal interactions. First, he managed to liaise with the President of the Eurogroup despite that the Lisbon Treaty did not contain provisions for this specific relationship. Here, experience and personal relations played a key role. Second, Van Rompuy hosted two preparatory meetings before the plenary: the first with Jean Claude Juncker, Prime Minister of Luxembourg and President of the Eurogroup, Zapatero (rotating presidency), Barroso and Jean Claude Trichet, President of the European Central Bank. The second one brought in the political leaders and actors (i.e., Sarkozy, Merkel, Greek Prime Minister Papandreou, Van Rompuy, Trichet and Barroso). Apparently, Van Rompuy took the initiative to convene the parties in his office.²⁶ Finally, Van Rompuy drafted the final communiqué, a text vague enough to satisfy the different parties and send a message for the markets. Consensus may be attributed to his personal skills: according to Ludlow, he presented the text to the European Council and everybody agreed (see a longer analysis of the text in Ludlow 2010).

The second (ordinary) summit was held on 25/26 March, and, again, economy and climate change were the two main items on the agenda. However, the Greek crisis took over the stage, this time with a bigger sense of urgency on the assistance package compromised for Greece. Van Rompuy steered compromise by means of bilateral meetings (in particular, intense negotiations between France and Germany); he also convened and chaired a meeting of heads of state/government of the Eurozone countries and presented a draft statement which, after amendment, was accepted unanimously (the parts of the text on which the European Council

²⁶ See *El País*, 14 February 2010, 21.

was competent were discussed and agreed by the European Council itself).²⁷ The statement supported Greece and outlined the main components of the compromise aid package.

Finally, the tough dispute about the French Roma expulsions involving several leaders, Barroso and Commissioner Reding (who was not present) overshadowed the 15th September meeting. Even though the row captured by the press occurred during lunch, it determined the perception on the success of the meeting. This time, the issue and the circumstances offered less substance for actuation and instead required large doses of patience and tact, which Van Rompuy showed. The impression emerging is that Van Rompuy has ably sailed the waters of European Council management in difficult circumstances caused by the financial crisis and the Roma expulsions (mini) crisis.

Agenda-setting

Diagnosis of European Council inefficiencies point in addition to the factors already mentioned, to the heterogeneous nature of each session. Evidence of Van Rompuy's model of agenda-setting seems to indicate that he may share this diagnosis and, furthermore, is prepared to redress it. His tactic works on two parallel instruments: On the one hand, he has pursued the increase in the number of meetings (as often as on a monthly basis) and, on the other hand, each of these with a single issue on the agenda. During 2010, he scheduled four monographic sessions: 11 February, a September summit on EU's foreign policy, an October summit on innovation and a January summit on energy. Van Rompuy identified two strategic areas for action in which the European Council (and, by extension, his own) role could be largely enhanced: economic governance and foreign affairs. The configuration of his cabinet confirms this orientation: Apart from horizontal questions, the cabinet has two units: socio-economic questions and external relations.

The way in which Van Rompuy has managed the financial crisis shows his ability to steer the agenda and place himself at the helm of EU policies. Anticipating the agreements of the summit on 11 February, Van Rompuy circulated (on 8 February) his ideas in a paper entitled

²⁷ Speech by Herman Van Rompuy, President of the European Council, at the European Parliament Brussels, 7 April 2010 PCE 59/10. Available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/113661.pdf.

*Seven steps to deliver on the European strategy for growth and jobs*²⁸ and the shorter note *A European strategy for growth and jobs*. Van Rompuy received a virtual carte blanche to develop his ‘seven steps’ strategy that he had sketched out in that paper (Ludlow 2010: 11) and the idea of ‘economic governance’. And after the March meeting of the Eurogroup, Van Rompuy obtained the mandate for the creation of his Task Force.²⁹

The Task Force emerged to draw lessons from the crisis, and its initial objectives were reviewing mechanisms for strengthening surveillance for fiscal and budgetary policies and the design of a more robust institutional structure for crisis resolution.³⁰ Van Rompuy added a third objective: the divergences of competitiveness inside the Eurozone should be looked at carefully.³¹ In the first months, Van Rompuy seemed to have been able to craft a conceptual agreement between France and Germany: while the French government favoured the creation of a truly EU economic government (within which logic, the Eurozone leaders’ meetings would be a first step), the German government was deeply suspicious of any manoeuvre that could serve to undermine the autonomy of the ECB. Both governments also had diverging views on the eventual formalization of these mechanisms: the German government favoured treaty changes to avoid any eventual domestic clash with the Constitutional Court while the French government preferred a more pragmatic approach. Van Rompuy argued against proceeding via formal treaty amendments although he favoured delineating clearly the ‘hierarchy’ between the several bodies and institutions that had intervened during the crisis.³² However, he rejected, against French wishes, holding regular meetings of Eurozone leaders in order to coordinate economic policies.

When the Task Force first met, Van Rompuy referred to four objectives by the formalization of the reduction of divergences in competitiveness and the addition of the

²⁸ <http://www.euractiv.com/sites/all/euractiv/files/HRV%20EU%202020%20strategy.pdf>.

²⁹ Statement by the heads of state and government of the euro area, Available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/113563.pdf.

³⁰ Statement by the heads of state and government of the euro area, Brussels, 25 March 2010. Available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/113563.pdf.

³¹ Speech by Herman Van Rompuy, President of the European Council, at the European Parliament, Brussels, 7 April 2010 PCE 59/10, Available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/113661.pdf.

³² Mahony, Honor Van Rompuy wants clearer ‘hierarchy’ to deal with future crisis, *EU Observer*, 25.05.2010. Available at: <http://euobserver.com/9/30132>.

objective of improving economic governance and coordination.³³ Thus, there has been an increase of the thickness of the agenda that also prompted questions about the ability to deliver and its concurrence with Commission proposals (see below). Agreement was reported on budgetary surveillance with the introduction of the so-called ‘European semester’, which implied the submission of national budgetary plans to the EU, the reinforcement of sanctions for breaching the SGP, the need to pay attention to supervision of national public debt ratios (in addition to public deficit) and ensuring the independence of national statistics offices. However, criticism emerged on the lack of concrete proposals³⁴ that were very much in the Commission domain.

Institutional coordination

Institutional coordination affects two different levels: one is the coordination with national administration in charge of the rotating presidency of the several Councils. The second level is the EU one, and it affects the coordination with the Commission and the High Representative. For this coordination function, the president has at his disposal the services of the Secretariat General of the Council and a small cabinet of 15 persons (all of them highly skilled EU officials).

As for the coordination between national and EU levels, the attitude of the first rotating presidency under the Permanent President, the Spanish one has set a path. Immediately after his appointment, Van Rompuy visited Madrid (December 2009) and he agreed with the Spanish government about the creation of a working group for the coordination of the permanent presidency of the European Council and the Union’s rotating presidency. The group was composed of representatives of the FA Ministry and the chiefs of staff of Zapatero and Van Rompuy. The group set common working methods and a common agenda (including economic recovery and job creation and the 2020 agenda). The Spanish Prime Minister declared a number of times that he was prepared to yield the leading role to the president.

³³ Remarks by Herman Van Rompuy, President of the European Council, following the second meeting of the Task Force on Economic Governance, Brussels, 7 June 2010 PCE 118/10, Available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/114979.pdf.

³⁴ German minister attacks ‘nebolous’ Van Rompuy debt strategy, 13 September 2010, *EU Business*. Available at: <http://www.eubusiness.com/news-eu/germany-finance.63q>; Phillips, Leigh (2010) Van Rompuy economic governance task-force fizzling out, *EU Observer*. Available at: <http://euobserver.com/9/30804>.

As for coordination at the EU level, coordination is required with at least two main actors: the Commission and the High Representative. As for the first, Van Rompuy has followed the mandate of holding regular weekly meetings with Barroso to create a working relationship. While in foreign policy, a certain *modus vivendi* between both seems to be emerging, there existed certain struggle for political influence over the EU economic agenda.

Van Rompuy's agenda conflated with the Commission one. Since 2009, the Commission had been working on the new *EU 2020 Strategy*, which was presented on 3 March 2010,³⁵ and it included some of Van Rompuy's earlier proposals such as the requirement of submitting public debt management programs along with national reform programs. Van Rompuy constructed a case for pre-eminence of the Task Force (and his own agenda) in relation to the role and composition of the European Council. He remembered, first, that the European Council gathered both leaders of the national governments *and the President of the Commission* (an implicit reminder that he had the role of coordinating Barroso with national leaders). Second, he reminded the European Council of its role: to determine the guidelines and political directions.³⁶ The case was easily won among national leaders since they were placed as drivers of economic governance. The pre-eminence of the Task Force was also secured by its membership, which integrated very different components: the President of the ECB (Jean Claude Trichet), the President of the Eurogroup (Jean Claude Juncker), the Commissioner for Economic and Monetary Affairs (Ollin Rehn) and the Ministers of Finance of the 27 Member States. One of the interesting effects of this composition is that the Task Force seems to have taken into account many of the ECB priorities for economic governance reform.

In any case, a certain rivalry between both Commission and Van Rompuy could be detected; for instance, the European Commission was due to prepare recommendations on this issue one month before Van Rompuy's special Task Force finishes work. But after four meetings of the Task Force, Van Rompuy submitted an interim report to the 16th September

³⁵ European Commission Communication from the Commission, *Europe 2020 A strategy for smart, sustainable and inclusive growth* COM(2010) 2020, Brussels, 3.3.2010. Available at: <http://ec.europa.eu/eu2020/pdf/COMPLET%20EN%20BARROSO%20%20%20007%20-%20Europe%202020%20-%20EN%20version.pdf>.

³⁶ Speech by Herman Van Rompuy, President of the European Council, at the European Parliament, 23/06/2010 PCE 135/10. Available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/115464.pdf.

European Council. He perhaps tried to speed up the pace to outmanoeuvre the Commission, and, apparently, the Commission swiftly moved its proposals in line with the orientations stemming from the Task Force. On 27 September, the Task Force discussed the main elements of the Commission's forthcoming proposals (to be unveiled on the 29th) plus the documents that the Sherpas, the national officers that represent the prime ministers or heads of state, had prepared. Agreement started to emerge on three issues. First, debt should be scrutinized in similar way to deficit. While no specific sanctions were agreed, the reference of 60 per cent and the necessity of converging towards this threshold formed the backbone of an eventual regime for sanctions. Second, the Task Force agreed on the need of a new enforcement system for the SGP. This meant basically a reinforced regime of sanctions, including sanctions for breaking EU Commission recommendations, sanctions in form of suspension of EU funds and, most important, the automatic application of sanctions, meaning that the decisions of the Commission on imposing fines and penalties can only be reversed by means of a Council majority vote. As mentioned, the initial pull of the Task Force became at the end a frustration among certain governments due to the lack of progress of the Task Force and the rivalry with the Commission.

Finally, an unforeseen development that fills in a gap in the treaty should not pass unnoticed: Van Rompuy has chaired two meetings of the Eurozone leaders, and this gives him a position of mediator and coordinator between Eurozone leaders and the European Council that seems to go beyond the reach of current Eurozone Presidency.

Reporting to the EP

The relationship between the new Permanent President and the EP has not attracted large attention (for an exception, see Crum 2009) even though it offers a unique opportunity of improving accountability and control for both the Permanent Presidency and the European Council at large. Barber has noticed that the selection process underlines the steady rising influence of EP party political groups (Barber 2010: 65) although election seems more the result of European Council ideological composition.

Institutional relations have not moved beyond the practices with the rotating presidencies.³⁷ In addition to the reports after every European Council session, Van Rompuy has continued former practices of holding monthly meetings with the President of the EP and at least every six months with the Conference of Presidents of the EP political groups. In addition, he held a meeting with seven chairs of EP committees and the leaders of party groups and addressed the EPP and PES group meetings (3 March 2010). While these improve communication and mutual knowledge and foster interpersonal conferences, they are not truly mechanism of accountability but rather instruments for inter-institutional relations. Accountability and control remain weak.

The external role of the permanent presidency

As mentioned above, the treaty (Art. 15) restricts the president's external role to issues relating to common foreign and security policy, but regardless of this, Van Rompuy has sought to enlarge and amplify his external role, and he has ably used the margins granted by the Lisbon Treaty. In March 2010, Barroso and Van Rompuy agreed that both of them will integrate EU delegations at meetings at level of head of state and/or government, and interventions will be agreed between them. Evidence seems to show that Van Rompuy has taken the lead and, for this, the attitude of the Spanish rotating presidency was highly instrumental: It yielded in favour of Van Rompuy chairing all bilateral summits scheduled in the period in Spain (Latin America, Central America, Mercosur, Caribbean, Andean Community, Morocco, Mexico and Chile).³⁸ Zapatero renounced attending meetings in Brussels or in third countries (Japan, Canada, Russia, Pakistan and Brazil), and Van Rompuy took the central stage as the visible head of the Union, and both Barroso and Ashton remained in a secondary position. He has exercised a similar role in summits under the Belgian rotating presidency (South Africa, ASEAN, Korea and China).

³⁷ In his first audience in the EP to report on the summit of 11 February, Van Rompuy suffered abuse from UKIP's leader, Nigel Farage, who told him that he had the charisma of a damp rag and the appearance of a low-grade bank clerk. Willis, Andrew Farage sanctioned after refusing to apologize for Van Rompuy insults, *EU Observer* 02.02.2010. Available at: <http://euobserver.com/9/29588>. Accessed on 17 September 2010.

³⁸ Gonzalez, Miguel (2009), Zapatero cede protagonismo a Rompuy. El Nuevo lider de la UE presidira todas las cumbres en la presidencia Espanola El Pais 16/12/2009. Available at: http://www.elpais.com/articulo/espana/Zapatero/cede/protagonismo/Rompuy/elpepiesp/20091216elpepinac_4/Tes?print=1. Accessed on 15 September 2010. Legal EU experts anticipated instead that the lack of role for the rotating presidency would not be easy to implement in practice (Piris 2008: 208).

While in all these, his performance moved by and large within the protocol dimension, Van Rompuy played a very pre-eminent role in the EU-Russia summit with bold political declarations: He stated that the situation of human rights and journalists in Russia is of great concern to the European public and that Russia needs to avoid protectionism in trade matters.³⁹ In terms of bilateral diplomacy, Van Rompuy has exploited the protocol void, and he has been exercising the role of host with heads of state and/or government from third countries visiting EU institutions in Brussels.

The Barroso-Van Rompuy agreement was more specific on G-8 and G-20 meetings, dividing evenly their role in each of these. So far, Van Rompuy has intervened in the G-8 and Barroso in the G-20 but always on basis of joint texts, for instance, defending the European growth model; i.e., ensuring fiscal sustainability and achieving budgetary targets with strategies oriented towards restraint of public expenditure (in opposition to the US position).⁴⁰ However, the quest for an enhanced role in foreign affairs for Van Rompuy (and the EU) suffered a reverse when the UN postponed on 14 September 2010 the decision on a proposal to allow him to address the UN Plenary Assembly. In more substantive terms, the results from the monographic European Council on foreign policy were pale at best. Van Rompuy claimed that as result of discussions on the EU position towards China, he and Barroso could speak not only in the name of the Union but in the name of the 27 Member States in the forthcoming summit with China's prime minister in Brussels.⁴¹

Conclusions

Formally, the functions of the Permanent Presidency have brought little innovation. However, performance may shape them in a decisive sense. Its first incumbent, Hermann Van Rompuy, commenced office in a critical juncture jointly defined by the implementation of the new rules and the unexpected financial crisis that demanded firm European Council action. Evidence so

³⁹ Rettman, Andrew, Van Rompuy takes centre stage at EU-Russia summit, *EU Observer*, 01.06.2010. Available at: <http://euobserver.com/9/30186>. Accessed on 17 September 2010.

⁴⁰ President Herman Van Rompuy: joint letter with European Commission President José Manuel Barroso on EU priorities for the G-20 Summit, 23/06/2010. Available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/115454.pdf.

⁴¹ Speech by President Van Rompuy at the European Parliament on the outcome of the European Council meeting of 16 September, PCE 192/10 22/09/2010. Available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/116668.pdf.

far shows that Van Rompuy has mastered environmental demands and has also shown his ambition to equip the European Council with a long-term agenda. He has developed a model of entrepreneurial leadership (Young 1991) based in framing an issue in such a way as to facilitate an integrative bargain and to strike deals that would otherwise elude negotiating partners. In institutional terms, rivalry with the President of the Commission seems to be inherent to the design. Van Rompuy has strengthened his position vis-à-vis the Commission, and he has skillfully exploited the structure of opportunities offered by inter-institutional relations to reinforce his own position. In summary, the position is politically and institutionally more relevant now than at the end of 2009, and this may herald the start of a path towards stronger presidential power in EU institutions. Future developments will confirm or refute this tendency.

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