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The Presidency at the Heart of Informal Council Dynamics

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Abstract

From its humble beginnings with the merely managerial duties of a formal chair, the Council Presidency has evolved into a crucial player in the decisive institution of EU decision making, although its impact is still largely underestimated in accounts of EU policy output. More than from its formal job description, the Presidency's role results from the informal decision dynamics of the Council, particularly all the procedures to avoid open disagreement, and the manifest expectations it faces from its domestic audience, public opinion more broadly, its fellow Council members and the other EU institutions to achieve presentable results (the measure of a successful Presidency). Together, these factors create an incentive for the Presidency to wield every tool at its disposal, in particular those of the agenda-shaper and mediator and even, where necessary, unilateral sacrifice of its own national interest, to cajole Council members into an agreement. This paper outlines this informal dynamic.

Introduction

The role of the Council Presidency in the context of not just (European) Council business but also European Union (EU) politics more broadly and the process of European integration overall has received comparatively little attention, and become the focus of analysis in a more sustained way only recently. Apart from analyses of the Presidency in its institutional context (e.g. Werts 2008; Hayes-Renshaw/Wallace 2006; Westlake/Galloway 2004; Sherrington 2000) and numerous reviews of individual Presidencies, often by practitioners or journalistic observers, the relevant academic literature has tended to congregate around a series of focus points, often in comparative perspective: the role(s) and functioning of the Council Presidency (e.g. Kietz 2007; Elgström (ed.) 2003; Metcalfe 1998), evaluating Presidency performance (e.g. Quaglia/Moxon-Browne 2006; Schout/Vanhoonaeker 2006), explaining institutional change in the Presidency (Héritier 2007, Tallberg 2006),

and what might be summarized as the power(s) and influence of the Presidency (e.g. Thomson 2008; Warntjen 2008, 2007; Crum 2007; Schalk et al 2007; Beach/Mazzucelli (eds.) 2006; Tallberg 2006, 2003). In the latter category, central questions concern the degree to which holding the Presidency does or does not give the incumbent influence over decisions in the Council or in the EU's legislative system more broadly [quite a bit, especially towards the end of the decision process], and whether a given country would (be able to) use that influence to promote its own interests [not so much]. What has not been at issue as much is the relevance of the particular influence of the Presidency for the integration process as a whole, and the effects holding the office has on the behaviour of the incumbent.

That is where this paper enters the discussion, arguing that tenure of the Council Presidency plays a particular role in the generation of momentum for further integration. For the incumbent, the combined effect of three aspects of the Presidency, mitigated only by variations in incumbency attributes, can amount to what is conceptualized here as the *Presidency effect*: a traceable pro-integration bias. These three "Presidency factors" are: the *institutional shape* of the Presidency at a given time, the *expectations* associated with it and the *agenda* it faces, which is only partially amenable to the exercise of Presidency influence. The Presidency effect is manifest in the role the Council Presidency plays for the Council(s) operating in the broader context of the – evolving – EC/EU decision-making process.

Like the other elements of EC and subsequently EU policy making, the Presidency has changed considerably from its humble beginnings as the chairmanship of the Council, adding to its managerial duties representative, broker and finally leadership roles. "Cumulatively, collectively, the Presidency has altered almost beyond recognition over the past five decades, not only in terms of competences and tasks but also in terms of demands on resources".¹ It has become an office "vital to the good working of the Council" (Westlake/Galloway 2004, 326), having developed from a purely administra-

¹ Westlake/Galloway 2004, 325; cf. also Hayes-Renshaw/Wallace 2006, 140 – 154.

tive tool to a highly political player in EU politics. This development is particularly intriguing in light of the fact that the Council's core functions have remained essentially the same over the years, even as "the Council" has evolved into "a shorthand term for a huge number of multilateral and multilingual meetings" (Hayes-Renshaw/Wallace 2006, 15):

- representing member states' interests especially vis-à-vis other EC/EU institutions and providing a forum for them to coordinate and reach agreement;
- establishing legislation and deciding the development of Community policies and budget (depending on the issue area more or less in conjunction with the EP);
- controlling the Commission in its executive function and acting in that capacity itself (in taking operational decisions in the 2nd and 3rd pillars);
- representing the EC/EU externally.

The European Council, the most senior branch of the Council, fulfils partly overlapping and partly supplementary functions (cf. *ibid.*, 165 – 175; Werts 2008): it provides the political leadership and impetus for Community development, including by taking decisions that have proved elusive in the Council, shaping foreign policy, and agreeing on Treaty amendments.

Framing the formal and informal role of the Presidency are the purpose and tasks prescribed for the office and the rules and norms governing the Presidency's discharge of these tasks. The latter "have mostly developed in an informal way and have only partly been formalized. This constitutes a stark contrast to the rapid increase of the tasks performed by the Presidency" (Héritier 2007, 121). Over time, the Presidency has grown into essentially four kinds of tasks², one more managerial and three more political, institutionalized to different degrees, associated with varying expectations, and faced with diverse challenges: administrator, representative, broker and leader:

² Cf. Elgström (ed.) 2003, 5 – 7, Quaglia/Moxon-Browne 2006; for a slightly diverging, if substantially compatible conceptualization see Hayes-Renshaw/Wallace 2006.

- 1) ADMINISTRATOR – shared with the Council Secretariat, this is the traditional core function of the Presidency, the *administration and coordination* of the work of the Council and all its subsidiary bodies;
- 2) REPRESENTATIVE – the external (international) and internal (*vis-à-vis* other EU institutions) representation of the Council;
- 3) BROKER – the mediation of Council negotiations and deliberations, and consensus-building/deal-making;
- 4) LEADER – the shaping of the Council's (and thereby also largely the EU's) agenda (cf. Tallberg 2003).

Thus, while the functional tasks of the Council Presidency have developed and been differentiated quite considerably, the roles of the Council and the European Council have broadly remained the same, or else evolved into "more of the same" or even, in some ways, "less of the same".³ What *has* gradually but substantively changed, of course, is the context as well as the scope of the Councils' operation through the widening (to new member states and, in various cooperation projects, beyond) and deepening (in traditional as well as new policy areas) of European integration. These changes also affect the discharge of Presidency responsibilities, for which an incumbent may adopt very different strategies and set dissimilar priorities – yet its choice in the matter is subject to the Presidency effect.

³ This is in line with a general perception of the Council as "not ... the most innovative of EU institutions": "it is as much an excrement of the member states as the result of institutional innovation at the European level", Hayes-Renshaw/Wallace 2006, 4.

I. ADMINISTRATOR

Shared with the Council Secretariat, this is the traditional core function of the Presidency, the *administration and coordination* of the work of the Council and all its subsidiary bodies. Few would dispute that initially, the set-up of the Presidency was purely functional: "[s]omeone had to chair meetings of, and to speak for, the Council" (Hayes-Renshaw/Wallace 2006, 134, 140), a chore to be shared by, and hence equally assigned to, all members. Its procedural tasks included inter alia the chairing of meetings, the signature of documents for the Council and notification of decisions.⁴ Subsequently, the Council charged the Presidency with administrative, coordination and implementation tasks in the area of European Political Cooperation (EPC)⁵, and the evolution of EPC as "an increasingly active forum for foreign policy consultations among the member states" inside the formal constraints placed upon it caused the Presidency to become "substantially and visibly more important" (Hayes-Renshaw/Wallace 2006, 134) in meeting the practical necessities associated with it (e.g., coordination of member states' overseas missions). But especially at the beginning, the EPC's "indistinct informality" constituted "a potentially vast burden" on the Presidency, which in effect also had to take on the tasks of the Council Secretariat (ibid., 145/46). In addition, in 1974, "member governments adopted a package of reforms, formalizing the Presidency's responsibilities for internal coordination" (Tallberg 2006, 47).

Thus, from the 1970s onward, the Council Presidency's administrative role began to extend as the scope of Council activity increased, not least due to the accession of Ireland, Denmark and the United Kingdom (UK) in 1973 and the ensuing budgetary conflicts among the member governments

⁴ Cf. Council of Ministers of the European Economic Community 1958, *The Rules of Procedure*, as reproduced in Westlake 1999, 130 – 133. These tasks were reaffirmed in the wake of the 1965 Merger Treaty in updated Council Rules of Procedure, which were not, however, formally adopted until 1979; cf. Tallberg 2006, 47.

⁵ The 1970 Luxembourg Report (cf. Foreign Ministers of the European Community 1970) charged the Presidency with convening and chairing EPC meetings in the respective country, including the requisite administrative and material organization. Building on these provisions, the 1973 Copenhagen Report (cf. Foreign Ministers of the European Community 1973) further specified the Presidency tasks in terms of the coordination and implementation of EPC initiatives: they were to include the management of the foreign ministries' communication system (COREU); the provision of policy links between EPC and Community frameworks through the Council and the Committee of Permanent Representatives (COREPER); the organization of consultations among member state embassies and the implementation of EPC conclusions; cf. also Tallberg 2006, 52.

over the question of the British rebate (cf. Héritier 2007, 130; Dinan 2004, 155 – 157). At the time, it was still “a choice for individual governments how much to align their Presidency objectives and tactics with the Secretariat”.⁶ Moreover, although the 1974 Paris Communiqué (cf. European Council 1974), which created the European Council, did furnish it with an administrative secretariat and “contained few explicit references to the Presidency of this body, ... as soon as the European Council became operational, the responsibility for the administrative and political preparation and execution of summits devolved upon the Presidency”.⁷ In part, this was due to the fact that the relevant provision regarding a secretariat notwithstanding, “the member governments refrained from creating one, for fear of setting up another independent body. ... Instead, the Presidency would have to rely on its own organizational resources” (ibid.). Since the 1977 London Declaration (cf. European Council 1977), European Council conclusions have formally been adopted under the authority of the Presidency, which, with their publication, issues the only official public record of European Council meetings.

During the late 1970s, it became gradually more apparent that “the light organizational structure posed a challenge to the efficiency of the EPC” (Tallberg 2006, 52), as the mismatch between the heightened administrative burden on the Presidency and the inevitable incoherence due to rotation worsened. Hence the institutional innovation, in the 1981 London Report (cf. Foreign Ministers of the European Community 1981), that “the Presidency should be assisted by a small team of officials seconded from preceding and succeeding Presidencies – effectively constituting a small EPC secretariat”.⁸ This “dual strategy” of simultaneously upgrading the Presidencies' operational support and their powers of initiative was reiterated by the European Council in 1983 (cf. European Council 1983) and it laid the foundations of an institutional framework that effectively ties a Presidency to its predecessors in office and obliges it to preserve continuity. This institutional shape of the Presidency

⁶ Some believed “that they could be relatively self-reliant”, Hayes-Renshaw/Wallace 2006, 141.

⁷ “It became established practice that two out of three yearly meetings were held in the Presidency country, and the remaining meeting in one of the 'EC capitals' – Brussels, Strasbourg, and Luxembourg”, Tallberg 2006, 54.

⁸ Tallberg 2006, 52. This situation was formally amended with the creation of a collective EPC Secretariat in the SEA (1986), which was subsequently merged into the Council General Secretariat in the early 1990s.

soon spawned concrete, continuity-inducing routines when the 1977 Belgian Presidency began the so-called "coutumier", "a kind of handbook of procedural practice and precedent to guide successive presidencies" in EPC matters, and its British successor started the collection of EPC statements in the "recueil" (Hayes-Renshaw/Wallace 2006, 146).

Given the marked increase in Community activity from the mid-1980s, due mostly to the wide-ranging single market program and plans for EMU (cf. Dinan 2004, 216 – 223; Héritier 2007, 131) but also to the grand-scale shifts in international politics at the time, the Council required "more active management" and the Presidency faced raised expectations reflecting "a general preoccupation with improving the effectiveness of the Council".⁹ Most recently, the Presidency's administrative role has been characterized by a general tightening of the links inside the EU's policy making apparatus. In effect, its former choice as to how far to cooperate with the Council Secretariat "has now more or less disappeared": the Presidencies' stronger reliance on the Secretariat reflects both the increased workload and the longer intervals between presidencies, "which make it harder for individual governments to accumulate on-the-job experience, and more pertinent to draw on the continuous experience of the Secretariat."¹⁰ Concerns about the continuity, coherence and predictability of successive presidencies' agendas and priorities for the Council have resulted in agreement on a number of "practical arrangements" at the Seville European Council in June 2002. These notably include the provision for a multi-annual strategic program¹¹ as well as an annual operational program by the two Presidencies due to take office in the same year, "accompanied by a list of indicative agendas for the

⁹ Hayes-Renshaw/Wallace 2006, 135. The treaty changes in the late 1980s and early 1990s provided some institutionalized relief for the Presidency, especially in the EPC realm: the SEA created a permanent EPC Secretariat in Brussels, and the TEU merged it into the Council General Secretariat. The Amsterdam Treaty has further "off-loaded some of the Presidency's administrative burdens" by sharpening the Council Secretariat's "foreign policy profile", making the secretary general "High Representative for the Common Foreign and Security Policy" and providing a small policy-planning unit. Tallberg 2006, 53.

¹⁰ „Indeed, the partnership has at times become so close that the Secretariat has been seen by some as a presidency secretariat – although Secretariat officials would be quick to refute this view”, Hayes-Renshaw/Wallace 2006, 143/44.

¹¹ The 3-year strategic program is written jointly by the six presidencies concerned, "in consultation with the Commission", and subsequently adopted by the European Council, Hayes-Renshaw/Wallace 2006, 144; cf. European Council 2002, Annex II, C.4.

various Council configurations for the first six months of the year”.¹² In addition, certain meetings of preparatory bodies are to be chaired by representatives of the following Presidency, if the issue under discussion “will essentially be dealt with” during its term (for example, the budget), as well as of the Council Secretariat (ibid., C.7., C.9.).

In sum, the evolving institutional shape and associated expectations of the Presidency as well as the challenges it has faced in its *administrator* role have resulted in the increasing importance of managerial efficiency, continuity and coherence as aims of Presidential activity.

II. REPRESENTATIVE

Just as it shares administrative competencies with the Council Secretariat, the Council Presidency shares representative functions internally as well as externally with the European Commission: both sit at the Council table with all the member states (the most senior member of the incumbent member state’s national delegation moves “around the corner” to sit in the Presidency Chair at the head of the Council table, facing the Commission at the other end, while the second most senior member of the incumbent’s national delegation takes his place to the immediate right of the Presidency to head the national delegation), representing the common interest of the Community as a whole. Both also represent the EU externally on the many occasions when the “new” troika – composed of Presidency (most often represented by the foreign minister), Commissioner for External Affairs and High Representative – speaks for the EU in encounters with external actors. This practice, also, has evolved over time.

¹² “In the light of the multiannual strategic programme referred to above, an annual operating programme of Council activities shall be submitted to the General Affairs and External Relations Council in December each year. This programme shall be proposed jointly by the next two Presidencies in line and shall have regard, inter alia, to relevant points arising from the dialogue on the political priorities for the year, conducted at the Commission’s initiative. The final version of the annual programme shall be drawn up on the basis of the General Affairs and External Relations Council’s discussions”, European Council 2002, Annex II, C.5., 6.; cf. also Hayes-Renshaw/Wallace 2006, 144. This is de facto in addition to each Presidency’s 6-month work program.

From early on, the Presidency's procedural tasks included representation of the Council vis-à-vis the then Common Assembly, for which it was first authorized in 1958.¹³ It originally emerged as a representative because "the Council, as a composite body, had no other evident means of representing itself vis-à-vis the other institutions, the press and media, or the wider world" (Westlake/Galloway 2004, 326). Overall, "[s]ince the early 1970s, the Presidency has, step by step, acquired more encompassing responsibilities as the Council's representative in relation to other EU institutions and third parties in world politics" (Tallberg 2006, 66).

Internally, the Luxembourg Report introduced yearly Presidency reports to the EP, while from 1970 to 1975, the Presidency's role as the Council's representative in the budgetary process involved "forwarding the Council's collective views on the Commission's draft budget and the Parliament's proposed changes", without any Presidential authority to negotiate on behalf of the Council (ibid., 71).

Externally, meanwhile, intensified foreign policy consultations from the 1970s onwards increased demands for the Presidency (cf. Hayes-Renshaw/Wallace 2006, 145). As EPC developed over the course of the decade, "the presidency rose in relevance and utility" (ibid., 156), and it "began to emerge, in part at least, as a collective face for the EC as a whole."¹⁴ The 1973 Copenhagen Report delegated the task of external representation more generally to the Presidency, and the "heads of state and government conferred the same responsibilities ... on the Presidency when the European Council was founded later that year".¹⁵

The Presidency's role as collective external representative was reinforced in the early 1980s (cf. ibid., 68). Specifically, the 1981 London Report "explicitly supplemented the Presidency's power to issue collective declarations with the right to meet with third parties" on behalf of the members, and for-

¹³ Cf. Council of Ministers of the European Economic Community 1958, The Rules of Procedure, as reproduced in Westlake 1999, 130 – 133; Tallberg 2006, 70. These tasks, also, were reaffirmed in the wake of the 1965 Merger Treaty in updated Council Rules of Procedure, which, as mentioned above, were not formally adopted until 1979, cf. ibid., 47.

¹⁴ Hayes-Renshaw/Wallace 2006, 187. This was the case, for instance, in its liaisons with the applicants (a task conferred by the Luxembourg Report). Cf. Foreign Ministers of the European Community 1970; Tallberg 2006, 67.

¹⁵ As early as 1975, the Presidency began "to speak on behalf of the member states in the UN General Assembly", ibid. 67, 68.

malized the Presidential troika.¹⁶ By the middle of the decade, the Presidency was well established as the Council's "collective representative in external affairs".¹⁷ Internally, meanwhile, the Presidency's representative role in the budgetary process also changed: with the introduction of the conciliation procedure in 1975, it became the Council's representative in the conciliation committee charged with negotiating an agreement on the budget (cf. Tallberg 2006, 71). This set-up was developed further with the introduction, in 1982, of the "budget triologue", involving the Presidency representative in the Budget Council, the chairman of the EP's Budget Committee and the responsible Commissioner. Convened mostly towards the end of the budget process, its task was "to settle outstanding divisions between the institutions", sometimes relying on the "informal practice" of one-on-one encounters between the EP representative and the Presidency (ibid.). Thus, also by the middle of the decade, "the Presidency had developed into the Council's natural representative *vis-à-vis* the Parliament" (ibid.; cf. also Wallace 1985, 17).

After the mid-1980s, "two parallel institutional developments" characterized the evolution of the Presidency's role: "the conferral of more encompassing powers of representation to the Presidency, and the strengthening of the Council Secretariat's role" (ibid., 69). Externally, the experience of profound inadequacy in dealing with the events surrounding the end of the Cold War, especially the civil wars in the Western Balkans in the 1990s, led to the decision to transform EPC into a Common Foreign and Security Policy (CFSP) in the Treaty on European Union (TEU). Internally, the Presidency represented the member governments' collective views in the formal as well as the informal stages of the legislative cooperation procedure introduced by the SEA. It had become "established practice" for the presidents of the three core institutions to meet in "a weekly 'trialogue' devoted to legislative concerns" (ibid. 72). The TEU's introduction of the co-decision procedure, complete with a conciliation committee along the lines of the one created in the context of the budgetary process, un-

¹⁶ Ibid.; cf. Foreign Ministers of the European Community 1981. First used by the Belgian Presidency in 1977, the troika system meant that the incumbent Presidency was accompanied by representatives of both its predecessor and successor in office to meetings with third parties. This system "made sure that one of the major member states would always be part of the EPC's international delegations, thus ensuring adequate political clout", Tallberg 2006, 68.

¹⁷ Ibid., 69. The Presidency's enhanced role was reemphasized by the 1983 Stuttgart Solemn Declaration, cf. also Wallace 1985, 19.

derlined the practical importance of informal negotiations between the heads of delegations, notably between the Presidency and the Chair and Rapporteur of the relevant EP committee.¹⁸

Thus, *externally*, the Presidency's role as a spokesman for the EU and its members "has grown exponentially since the 1970s", and although "the bulk" of representative work is CFSP-connected, many activities subject to mixed competence also "require someone to speak for the EU abroad in both bilateral and multilateral gatherings, to act as the reception point for incoming delegations from third countries, and to ensure coordination between missions based in third countries" (Hayes-Renshaw/Wallace 2006, 152). Often, "in a process of accumulating habits and experience", certain practices "have simply been carried on rather than new ones being established", even if they obviously do not meet the functional requirements of the professed policy goals.¹⁹ In these cases, then, due to collective member state resistance and despite their best efforts, individual presidencies were reduced to making "a difference at the margins" (ibid., 147).

In what can be seen as the most striking example of direct *agenda* impact on Presidency behavior, the Council's ad hoc reaction of sending "the Presidency as negotiator and diplomatic reaction force" to Yugoslavia

"signified an important shift in the function of the Presidency as external representative. It was the first time that EC governments had delegated authority to the Presidency to engage in foreign policy negotiations on their behalf, effectively granting the Presidency the same powers enjoyed by the Commission in external trade negotiations" (Tallberg 2006, 69/70).

¹⁸ Cf. Tallberg 2006, 72/73, citing then Vice Chairman of the EP's Committee on Institutional Affairs, Richard Corbett, who reports that, in light of the practical impossibilities of actual negotiations in the full conciliation committee, "the Presidency is usually dispatched to negotiate with the Chair and Rapporteur of the relevant Parliamentary committee From Parliament's perspective, this has expanded enormously the relationship between ... [it] and the Council Presidency Since the introduction of the co-decision procedure, encounters between members of Parliament and the ministers in the Council Presidency also take the form of hard bargaining."

¹⁹ Ibid. Relevant examples from the CFSP context are the presidency coordination of member state positions in external posts or the quasi-automatic consultation among relevant national experts, which "by no means provides the systematic information and planning base that an integrated foreign policy would demand", ibid. 146 – 147.

Subsequently, a formal external negotiating mandate for the Presidency, linked to the requirement of unanimous Council support for the adoption of any negotiated agreement, was included in the Treaty of Amsterdam (ToA). The Treaty also modified the composition of the CFSP troika, recasting it “to effectively comprise the Presidency in office, the high representative of the CFSP, and the commissioner in charge of external policy” (ibid.). The Reform Treaty, if ratified, would provide a radical institutional adjustment affecting the Presidency's external representation function in the CFSP context, as discussed below. Internally, the ToA “more than doubled” the issue areas to which the co-decision procedure is applicable, and “demand for the Presidency as representative increased accordingly” (ibid., 73). At the same time, the simplification of the procedure and the possibility to reach inter-institutional agreement earlier has enhanced the importance of informal negotiations, which “allows the Presidency to accelerate proposals it would like to see enacted during its period at the helm” (ibid.).

Hence, on the one hand, the representational role of the Presidency still appears to be its least settled and most contested aspect, given the sensitive nature of the subject matter it deals with, especially in terms of external representation. Further, the requirements for the Presidency-as-representative are both more subtle and more complex than the administrative effectiveness requirement to be met by the administrator. On the other hand, the Presidency-as-representative and negotiator has gained quite substantially in influence with the expansion of that role, as shown above. Overall, the combination of the Presidency's changing institutional shape, the increasing expectations associated with it and the challenges on the agenda it has faced have generated certain incentives for Presidency behavior also in this role: generally, in putting the incumbent on the spot (and literally in the spotlight), it reinforces the Presidency's responsibility to find or create a consensus which it can then represent, thus upping the performance pressure on the country in charge and the urgency to achieve results presentable as successes. Especially in the case of high stakes, high profile issues on the external agenda, like for example the current tensions with Russia, the Presi-

dency feels the pressure to create unity among its fellow member states in order to maintain credibility on the world stage.

III. BROKER

"By definition, a Presidency has to suppress its national interests."²⁰

Initially, the Presidency's broker role was essentially non-existent, as the office "possessed almost no political powers" (ibid., 43). Still, the Luxembourg Report made the Presidency the liaison between the EC members and the four new applicants (the UK, Ireland, Denmark and Norway), which did involve "a process of brokering an internal agreement before external negotiations are initiated, renegotiating this position in the light of the other party's counter-demands, and eventually seeking member states' support for a final deal involving new compromises" (ibid., 143). In this phase, member states' "ambition to present a united front in international affairs" made brokerage a particularly vital part of the EPC, where the demand for mediation and consensus building was strong due to the prevailing combination of a unanimity requirement and competing foreign policy interests (Tallberg 2006, 61). Without a competitor for the role in this policy area outside the Community framework, the Presidency with its representation and agenda-shaping (see section 4 below) responsibilities became the obvious choice of informal broker in the EPC.

In the European Council as well, the need for brokerage was strong from the outset. Founded partly to overcome the Council's inability to "reach agreements in a context of unanimity requirements and divergent national interests" (ibid., 62), the European Council had to perform better under the same conditions in order to function as "an appellate body, where the heads of state and government made final attempts to strike deals that ministers had been unable to clinch in the Council".²¹ In ad-

²⁰ Interview quote from Elgström 2003, 1.

²¹ Ibid., 63. In its 1977 London Declaration, the European Council defined settling unresolved issues from lower levels as one of its purposes, in addition to developing political guidelines and informal exchange. Cf. European Council 1977.

dition, its role in agreeing broad constitutional as well as policy reforms by transcending the Ministerial Councils' sektoral divisions also required the brokerage of package deals, buoyed by the European Council's political authority. The Presidency with its agenda management responsibilities (see section 4 below) was the institution in place to take on the broker role from the beginning, and it developed specialized techniques for the purpose, notably the *tour des capitales* and the Presidential shuttle diplomacy, begun in the 1970s, as well as the "Presidency Confessional" (involving the adjournment of plenary proceedings in the case of deadlock for confidential bilateral discussions with relevant delegations).²² The *tour des capitales* not only serves the purpose of collecting early information on member state preferences, but allows the Presidency to gather support for its agenda ahead of the summit.

The practice of such Presidential "shuttle diplomacy" to prepare European Council summits "reached an early peak during the French Presidency in 1984, when the French president François Mitterrand held no less than thirty meetings with other heads of government".²³ The format of a bilateral encounter between member state governments and the Presidency to ascertain the former's bottom lines and thus determine the area of overlapping win-sets (cf. Putnam 1988; Evans et al. 1993) was carried into the actual meetings of both European and Ministerial Councils with the technique of the Presidency Confessional. The output of European Council summits, the official Presidency Conclusions, "have always been subject to intense bargaining", but until 1982, they were negotiated among so-called sherpas, special representatives of members' heads of state and government:

"[f]ollowing conventional summit procedures, the sherpas would establish preliminary agreement where permitted, and then 'bracket' outstanding issues, which were left for the execu-

²² As Hayes-Renshaw and Wallace (2006, 150) note, there are three main goals of Presidency confessionals: "first, to encourage individual delegations to be more open and more direct about the 'bottom lines' of their negotiating positions; second, to put pressure more fiercely on individual delegations to make concessions; and, third, sometimes, to offer 'unofficial' inducements to cooperation". While opinions about the merits of the confessional vary, "some people in the Commission regard it as a clear incursion into the Commission's brokering role".

²³ Tallberg 2006, 64. Cf. Hayes-Renshaw/Wallace 2006, 178 on later adjustments of this practice in light of the expanding number of member states.

tives to handle. (...) Reservations were added to reservations, since the sherpas lacked the authority to reveal bottom lines, effectively producing unnegotiable draft texts".²⁴

The sherpa system was abandoned when the responsibility to draft European Council Conclusions, in collaboration with the Council Secretariat and the Commission, was transferred to the Presidency. Meanwhile, the beginning of a shift from the entrenched habit of consensus-building (conditioned not least by the Luxembourg Compromise) to more majority voting from the early 1980s (cf. Hayes-Renshaw/Wallace 2006, 268) changed the central task of the Presidency-as-*broker* from consensus building to coalition building. In 1987, new *Council Rules of Procedure* furnished it with the formal authority to call a vote, the mere possibility of which significantly reinforced "the Presidency's capacity to steer the negotiation process" (Tallberg 2006, 60).

In the context of EU foreign policy, while the Council Secretariat has acquired a more prominent position especially from the late 1990s on, "the Presidency has remained the dominant engineer of consensus" (ibid., 62). In fact, the pressure "to look for agreement and to manage business in such a way as to foster consensus" has risen steadily, and the Presidency has developed various tools for the purpose.²⁵ The so-called "Presidency compromise", in the first pillar, is typically a draft agreement based on, but not bound by, a Commission initiative and providing for the negotiating parties' positions²⁶; in strictly intergovernmental domains, notably the CFSP and JHA pillars, the Presidency document automatically becomes the "single negotiating text" around which the bargaining is expected to take place.²⁷ Overall, the Presidency has an "unusual capacity to conclude package deals, owing to its position as a link between the different bargaining arenas in the Councils", but "the true

²⁴ Tallberg 2006, 65.

²⁵ Hayes-Renshaw/Wallace 2006, 149; cf. also the 2004 Council Rules of Procedure, Article 20 as well as Annex IV. Among the more prominent Presidency tools are the abovementioned 'presidency confessional', the 'friends of the Presidency', and the 'tour des capitales' (for the European Council).

²⁶ According to Jonas Tallberg, the very "existence of a specific term ["Presidency Compromise"] for compromises proposed by the chair reflects the Commission's original role as mediator and the Presidency's subsequent development into the preferred broker", Tallberg 2006, 116/117.

²⁷ "Single negotiating texts formulated by the Presidency have become the norm in most areas of EU cooperation", ibid., 65; cf. ibid. 59.

value-added of the Presidency as a broker is the ability to stitch together unorthodox deals that stretch across a number of issue areas" (ibid., 117).

As the institutional shape of the Presidency-as-broker has thus evolved over time, so have the expectations associated with it. The "mediation" role of the Presidency is hardly ever discussed in the literature without the insistence that "it is supposed to steer negotiations toward decisions and agreement" (Elgström 2003, 6) – but agreement, in the context of EU politics, is quasi-synonymous with progress in terms of European integration, as it at least continues the practice of Community cooperation, adding to the *acquis* as well as to the members' cooperation experience, and at most, further builds the Community framework (in particular in the so-called "constitutional" decisions). Specifically, the "effectiveness norm" according to which "it is a Presidency's duty to steer the Council to ... achieve tangible results" (ibid., 7), appears to broadly obliterate not just the "neutrality norm" (which is increasingly acknowledged to represent an unrealistic ideal) but also the "impartiality norm" traditionally associated with a mediator – which is why the term "broker" appears more appropriate to describe this particular Presidency function.

Next to the Presidency's leadership function (see section 4 below), it is the broker function through which the Presidential integration bias, due to the combination of institutional shape, expectations and agenda, is expressed most forcefully. As the effectiveness norm is partially generated from the accumulating expectations nurtured by the European integration process in participants as well as observers, it is clear that especially at European Councils and other high profile events, not just any results will do, which further adds to the Presidential bias in favor of further integration in its broker role: "Every Presidency should do its best to be a driving force, to reach agreement on as many dossiers as possible. It is strongly believed to be in the European interest to steer the Union forward. This is true whether or not the Presidency is a believer in supranational ideals" (ibid., 44/45).

IV. LEADER

As for the Presidency's *leadership* function, its earliest procedural tasks already included agenda preparation – as in typing up and distributing.²⁸ “From the late 1960s onwards, EC governments formalized and extended the Presidency's agenda-management responsibilities” (ibid.). In this early phase, this happened mostly in the EPC context: in 1970, the Luxembourg Report assigned the Presidency the task to “set and structure the foreign policy agenda” on the basis of member state proposals (Héritier 2007, 123). In addition, it was to determine the extent and mode of crisis response coordination among member states. Based on the Luxembourg Report, “[i]n formal terms, all member states shared the same right to propose subjects for political consultation. In practice, the Presidency, as first among equals, gained the primary responsibility to set and structure the foreign policy agenda” (Tallberg 2006, 51). This was underlined in the 1973 Copenhagen Report, which made explicit the Presidency's special role in the initiation of foreign policy consultations.

The Presidency's leadership role grew. Control of the agenda of the European Council, the institution intended to provide political leadership for cooperation in Europe, had been given to all member states collectively in 1974. But since the foreign ministers as a group engaged in preparatory discussion “did not constitute a functional forum for the formulation of a delimited and manageable agenda”, political summit preparations “were entrusted to the Presidency” (ibid., 55). Following the 1975 Tindemans Report (cf. Tindemans 1976), pointing to the need to further strengthen leadership of the Council and to the Presidency as the right means of achieving it, as well as suggestions by French President Valéry Giscard d'Estaing to the same effect, the European Council's 1977 London Declaration “explicitly granted the Presidency a role in the advance preparation of ... [its] agenda, and assigned ... [it] the task of providing the only record of conclusions” (Tallberg 2006, 55; cf. European Council 1977). In terms of political leadership in the Council more broadly, the 1979 Report of the

²⁸ Cf. Council of Ministers of the European Economic Community 1958, The Rules of Procedure, as reproduced in Westlake 1999, 130 – 133; tasks reaffirmed in the wake of the 1965 Merger Treaty in updated Council Rules of Procedure not formally adopted until 1979, cf. Tallberg 2006, 47.

"Three Wise Men", initiated by the European Council to determine further avenues of institutional reform, argued that the "virtual breakdown in Council work under some particularly 'bad' Presidencies ... has shown that if the Presidency does not do this job, there is no longer anyone else who can fill the breach" (Committee of the Three 1979, 30). Accordingly, governments enhanced the Presidency's role in "stabilizing and shaping the EC's political agenda" with several reform packages and continuous adjustments of Council practice, but without Treaty change (Tallberg 2006, 48). The 1981 London report, while leaving the Presidency's agenda-management function largely unchanged, specified its role in preparing the agenda for and summarizing the discussions of the informal "Gymnich" meetings of foreign ministers. "The degree to which agenda setting had devolved upon the Presidency was reflected in a reminder in the report that other states could submit proposals for action as well" (ibid., 52). By the mid-1980s, "the Presidency had become the central managing force in the Council" (ibid. 48, 53), in charge of the agendas of the various Councils, committees, and working groups, just as its "special responsibility for the agenda of European Council meetings had become institutionalized", which involved fairly discretionary trimming to "proportions amenable to bargaining".²⁹

These developments gave rise to the argument that they would allow the Presidency to manipulate the Council agenda, as an incumbent would seize the opportunity to promote initiatives in its own interest – "an image that national politicians were often keen to encourage, and which their national press often fostered" (Hayes-Renshaw/Wallace 2006, 148). Thus, in 1983, "in recognition of the political dimension of its agenda-management responsibilities", the European Council sought to introduce a certain standard of accountability for the Presidency in requiring it to present its work program to the EP at the beginning of its tenure and to report on its progress at the end (Tallberg 2006, 48; cf. European Council 1983). The presidency's stronger leadership role was also evident in its evolving relationship with the Council Secretariat, which from the early 1980s on "gained a more pro-

²⁹ Ibid., 55. A routine of political preparation especially of European Council Summits had become established that would remain essentially the same until 2002, involving a Presidential *tour des capitales* and a preliminary exchange about the agenda in the General Affairs Council, cf. *ibid.*

nounced advisory role" under the leadership of General Secretary Niels Ersbøll (Tallberg 2006, 49). This went so far as to lead some to describe the Council Secretariat as having become "largely a Presidency Secretariat in a much more explicit sense than was previously the case" (Wallace 1985, 12).

Neither the SEA nor the TEU fundamentally changed the Presidency's leadership role, which rather "continued to develop in an incremental fashion and in response to demands for initiative and coordination in the Council" (Tallberg 2006, 49). The formal incorporation of the European Council into the Treaties coincided less with functional changes than with adjustments of practice with some political consequences: the organization of two summits in the country of the Presidency, one informal and one formal towards the end of its tenure, allowed it "two opportunities to shape and structure the agenda of the European Council", whereby especially "the substantive agenda of the informal meeting truly constituted the exclusive domain of the Presidency, which was at liberty to decide the theme for these summits" (ibid., 56). Moreover, from the mid-1980s, agenda management evolved toward "executive, political functions" (ibid., 49). The decision to complete the internal market before 1992 and the expansion of EC activity into new issue areas (including regional and environment policy) with the SEA and the TEU resulted in a steep rise in the number of meetings, to which the member states responded "by conferring on the Presidency an explicit authority to prioritize among competing policy concerns" (ibid., 50). This is reflected in each Presidency's comprehensive work program for its tenure³⁰ and was reinforced by "the formal conferral in 1993 of a right for the Presidency to propose issues for general policy debates" (Tallberg 2006, 50). The steadily growing number of informal meetings in the country of the Presidency, "with agendas dictated by the host government" (ibid.), also underlines the Presidency's move into policy initiation. In parallel, it has held

³⁰ The work program encompasses an extensive "political declaration of intent" specifying the incoming Presidency's policy priorities as well as an overall meeting schedule for the six months of its tenure and preliminary agendas for all ministerial-level Council meetings, cf. ibid. Interestingly, despite the fact that the Council Secretariat's current "Presidency Handbook" states that the "Presidency no longer makes six-monthly programmes" (Council Secretariat 2006, 13) because they have supposedly been supplanted by annual and multi-annual strategic programs, successive incumbents have continued to pursue this "normal practice", as the recent German Presidency put it (cf. the Presidency website, http://www.eu2007.de/en/The_Council_Presidency/Priorities_Programmes/index.html [accessed February 2nd, 2008]).

on to its central position in managing the EPC agenda throughout this period, despite the successive rounds of institutional change in the realm of foreign policy cooperation (cf. *ibid.*, 53).

The later 1990s and early 2000s saw no fundamental Treaty-induced change in the Presidency's leadership role; rather, there was some incremental evolution (cf. *ibid.*, 49) as well as change in European Council working methods which collectively had the net effect of constraining Presidency initiative to a certain extent. The "most significant development" (*ibid.*, 50) of the period followed from member governments' efforts to create further mechanisms of continuity in light of the problems accrued and anticipated in the wake of the 1995 and in preparation for the 2004 enlargements. Accordingly, measures to strengthen the Council Secretariat in its support function and to facilitate coordination between successive Presidencies were elaborated and implemented (inter alia in a 2002 Secretariat report (Council Secretariat 2002) and a series of Council documents between 1999 and 2002, cf. Tallberg 2006, 50). In June 2002, the Seville European Council formalized the existing practice of multi-year legislative agendas by introducing multi-annual strategic programmes to be drawn up jointly by groups of six consecutive presidencies (European Council 2002, cf. above). A Presidency's work program and the targets it specifies for its six-month tenure are the most obvious expressions of the Presidency's leadership claim. Thus,

"[i]n the past, regular agenda items were interspersed with some new ideas, with the clever presidencies trying to judge policies that suited their interests and were rising to the point of agreement in any case, thus claiming a double credit for their resolution. (...) Since the introduction of strategic and operational programmes that have to be agreed jointly with other member states, there is greater constraint on individual presidencies regarding the content of their presidency programmes."³¹

Similarly, the Seville reform package further institutionalized the drawing up of the European Councils' agendas and conclusions: the Presidency's previously informal bilateral pre-Summit agenda con-

³¹ Hayes-Renshaw/Wallace 2006, 148. In the authors' view, "early experience of the strategic programme for 2004-6 and the annual operational programmes it has spawned appear to be positive in terms of continuity and coherence", *ibid.*

sultations have become regular, managed pre-negotiations; and even the agenda of informal summits has been removed from the Presidency's control to the extent that the European Council has adopted a habit to "pre-program its own agenda, in an effort to achieve greater continuity in policy development."³²

Moreover, the Lisbon Treaty recognizes the European Council as an autonomous institution whose role is to impart political impetus, though expressly *not* to perform any legislative functions.³³ The Treaty also introduces decision modes other than consensus to the European Council, so that it can decide by qualified majority on, inter alia, the creation of Council configurations other than the Foreign and General Affairs Councils; the nomination of the Commission President (taking due account of EP election results and after consultations); as well as the appointment or dismissal of the High Representative with the agreement of the Commission President. Like those of agencies, the European Council's acts will also be subject to judicial review by the ECJ. It is not yet clear what cumulative effect these changes, and especially the replacement of the European Council's rotating Presidency with a semi-permanent President (to be elected by the members of the European Council for a term of 30 months, once renewable), will have on the Presidency's leadership role.

Even though it appears to have lost some of its clout in terms of agenda-shaping, the combined impact of institutional shape, expectations and agenda on Presidential behavior in its leadership role is evident and intact. First, through shaping, albeit not freely *setting*, the agenda, the Presidency determines the political priorities of its tenure and thereby also commits itself to the results it hopes to achieve. The inherited issues on the table notwithstanding, the Chair is able to make room for additional questions it might want to address, vary the degree of emphasis put on the open issues, and even avoid addressing certain topics by altogether excluding them from the agenda (which means they are left for a subsequent chair to tackle, cf. Tallberg 2003). This allows the Presidency to use its

³² Tallberg 2006, 56. Informal European Council Summits in the spring generally address EU activity in the fields of employment, competitiveness as well as development, while the informal fall meeting is dedicated to questions of immigration and cross-border crime.

³³ It can, however, act as an "emergency brake" in the fields of social security as well as judicial cooperation in criminal matters.

leadership function to a certain degree in its own interest – not, however, by imposing its own substantial preferences on its peers, but rather in protecting them by taking critical issues off the table while it is in no position to effectively defend its preferences on them due to its commitment to reaching an agreement, especially when and where the incumbent's national preferences run counter to the prevailing majority on a given issue. Hence, a Presidency tries "to act strategically to influence the agenda in order not to end up in a situation during its Presidency where it has to take responsibility for an issue in which it has strong national interests and is in a minority position" (Elgström 2003, 51), because in this case, like in a deadlock, the pressure would be enormous for it to overcome the divisions through "unilateral sacrifices" in terms of its own preferences, that is, "to pay the price of the Presidency". This is an ideational part of the Presidency effect: the strong "spirit of consensus" that has emerged in the "EU milieu", and in particular the Council with its long "shadow of the future", plus the pervasive "effectiveness norm" ("[t]he foremost duty of any Presidency is to get results", *ibid.*, 44 – 47).

Second, because a 'successful' Presidency has come to be associated with (signs of) progress in terms of European integration, the office, forcing and at the same time allowing the incumbent member state to come up with an agenda for *its* Presidency, makes further integration a priority (if temporarily) for that member, no matter what its original preferences. As a result, rather than presenting a prime opportunity to pursue national interests, preparing and holding the Council Presidency puts a premium on pursuing integration: more European integration *becomes* the national interest. The way in which this priority is translated into policy depends on the Council's current agenda; but given that the incubation period for the vast majority of EU output is rather longer than the six-months tenure of an individual Presidency, the pressure to prioritize integration progress over idiosyncratic national demands is to a certain degree felt by more than just the incumbent, as member states begin to plan 'their' Presidencies years ahead of taking office. This may introduce an element of competition, as member states vie and scheme for the biggest events (e.g., an enlargement, or an agreement on an important new policy) and the most important steps in European integration

(i.e. the conclusion of an IGC and the signing of a new Treaty) to fall into their tenure. As many of these are subsequently known by their place of origin (e.g. the 'Maastricht Treaty', the 'Copenhagen Criteria', etc.), they can perpetually signal a Presidency's and thus a member state's imprint on the integration process and on the European project as a whole. The latest example of this behavior was the insistence of the Portuguese Presidency to have the Reform Treaty signed in Lisbon – even though the summits were all held in Brussels – in order to be able to call it the *Lisbon Treaty*.

This kind of symbolism has at least partially been undermined by the decision to hold all future European Council meetings in Brussels. Similarly, attempts to fortify the Union by strengthening the Council Presidency through the slowing or abolition of member state rotation and the establishment of a permanent office holder for the ministerial and European Councils, respectively (as provided in the draft Constitutional Treaty³⁴ as well as in the Lisbon Reform Treaty³⁵) may actually backfire, because this would eliminate not only the competition mechanism, but alleviate member states of a considerable portion of their individual *responsibility* for the project of European Union.

³⁴ Cf. Draft Treaty establishing a Constitution for Europe, CONV 850/03, Articles 21, 23.4.

³⁵ Cf. OJEU C 306/19, December 17th, 2007, 17) with regard to Article 9C.9.

Conclusion

If the “most typical” feature of institutional change in the Council Presidency over time has been “a step-by-step adjustment to external functional demands”, its evolution also has a number of “striking” features (Héritier 2007, 137/138): first, most of the adjustments of the Presidency's role occurred in incremental, informal changes, not all of which were later formalized, let alone included in major Treaty revisions (what Héritier (ibid.) calls a “higher order institutional level” of change). In this way, the Presidency is itself very much part, indeed a product, of the informal Council dynamics. Second, member states have continued to accept (and considered as “efficiency-oriented”) or even promoted increases in the role and powers of the Presidency which cumulatively amount to a fundamental change in the nature of that institution, transfiguring it from a mere administrator of Council business to a highly politicized, powerful central player in EU decision-making. The suggested explanation for this behavior (cf. especially Tallberg 2007, Héritier 2007), that the presidency's rotation has been sufficient to make this acceptable because it “takes the redistributive string out” (ibid., 138), is somewhat undermined by the increasing period of time between a member state's tenures and the attendant rise in uncertainty as to the influence each member state will be able to wield in its turn in the future. In addition, it does not explain the member states' willingness, as expressed in the Reform Treaty, to work with longer-term, non-rotating Presidencies in the most high profile and most influential configurations of the Council: the European and Foreign Affairs Councils. Yet the profoundness of the transformation the Presidency has undergone in the course of the European integration process can hardly be overstated.³⁶ It is all the more remarkable for the fact that the Council's core functions have remained unchanged: its rules and procedures have been adjusted, the volume of its business and its outputs have both risen steeply and been diversified, and even the

³⁶ The intensive debates about the Presidencies of the Council and the European Council in the Convention on the Future of Europe (CFE, 2002/03) as well as in the ensuing Intergovernmental Conference (IGC) have indicated the “perceived importance” of the Presidency today, which is “a far cry from the early days of the European Communities ..., when the Presidency was viewed as merely a means of fulfilling an administrative chore (the chairing of meetings)”, Hayes-Renshaw/Wallace 2006, 133. This is further underlined by the fact that the CT provisions with respect to the Presidency were not abandoned following its failure to be ratified, but transferred into the Reform Treaty.

negotiation behaviors of its members have undergone changes – but the core nature of what the Council is and does in the EU system is essentially the same as it was (almost) 50 years ago.

The informal Council dynamics that have shaped the Presidency over time also have created incentives for the Presidency to behave in particular ways. The combination of its institutional shape, the associated expectations of its peers and the European publics and the challenges of the agenda have resulted in the “Presidency effect”, which pushes the Presidency, in its administrator role, to strive for administrative efficiency, ensuring smooth meetings and enabling effective coordination among all the players of EC/EU decision-making; puts the Presidency on the spot, in its representative role, to present a unified position to the in- as well as the outside, which may hardly exist in reality; strongly pushes the Presidency-as-broker to achieve agreement in the Council (and the EC/EU more broadly), almost at all cost; and directs the Presidency in its leadership role for the Community towards manageable agendas which hold the promise of success, i.e. progress in terms of European integration. As the Presidency operates at the heart of the informal Council dynamics, the resulting bias of the incumbent in favor of European integration can have decisive consequences for the European integration process as a whole.

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