

The Lisbon Treaty Evaluated: Impact and Consequences

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The Presidency Effect after the Lisbon Treaty: the Consequences of the Demotion of the Rotating Council Presidency

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Abstract

The Lisbon Treaty has made some key changes to the institutional set-up of the Council of the EU and the European Council. Most notably, it has institutionalized non-rotating, longer-term Presidencies for the European Council and the (newly established) Foreign Affairs Council. Before Lisbon, only the Eurogroup had an elected, longer-term Chairman, while semi-annual rotation was the provision for all (other) Council constellations, including the European Council. While this has had certain drawbacks (notably persistent continuity issues), which have previously been addressed by measures preserving rotation (notably the annual and multi-annual Presidency programs), it has also had certain unintended consequences that have arguably been beneficial: under rotation, the combined effect of the Presidency's institutional shape, the expectations associated with it and the agenda it faces produced a certain integration bias in each member state-incumbent in turn, as each temporarily takes on responsibility for keeping the EU project moving and on track.

Drawing on the experience of the first few post-Lisbon Presidencies, this paper assesses what the changes to one of its core factors, institutional shape, means for this 'Presidency effect'; what, if any, changes there are to the expectations associated with the rotating Council Presidency as it negotiates its relationship with the new European and Foreign Affairs Council Presidents; and whether with the abolition of rotation in two of the most important Council formations, a certain potential for more continuity is being paid for with less member state responsibility for the European project as a whole.

I. The Council Presidency and the Presidency Effect before Lisbon

It is almost universally acknowledged that the Council Presidency has, over time and by means of various adjustments big and small, grown into four main roles in the context of the political system of the European Union (EU), one more managerial and three more political, institutionalized to different degrees, associated with varying expectations, and faced with diverse challenges. These are:

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

Framing these roles of the Presidency are its institutional shape and the expectations associated with it, that is, the purpose and tasks ascribed to the office and the rules and norms governing the Presidency’s discharge of these tasks. The formal and informal Council dynamics that have shaped the Presidency over time have also created incentives for it to behave in particular ways, as 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 creates certain pressures on the Council Presidency in its four roles:

- it 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;
- it motivates the Presidency-as-broker to achieve agreement in the Council (and the EC/EU more broadly), almost at all cost;
- it 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;
- it 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.

These manifestations of the Presidency effect describe (and partly imply) motivations and behaviours shared by all incumbent member states of the *rotating* Council Presidency – subject to variation due to incumbency effects, the contemporary agenda (which is only partially amenable to Presidency influence) and the evolution of both institutional shape and associated expectations over time.

The Council Presidency, that is, the Chairmanship of all Council configurations and their subsidiary bodies, has been rotating, in alphabetical order, among member states since the inception of the European Coal and Steel Community (ECSC)¹; the Treaties of Rome extended

¹ Treaty of Paris, Art. 27.

² EEC Treaty, Articles 146, 147, 203.2; EURATOM Treaty, Article 116.

the duration of tenure from three to six months.² There have been a few exceptions to this rule: various provisions have been made for support for the incumbent Presidency by its successor, who is, most notably, to take over the Chair in meetings on issues where the incumbent has opt-outs in place or where the bulk of the work or the final decision is likely to fall into the incoming Presidency's tenure. In addition, a number of committees and working groups have been given "fixed" Presidencies³; and the informal "Eurogroup", created in 1997, whose rotation was necessarily out of sync with the "regular" Council formations due to its divergent membership, has a quasi-permanent, elected President, too.

In addition, after the 1970 Luxembourg Report had resulted in the extension of the Presidency's remit to include European Political Cooperation (EPC), it had been further strengthened in that realm, following the 1974 London EPC Report, by the introduction of diplomatic 'support teams' seconded from the preceding and succeeding Presidencies through a new *troika* system, which was formalized for the new Common Foreign and Security Policy (CFSP) in the 1992 Maastricht Treaty on European Union. In 1995, the Council Presidency's order of rotation was adjusted to ensure a balanced troika that would always include a larger member state as well as neutral and non-neutral member states;⁴ and in 1997, the Treaty of Amsterdam had modified the composition of the troika to include the incumbent Presidency, the CFSP High Representative (aka the Council Secretary General) and the Commissioner in charge of external policy. Finally, in December 2004, in a decision on a new system of Presidency

² EEC Treaty, Articles 146, 147, 203.2; EURATOM Treaty, Article 116.

³ The Economic and Financial as well as the Military Committee elect a Chairperson; a number of working groups (e.g. on electronic communications and on the codification of legislation, as well as the Security Committee) are chaired by the Council Secretariat; cf. Westlake/Galloway 2004: 397/298; see also the Conclusions of the 1999 Helsinki European Council and related amendments of the 2000 Council Rules of Procedure, as well as the 2002 Seville European Council Conclusions and the respective amendments of the 2002 Council Rules of Procedure.

⁴ Cf. the 1995 amendments to the Council Rules of Procedure. Other changes to the order of rotation were made to include newcomers (in 1973, 1981, 1986, 1995, 2004 and 2007) as well as, in 1986, to ensure that given an even number of member states, they would not always hold the Presidency in the same half of the year.

rotation for 2007-2020, so-called “team presidencies” were introduced, in which teams of three member states shared the responsibility for the Presidency for a period of 18 months, chairing meetings for 6 months each (with the option of agreeing alternative arrangements).

Underneath all these measures creating linkages among successive Presidencies to enhance continuity, coherence and efficiency in the discharge of Council and EU business, rotation was maintained, and given the steady expansion of its tasks, the rotating Council Presidency continued to rise in relevance at least until the trend-breaking Lisbon Treaty. Accordingly, later Presidencies will have experienced the cumulative Presidency effect more strongly than earlier ones.⁵ Arguably, the Presidency effect, albeit an unintended consequence of the EC/EU’s institutional set-up, has played a – largely unacknowledged – positive role in generating and maintaining the momentum of European cooperation and even integration: the pressures on the incumbent Council Presidency result in behavioural, attitude and position adjustments, which can affect Council decisions and even amount to a pro-integration bias.

The question arises of how the Lisbon Treaty changes to the Presidency’s institutional shape, and the consequently changed expectations associated with the Presidency, are affecting the role(s) performed by the Council Presidency and thus the Presidency effect.

II. Lisbon Treaty Changes to the Presidency

Some of the changes to the Council and the Presidency introduced by the Lisbon Treaty actually reverse previous trends. Thus, whereas the 1999 Helsinki European Council had agreed to reduce the number of Council configurations from 21 to 16, and the 2002 Seville European Council had further decreased them from 16 to 9, the Lisbon Treaty, with the separa-

⁵ This is subject to large-N empirical testing.

tion of General and Foreign Affairs Councils, brings the number of Council configurations back up to 10.⁶ Furthermore, while the 1965 Merger Treaty had unified the Council Presidency for ECSC, Euratom and the European Economic Community (EEC), and the 1974 Paris Summit Communiqué had extended it to the newly created European Council, the Lisbon Treaty effectively splits rather than unifies the Council Presidency by giving a quasi-permanent, non-rotating Presidency not only to the new Foreign Affairs Council (of which more below), but, crucially, also to the European Council.

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.⁷ 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 (new) 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.

Probably the most visible innovation brought by the Lisbon Treaty, however, is the new, quasi-permanent European Council Presidency (to be elected by the members of the European Council for a term of 30 months, once renewable)⁸ as a separate, “stable and full-time”⁹ institution, which replaces the European Council's previously rotating Presidency. This effect-

⁶ Cf. Art. 16.6., TEU and Art. 236(a), Treaty on the Functioning of the European Union (TFEU, OJEU C 115/24, 153), as well as the corresponding European Council Decision of September 16, 2010, amending the Council's Rules of Procedure (OJ EU L 325, December 11, 2009, 35).

⁷ It can, however, act as an “emergency brake” in the fields of social security as well as judicial cooperation in criminal matters. Cf. article 15.1, Lisbon Treaty; articles 48, 82.3, TFEU.

⁸ The first incumbent, the Belgian Herman van Rompuy, was agreed by the European Council at an informal meeting in Brussels on November 19, 2009.

⁹ Cf. Fact sheet, Treaty of Lisbon, Art. 15.9 (OJ C115/24).

ively means a separation of the European Council Presidency from the majority of the ministerial Councils, where rotation continues¹⁰, as well as from the new Foreign Affairs Council, which has been given its own quasi-permanent Presidency – not linked to the new European Council President, however, although the latter has also been given a role in external representation.¹¹ Previously, only the unofficial Eurogroup had a quasi-permanent President at the ministerial level and was thus separated from the “official” Council Presidency.

The Lisbon Treaty has gone even further than just providing a permanent President for the new Foreign Affairs Council, however: it has effectively merged the three parts of the previous troika by promoting the High Representative for CFSP from Secretary General of the Council to quasi-permanent, elected President of the Foreign Affairs Council *and* Vice-President of the Commission. In line with this new arrangement, representatives of the permanent President of the FAC now chair the Political and Security Committee (PSC) as well as several preparatory bodies in the areas of foreign, security and defence policy as well as crisis management.¹²

III. Consequences of the Lisbon Treaty Changes to the Presidency

This section discusses how the institutional changes of the Lisbon Treaty may affect the established roles played by the Council Presidency, and through them the Presidency effect. It draws on the experience of the first two post-Lisbon Presidencies, Spain and Belgium.

¹⁰ Ibid.

¹¹ Cf. Treaty of Lisbon, Art. 15.6. (OJ C115/23).

¹² Cf. Treaty of Lisbon (OJ L322 of 9.12.2009, p. 28). A press release by the first holder of the newly enhanced position of High Representative for Foreign Affairs and Security Policy, Catherine Ashton, of December 22, 2010, (A 273/10) announces the appointment of several permanent Chairs of various of these working groups and includes a list.

III.1 Consequences of the Lisbon Treaty Changes for the Presidency's Leadership role

In the context of the Council Presidency's leadership role, the Presidency effect has been manifest through two main mechanisms. First, through shaping, albeit not freely setting, the agenda, the Presidency would determine the political priorities of its tenure and thereby also commit itself to the results it hoped to achieve. The inherited issues on the table notwithstanding, the Chair was able to make room for additional questions it might wanted 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. Second, because a 'successful' Presidency had 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, effectively made further integration a priority (if temporarily) for that member, no matter what its original preferences.

In addition, the expectations associated with a successful Presidency introduced an element of competition, as member states vied for the biggest events (e.g., an enlargement, or 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 were 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. Indeed, the Lisbon Treaty itself provides a prominent example of this behaviour: the Portuguese Presidency insisted on having the Reform Treaty signed in Lisbon – even though the negotiations and summits happened in Brussels – in order to be able to call it the *Lisbon* Treaty.

This kind of symbolism has already been at least partially undermined by the decision, enshrined in the December 2000 Nice Treaty, to move all European Council meetings to Brussels in the medium term. But the attempt to fortify the Union by abolishing member state rotation and establishing a quasi-permanent President for the European Council as well as one of the most important ministerial Councils¹³ may have further unanticipated consequences, because this is likely not only to eliminate the competition mechanism, but it alleviates member states of a considerable portion of their individual responsibility for the project of European Union.

Early indications are that the rotating Presidency might indeed be somewhat overshadowed as a leader by the new President of the European Council. The Spanish government had announced before the beginning of its six-months tenure in the first half of 2010 “that it would discreetly and modestly support the work of the permanent President, thereby highlighting that the Lisbon Treaty [has] placed this post above the functions of the rotating presidencies”, and Van Rompuy and Zapatero even co-signed a letter intended to downplay any notion of rivalry between them.¹⁴ In addition, Spain, the first member state to hold the Council Presidency under the Lisbon Treaty, faced the particular challenge of learning-by-doing. For it, as for many other EU members,

“occupying the half-yearly presidency had represented, on the ... prior occasions, the zenith of its Europeanist expression, besides providing the occasion for giving impetus to Spanish priorities on the European agenda. This same goal was present in the preparations for the fourth Spanish presidency. José Luis Rodríguez Zapatero announced

¹³ This had already been included in the Constitutional Treaty (cf. Draft Treaty establishing a Constitution for Europe, CONV 850/03, Articles 21, 23.4) and was retained in the Lisbon Treaty (cf. OJEU C 306719, December 17th, 2007, 17 with regard to Article 9C.9).

¹⁴ Carme Colomina et al. 2010, “A Waning Rotating Presidency: the Difficult Role of Spain”, Barcelona Centre for International Affairs (CIDOB) *Notes Internacionals* 17: 2; cf. José Luis Rodríguez Zapatero and Herman Van Rompuy, “A Stronger Europe”, *The Guardian*, February 3, 2010. See also, for example, Simon Taylor, “Lisbon Changes the Agenda for Presidency”, *European Voice*, December 10, 2009; Honor Mahony, “Spain Test Drives New Model of EU Leadership”, *EU Observer*, December 3, 2009; Andrew Reitman, “Spain Ends Invisible Council Presidency”, *EU Observer*, June 30, 2010.

that the Spanish six-month term was not going to be a mere formality but that it was being approached as something transformative and with a very ambitious agenda.”¹⁵

Thus, the leadership claim was at least rhetorically maintained, despite professions of co-operation with Van Rompuy. Yet Zapatero’s government had to work not just around Van Rompuy but also in the context of a Presidency trio: the Netherlands, Spain and Belgium had submitted a common 18-months programme that had pre-set the agenda for Spain as well as its successor, Belgium, which faced the same restraints on its room for manoeuvre. The trio ended up taking on a “self-imposed” secondary role under the circumstances, producing “technical work” that remained largely “invisible although useful for the continuity of European management” – but it appears not to have helped either Spain, itself in a weak position economically, or Belgium cope with their biggest leadership challenge: coordinating a European response to the financial crisis. Instead,

“Mr Zapatero's lack of visibility was the most striking on the big issue dominating the ... six months – the eurozone debt crisis. Spain ceded control of the EU response, the creation of a eurozone bail-out fund and new rules on joint economic governance, to EU Council chief Herman Van Rompuy, France and Germany. Its most direct contribution was making sure that stress-testing of EU banks is made public”.¹⁶

It remains unclear whether this was due to Spain’s own economic predicament or to the new constraints on the rotating Presidency’s leadership role:

“One reading is that Mr Zapatero took a back seat in line with the Lisbon Treaty, which ... came into force in December, giving Madrid the difficult task of handling the transition period. ‘He was in the right place, in the shadows, supporting Mr Van Rompuy,’ a Spanish diplomat said. Another reading is that he hid behind Mr Van Rompuy in order to deflect attention from the near-collapse of Spain's economy. ‘They wanted to avoid the question: what kind of action should be taken? What are you going to do given that you have your own crisis?’ an EU diplomat said” (ibid.).

¹⁵ Colomina et al., 2010: 1.

¹⁶ Andrew Rettman, “Spain Ends Invisible EU Presidency”, *EU Observer*, June 30, 2010.

Thus, rather than as a constraint, the new European Council President might have served as a shield for a rotating Presidency with its own weaknesses; and regarding the Presidency trio, “certain doubts have emerged as to the utility of this new instrument for coordination à trois just at the time when other institutions like the new nominal posts are taking charge of their functions as agenda-setters” (Colomina et al., 2010: 3). It seems that in terms of the Presidential leadership function, at least, previous measures introduced to enhance continuity between the rotating Presidencies – notably the “trio” or team Presidencies – may not be easily compatible with the presence of the new permanent office holders: the incumbent member state may find itself trapped, in terms of its agenda-shaping function, between the restraints imposed by the team programme, on the one hand, and the direction imposed by the European Council President and the High Representative, on the other, with any remaining wriggle room taken up by “events”.

If the Spanish experience has demonstrated that “leadership of the European agenda is no longer effectuated from capitals that temporarily take on the technical coordination of the European machinery, but from Brussels, especially with regard to foreign policy” (ibid: 5), the succeeding Belgian Presidency (second half of 2010) appeared to have accepted this new reality and approached the task accordingly:

“Belgium's approach was clearly different from that of Spain Steven Vanackere, Belgium's foreign minister, speaking just before the end of the presidency on 20 December, said the presidency had aimed to ensure that the ‘four wheels’ of the EU institutions ‘moved at the same speed and in the right direction’. The four wheels ... he identified were the European Council, the European Commission, the European Parliament, and the EU's foreign policy chief. The rotating presidency ‘should not be a fifth wheel’, he said. What is striking about this approach is that it puts the Council of Ministers ... much more clearly at the behest of the European Council”.¹⁷

¹⁷ Simon Taylor, “A New Role Under Lisbon”, *European Voice*, January 6, 2011.

Why the Changes affecting the Presidency's Leadership role may not matter much

For several reasons, it might be argued, establishing a quasi-permanent President of the European Council, separate from the rotating Presidency of the ministerial Council(s) held by the member states, does not really impinge upon the latter's prerogatives.

First, even the establishment of the European Council as a formal "institution" of the European Union does not really give it the same weight as the Council has in the EU's legislative process. Indeed, while the Lisbon Treaty gives it the task of providing "the necessary impetus" for and defining "the general political directions and priorities" of the Union's development, it expressly states that the European Council "shall not exercise legislative functions" (Art. 15.1).

Second, not only do the member states retain their seats on the European Council, but arguably, European Council decisions are less subject to Presidential influence than they were under the rotating Presidency: a permanent figurehead without the machine¹⁸ and political backing of one of the member governments behind him is likely to have less influence on the agenda and decisions of the European Council than a determined temporary incumbent of the rotating Presidency might have had in the past, especially if and when he or she came from one of the larger member states. Furthermore, where "the European Council decides by vote, its President and the President of the Commission shall not take part in the vote."¹⁹

Third, the ministerial Councils other than the Foreign Affairs Council, which will continue to be chaired by rotating member state Presidencies, cover the vast majority of substantive EU

¹⁸ It is true that the Lisbon Treaty puts the Council's General Secretariat at the disposal of the European Council President; this, however, still cannot match the civil service machines at the command of the majority of member state governments, especially the larger ones; nor – and more importantly – can it match their political will. In any case, the European Council President is not subject to the Presidency effect in the same way as temporarily incumbent member states were.

¹⁹ TFEU Art. 235.1., OJ 115/153, 9.5.2008.

business, including the heavyweight issues, such as the budget, handled by ECOFIN. Moreover, the head of government of the incumbent member state continues to be responsible for presenting the Presidency's programme and its results at the beginning and end of its tenure, respectively, to the EP – “an event that each country could take advantage of to mark out political leadership in the process of European integration” (Colomina et al., 2010: 3).

Finally – the agenda continues to be dominated by multi-annual programmes, inherited dossiers and “events”.

III.2 Consequences of the Lisbon Treaty Changes for the Presidency's Broker role

In the Council Presidency's broker role, the Presidency effect has been manifest most clearly in the steadily rising pressure “to look for agreement and to manage business in such a way as to foster consensus”. The Presidency has developed various tools for the purpose²⁰: the so-called “Presidency compromise”, in the former Community realm of the first pillar, was typically a draft agreement based on, but not bound by, a Commission initiative and providing for the negotiating parties' positions²¹; in strictly intergovernmental domains, notably the former CFSP and JHA pillars, the Presidency document automatically became the “single negotiating text” around which the bargaining was expected to take place.²² Overall, the Presidency had an “unusual capacity to conclude package deals, owing to its position as a link

²⁰ Fiona Hayes-Renshaw/Helen Wallace 2006, *The Council of Ministers*, London: Macmillan: 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’ and the ‘tour des capitales’ (for the European Council), as well as the ‘friends of the Presidency’.

²¹ 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, *Leadership and Negotiation in the European Union*, Cambridge: Cambridge University Press: 116/117.

²² “Single negotiating texts formulated by the Presidency have become the norm in most areas of EU cooperation”, *ibid.* 65; cf. *ibid.* 59.

between the different bargaining arenas in the Councils”, but “the true value-added of the Presidency as a broker is the ability to stitch together unorthodox deals that stretch across a number of issue areas” (Tallberg 2006: 117).

As the institutional shape of the Presidency-as-broker evolved over time, so did the expectations associated with it. The “mediation” role of the Presidency was hardly ever discussed in the literature without the insistence that it was “supposed to steer negotiations toward decisions and agreement” (Elgström 2003: 6). Specifically, the “effectiveness norm”, according to which “it is a Presidency's duty to steer the Council to ... achieve tangible results” (ibid. 7), appeared to broadly obliterate not just the “neutrality norm” (which was 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).

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 result will do, which further adds to the pressures generated by the Presidency effect on the Presidency-as-broker: “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). The absence of consensus or at least an agreement, and thus of a presentable result, was perceived as a failure of the Presidency in its broker function and normally resulted in wide-spread blame in the media and a sticky image of incompetence for the country concerned. All of which constitutes a powerful incentive for *the incumbent member state of*

a rotating Council Presidency to strive for agreement by all available means – but it is unlikely to work in quite the same way with a permanent President of the European Council.

Yet under the Lisbon Treaty, the broker function is the one that has changed the least, due to the fact that most hard bargaining continues to take place in the ministerial Councils and below, in their specialized support bodies, and that most of these continue to be run by rotating member state Presidencies. Less brokerage can be expected to take place in the Foreign Affairs and European Councils. In foreign affairs, EU policy is increasingly influenced by actors beyond the Council, and especially contentious issues will be either postponed or bargained out among the key players elsewhere – in any case, without much deal-making among the member states by either the rotating Council Presidency or the High Representative, who appears to be more involved in representing, rather than hammering out, details of foreign policy.

Spain and Belgium have had opposite experiences with this: for the Spanish Presidency, there was the “non-decision over Cuba in the Foreign Affairs Council (see below), in which Spain was clearly in the minority in arguing for a review of the joint position” (Colomina et al. 2010: 5) – which could even be interpreted as resulting from an implicit acknowledgement by the Spanish government that the rotating Presidency was no longer in charge of brokering agreement in the Foreign Affairs Council, and hence free to take up minority positions in line with its own preferences. By contrast, the Belgian foreign minister has stated that “the Belgian presidency intentionally chose ‘not to partake’ in issuing declarations and political statements, but instead focused on its role as a facilitator”²³, in particular in inter-institutional relations. Like Van Rompuy, who personifies the return to a European Council President as

²³ Constant Brand, “Implementation of Lisbon Bedeviled ‘by Paradoxes’”, *European Voice*, December 9, 2010.

mediator rather than power broker, the rotating Council Presidency might thus also return to the neutrality norm.

III.3 Consequences of the Lisbon Treaty Changes for the Presidency's Representative role

The subtle and complex representational role of the Presidency was its least settled and most contested task. In both realms, internal and external, in which the role of representative is exercised, certain incentives for Presidency behaviour had emerged. Generally, in putting the incumbent on the spot (and literally in the spotlight), it reinforced the Presidency's responsibility to find or create an agreement that it could subsequently 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, the Presidency felt pressure to find unity in order to maintain credibility on the world stage.

Those expectations haven't changed. As the new High Representative, Catherine Ashton, herself has put it:

“As the new European External Action Service is fully coming into being I am happy to announce the appointment of several permanent chairs of Working Groups in the Council. I am confident they will be able to chair the groups and broker the necessary compromises with great expertise and efficiency”.²⁴

Moreover, as the profile of the Presidency-as-representative rose, incumbents increasingly faced the challenge of representing not just the Council, but the EU and its policies as a whole, on a new stage: vis-à-vis their own domestic electorate. Because the EU's achievements

²⁴ “EU High Representative Catherine Ashton appoints the permanent chairs of several Working Groups in the Council”, Press Release (A273/10), Brussels, December 22, 2010.

as well as problems had come to be closely associated with Presidency success or failure, it did not pay off politically to use the EU as a scapegoat for unpopular measures during one's own tenure (as it may have done at other times).²⁵ Rather, specifically for the benefit of their domestic audiences, national governments were likely to use the opportunity of their six-months tenure in two major ways: first, to draw attention to their activities and those of the EU, in order to demonstrate their clout and standing on the international scene and foreign policy competence as well as, where needed, raise awareness of and knowledge about the EU. Second, to present the Union and, by extension, their Presidency, in the best possible light in order to either garner or reaffirm public support for their European policy.

But of all the previous functions of the rotating Council Presidency, its role as external representative has undergone the most fundamental change in the Lisbon Treaty – indeed, it has been altogether abolished. No longer is the Presidency a platform for member states to shine (or even just *appear*, in the case of some of the smaller members) on the world stage. Instead, the foreign affairs spotlight is being hogged by the new High Representative and the European Council President. Along with it, they have taken over the responsibility to find agreement, freeing member states of much of the performance pressure in terms of EU foreign affairs, and thus enabling them to pursue their own objectives more directly, including in the Foreign Affairs Council. The abovementioned expectations have been transferred to the Foreign Affairs Council President's representatives, who are being put in charge of the relevant working groups and committees.

²⁵ “[A]s the commission has noted, governments often ... row against the tide of subsidiarity: it is they, not the commission, that inspire many Europe-wide directives—and then sometimes blame Brussels when they prove unpopular”, *The Economist*, June 18, 1998: “A Future Without Kohl”; cf. also Prime Minister Tony Blair, “Speech at the Inauguration of the European Central Bank”, Frankfurt, June 30, 1998.

Thus, while the rotating Council Presidency had been on the ascendancy in its external representative role before the Lisbon Treaty²⁶, it has now lost this role completely, because introducing a *permanent* President for the new Foreign Affairs Council, and especially making her at the same time the EU's High Representative for Foreign Affairs (a foreign minister in all but name, complete with an external action service), represents a demotion of the *rotating* Council Presidency in the context of external representation in order to meet the expectation of a unified European voice in international affairs – a “face” for the EU and a single telephone number – more convincingly. Accordingly, as Colomina et al. (2010: 1) put it,

“[t]he best conclusion of any assessment of the external action of the last Spanish presidency of the European Union in 2010 is that no assessment is possible. In other words, the governmental army that was preparing an EU international relations agenda for the half-yearly presidency along with the academic analysis evaluating its progress each six months has become obsolete. The foreign policy of the European Union is no longer constructed on a six-monthly basis. (...) [I]n this context, the new half-yearly presidencies, obliged to ‘take the back seat’, in the words of a Belgian diplomat, are bereft of the visibility and political leadership they formerly enjoyed.”

Still, while the Spanish Prime Minister and the Ministry of Foreign Affairs “reiterated that the Spanish presidency would play a secondary role in the domain of foreign affairs – and this has certainly been the general tendency”, the Spanish Presidency nonetheless “managed to keep for itself some of the limelight in several foreign policy matters that were deemed crucial” (ibid.: 3) in the framework of transitional arrangements agreed under the TFEU's Declaration 8.²⁷ This concerned, in particular, the planned hosting by Spain of three multilateral summits very much in line with Spanish foreign policy priorities: an EU-Latin America and the Caribbean Summit (including bilateral meetings), a Mediterranean Summit, and an EU-US Summit. Foreign Minister Miguel Ángel Moratinos had announced to the EP a Presidency

²⁶ See, inter alia, Colomina et al. 2010: 3.

²⁷ “8. Declaration on practical measures to be taken upon the entry into force of the Treaty of Lisbon as regards the Presidency of the European Council and of the Foreign Affairs Council”, OJEU C115/340, May 9, 2008.

with “a marked Euro-Mediterranean and Euro-American accent” (Colomina et al. 2010: 4). The “idea was that Zapatero would share the limelight but would not co-preside since Van Rompuy had already taken on the role of representation”²⁸ – with mixed results.

The successes of the Latin America summit held in May 2009 in Madrid, while partially attributable to the work of the Spanish Presidency, must also be credited, in part, to the momentum already inherent in such well-established relationships, “which are less dependent on the thrust of the rotating presidency”.²⁹ By contrast, the decision by US President Barack Obama to cancel the EU-US summit scheduled for May 2010 knocked the anticipated jewel out of the “crown of Spain’s EU chairmanship”.³⁰ According to “a senior administration official”, Mr Obama “had never committed to, nor planned for” an EU summit at that point, so they had “not changed plans”.³¹ This did not deduct from the embarrassment for the Spanish Presidency, even though there had been

“some added confusion over who would have the competence to host it and in which location – Brussels or Madrid Another US official told the Wall Street Journal that this confusion has increased US hesitance to commit to the meeting. ‘We don't even know if they're going to have one [a summit],’ said the official. ‘We've told them: ‘Figure it out and let us know.’ “ (ibid.)

The fact that Van Rompuy’s office proceeded to distance itself from the efforts to arrange the summit didn’t help matters: “Mr. Van Rompuy's spokesman, Dirk De Backer, distanced himself from the gathering, saying that the May meeting ‘was prepared by the Spanish. The permanent presidency has never been involved’” (Forelle 2010). The Spanish Presidency was

²⁸ Colomina et al. 2010: 3. The authors clearly recognize the Presidency effect in the external and internal representation function: “As happens with any other country, hosting a multilateral summit affords [a] certain prestige in the international arena and provides a unique opportunity to bring the EU closer to the citizens”.

²⁹ See ibid.: 4 for a more detailed description of the results and dynamics behind these summits.

³⁰ Andrew Rettman, “Spain Ends Invisible EU Presidency”, *EU Observer*, June 30, 2010.

³¹ Valentina Pop, “Obama to Skip EU-US Summit in Madrid”, *EU Observer*, February 1, 2010. Cf. also Charles Forelle, “U.S. Move Sows Confusion in EU. Obama’s Decision to Skip Summit Raises Confusion about Leadership”, *The Wall Street Journal*, February 2, 2010; and Andrew Rettman, “US Blames Lisbon Treaty for EU Summit Fiasco”, *EU Observer*, February 3, 2010.

similarly helpless with respect to the Mediterranean summit, which – scheduled to be held in Barcelona in June 2010 – had to be postponed because no worthwhile results could be pre-negotiated. While this points to the limits of what the rotating Presidency can do even on its own turf, as it were, “just as the Spanish EU Presidency could not take all the credit for the progress made in relations with Latin America, neither should it be held wholly responsible for ... the blocking of the Mediterranean agenda” (Colomina et al. 2010: 4).

The Spanish Council Presidency can be criticized for sometimes “continuing to occupy spaces that, in the new order, pertain to the permanent institutions”, and for “a number of obvious dysfunctions”, such as raising expectations for the Euro-Mediterranean and EU-US summits that then failed to materialize, as well as attempting “to speak in the name of the European Union by the Foreign Minister”³² and the Spanish Ambassador to China, who announced, unasked, that the EU should lift its arms embargo on China. Moratinos “developed a prickly relationship” with Ashton, as Spain’s foreign ministry “made a number of unilateral moves” that made her “look weak”: after the Israeli attack on the Gaza aid flotilla, the Spanish Foreign Minister “wrote a letter to media with French and Italian ministers instead of Ms Ashton”; and he pushed for a change of the European position on Cuba, dating from 1996, and a normalisation of relations with the island at a time when there had been no change in their policies and the Cuban human rights record seemed to call for rather the opposite approach. Hence, the “Cuba initiative, which failed, prompted accusations that Spain was more interested in making money in its former colony than generating EU pressure on human rights” and, overall, as Andrew Rettman put it, “Spain’s EU presidency will be remembered for its ‘messy’ foreign policy and the invisibility of Spanish Prime Minister José Luis Zapatero”.³³

³² Cf. Colomina et al., 2010: 5.

³³ Andrew Rettman, “Spain Ends Invisible EU Presidency”, *EU Observer*, June 30, 2010.

Colomina et al. (2010: 3) conclude that

“we shall continue to see with the coming six-monthly mandates [that] the rotating presidencies have lost the political status and high-profile media presence ... they used to enjoy in their function of external representation – all of this without cutting back, and even increasing, the administrative burden of organising the multiple meetings of all the formations of the Council for which they are still responsible. The costs are too high for so little visibility.”

Meanwhile, the rotating Council presidency has also lost in stature in terms of *internal* representation, at least in the sense pursued by Spain, which “opted for the rhetoric of a medium-level power of global presence, able to lead the European Union and, through that, to allay the sapping of its government on the domestic front” (ibid.: 5). Indeed, this instrumentalization of the Council Presidency domestically might henceforth no longer be credible, as too many “positive results that the half-yearly presidencies might present ... as their own would, in fact, be the product of the work of the rest of the European institutions” (ibid.). At the same time, an expectations-capabilities gap has opened in terms of the Presidency’s role in representing the Council(s) vis-à-vis the other institutions. Encountering a “much more assertive” EP under the Lisbon Treaty, Belgian foreign minister Steven Vanackere

“warned that the Parliament had to understand better the role of the rotating presidency of the Council of Ministers, which could not always deliver what the MEPs demanded. He said that the presidency could communicate with the other institutions only when it had achieved agreement between all 27 member states”, which “had led to problems with the Parliament, which made too many demands on the rotating presidency. (...) Vanackere said the Belgian presidency had taken account of the Lisbon treaty changes and had stepped up meetings and co-ordination with MEPs to help achieve agreement on legislation. ‘But I am sure the Parliament will always want more,’ he said.”³⁴

³⁴ Constant Brand, “Implementation of Lisbon Bedevilled ‘by Paradoxes’”, *European Voice*, December 9, 2010.

III.4 Consequences of the Lisbon Treaty Changes for the Presidency's Administrator role

Overall, the evolving institutional shape and associated expectations of the Presidency as well as the challenges it faced in its administrator role resulted in the increasing importance of managerial efficiency and effectiveness, continuity and coherence as aims of Presidential activity. These requirements contributed to the Presidency effect in two major ways.

First, they served to flatten and streamline the ambitions of incoming Presidencies, as, for example, the ground to be covered is determined by the number of meetings on the various levels of decision making a Presidency is able to organize, rather than vice-versa.³⁵

Secondly, they put a premium on achieving agreement in order to deliver a Presidency's share of the 'plan' and thus stick to the annual and multi-annual programs. The inevitable trade-off between the desirable and the indispensable was increasingly tilted towards the latter, as peer pressure and high expectations in terms of the efficiency and smoothness with which EU business is to be handled added to the restrictions imposed on a Presidency's room for manoeuvre by the inherited issues on its agenda and its inclusion in a multi-Presidency program.

The Spanish took on the rotating Council Presidency only a month after the Lisbon Treaty had come into force. So while on paper, the institutional arrangements, powers and responsibilities had shifted, in practice,

“the new institutional machinery of the European Union, which relegates the rotating presidencies to the background, would still need some months more before it was

³⁵ This phenomenon also led to a strengthening of Presidencies held during the first half of the year, which can dispose of more “usable” weeks than those in the second half of the year, which covers the long summer break.

functioning normally. Hence Spain was slowly transferring its functions ... and establishing through practice the new model of coordination between institutions.”³⁶

Belgium, meanwhile, encountering a somewhat better oiled new machine, decided to make a virtue out of necessity and, in the face of the dramatic loss of relevance of the Council Presidency’s leadership and representative functions, emphasized the administrator role more. Belgian foreign minister Vanackere's main role became the chairing of General Affairs Council (GAC) meetings, which he

“sought during the presidency to use ... to ensure better preparation of European Council meetings. Van Rompuy met ministers attending the GAC in the week leading up to the European Council over lunch and dinner and gathered initial reactions to proposals that were to be discussed later by national leaders. Vanackere added that he was also using the GACs for a stocktaking following European Councils, to ensure that what had been agreed at EU leaders’ level was implemented.”³⁷

It remains to be seen, then, whether the administrator role will become again what it was at the very beginning of the rotating Council Presidency’s history – it’s most important job.

³⁶ Colomina et al., 2010: 2.

³⁷ Simon Taylor, “A New Role Under Lisbon”, *European Voice*, January 6, 2011.