

The President of the European Council and the quest for an EU  
democracy

by

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## **Abstract**

This dissertation deals with the impact of institutional reform on the democratic process. In particular, it examines the effects of the office of the Permanent President of the European Council on the democratic process in the EU's multilevel polity. The Office of the President of the European Council is the outcome of the reform of the European Treaties concluded at Lisbon in 2007. The Permanent President is a statesman appointed by the heads of states and governments who are the members of the European Council. The President's main tasks include the chairmanship of the European Council summits, the management of its work in between the summits, and representation of the European Council in the international sphere. The Permanent President replaced the rotating regime of the European Council chairmanship, which allowed each of its members to control the European Council agenda for a brief half-year stint.

In terms of theoretical framework, this dissertation adopts three theories of democracy, republican, discursive and liberal. I apply these three theories to a conception of democratic government consisting of three elements: the government of the people, government by the people, and the government for the people. I focus on the government by the people and the government for the people. I conceptualize the government for the people as an interaction between efficiency and accountability and the government by the people as an interaction between deliberation and participation.

I analyze the behaviour of the President of the European Council by evaluating his ability to foster a positive relationship between efficiency and accountability, on the one hand, and between deliberation and participation, on the other. A positive relationship between efficiency and accountability is one in which the President's constantly improving performance is matched by a number of institutional processes that hold him to account. A positive relationship between deliberation and participation is one in which the ability of the President to encourage dialogue and discussion among policymakers and stakeholders is accompanied by his willingness and efforts to make the policy process more accessible and inclusive. This analysis will reveal whether the new office of the President of the European Council is contributing to or impairing the democratization of the EU.

I define the Office of the President of the European Council as an institution with executive functions. Overall, the study of the executive institutions of the European Union such as the Commission or the rotating Presidency has rarely been considered from the perspective of democratic theory. This dissertation seeks to be a contribution in this direction.

I argue that the emergence of the Permanent President of the European Council has contributed to a negative efficiency-accountability relationship. He is an efficient chair and a better agent to the members of the European Council, However, he is virtually unaccountable to any other EU institution or the citizenry. Moreover, the emergence of the Permanent President has contributed to a negative deliberation-participation relationship. The Permanent President encourages deliberation in restricted fora but has not developed adequate instruments for reaching to and involving civil society and the citizenry in the generation of ideas and the formulation of policies. I bring out a number of factors accounting for this pattern. They are the irrelevance of the national public sphere in the President's selection and appointment, the absence of specific Treaty provisions and practices that would require the Permanent President to engage

with civil society and citizenry, and the perception that various actors have about the position of the Permanent President in the EU's institutional configuration.

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## **Abbreviations and Acronyms**

AFCO - European Parliament Committee on Constitutional Affairs

AFET - European Parliament Committee on Foreign Affairs

ADIE - Association pour le droit à l'initiative économique, (eng), Association for economic initiative

BDI - Bundesverband der Deutschen Industrie e. V., (eng), The Federal Association of German Industries

BE - Business Europe

BSE - Bovine spongiform encephalopathy

CA - Communicative Action

CAP - Common Agricultural Policy

CDU/CSU - Christlich Demokratische Union Deutschlands und Christlich-Soziale Union in Bayern, (eng) Christian Democratic Union of Germany and Christian Social Union of Bavaria

CEE countries - Central Eastern European countries

CEMR - Council of European Municipalities and Regions

CEP-CMAF - the European Standing Conference of Cooperatives, Mutual Societies, Associations and Foundations

CES - Confédération européenne des syndicats

CESI - European Confederation of Independent Trade Unions

CFSP - Common Foreign and Security Policy

CIFE - Centre International de Formation Européenne

CJEU- Court of Justice of the European Union

CONECCS - Consultation, the European Commission and Civil Society database

COPA-COGECA - Committee of Professional Agricultural Organisations and General  
Committee for Agricultural Cooperation in the European Union

CoR - Committee of the Regions

Coreper - Comité des représentants permanents, (eng) Committee of Permanent  
Representatives in the European Union

COSAC - Conference of Parliamentary Committees for Union Affairs of Parliaments of the  
European Union

CSO - civil society organisations

DGB - Deutscher Gewerkschaftsbund, (eng) German Trade Unions Federation

DG ECFIN - Directorate General for Economic and Financial Affairs

EANP - European Antipoverty Network

EC - European Community

ECB - European Central Bank

ECDPM - European Centre for Development Cooperation

ECI - European Citizens' Initiative

ECON - The European Parliament Committee for Monetary and Economic Affairs

ECRI - European Conference on Research Infrastructures

EDP - Excessive Deficit Procedure

EESC - European Economic and Social Committee

EFC - Economic and Financial Committee

EFD - Europe of Freedom and Democracy

EMPL - The European Parliament Committee for Employment and Social Affairs

EMU - Economic and Monetary Union

EP - European Parliament

ERT - European Roundtable of Industrialists

ESCs - Economic and Social Councils

ESFRI - European Strategy Forum on Research Infrastructures

ESM - European Stability Mechanism

ETUC - European Trade Union Confederation

EU - European Union

GDP - Gross Domestic Product

GUE/NGL - Confederal Group of the European United Left/Nordic Green Left

IEM - International European Movement

IGC - Intergovernmental Conference

HDI - Human Development Index

IMF- International Monetary Fund

JEF - Young European Federalists

JURI - The European Parliament Committee on Legal Affairs

MEP - Member of the European Parliament

MFF- Multiannual Financial Framework

MMO - Milk Market Observatory

NGOs - Non-governmental Organizations

NRPs - National Reform Programmes

OMC - Open Method of Coordination

PAC - Partnership and Cooperation Agreement

PFCS - Permanent Forum of Civil Society

PP - Permanent President

PPEWU - Policy Planning and Early Warning Unit

RELEX - Working Party of Foreign Relations Counsellors

RT News - Russia Today News

QMV - Qualified Majority Voting

SAP - Sveriges socialdemokratiska arbetareparti, (eng) Swedish Social Democratic Workers' Party

SGAE - Le Secrétariat général des affaires européennes, (eng) General Secretariat of European Affairs

SGP - Stability and Growth Pact

SINAPSE E-Network - Scientific Information for Policy Support in Europe

SPD - Sozialdemokratische Partei Deutschlands, (eng) Social Democratic Party of Germany

SSM - Single Supervisory Mechanism

TCA - Theory of Communicative Action

TCE - Treaty establishing a Constitution for Europe

TEU - Treaty on European Union

TFEG - Task Force on European Governance

TFEU - Treaty on the Functioning of the European Union

TSS - Tripartite Social Summit

UEF - The Union of European Federalists

UEN - Union for Europe of the Nations

UK - United Kingdom

VENRO - Dachverband der Entwicklungspolitischen und Humanitären  
Nichtregierungsorganisationen, (eng) Umbrella organisation of development non-  
governmental organisations (NGOs) in Germany.

VLD - Vlaamse Liberalen en Democraten

WTO - World Trade Organization

## **Chapter 1: INTRODUCTION**

This dissertation will analyze the impact that the creation of the Office of the President of the European Council— also called Permanent President of the European Council – has had on the democratic process. The office was created through a reform of the EU Treaties that was signed on the 13-th of December 2007 in Lisbon and entered into force on the 1-st of December 2009. Concluded in the city of Lisbon, this reform restructured the EU's institutional framework to meet the new challenges posed by the enlargement process and growing public skepticism of European integration, while addressing the failures of previous reform efforts. The Lisbon reform of the EU institutions tackled two issues of critical importance: continuity and democracy.

Continuity was a concern arising from the prevalence of the rotating regime in the management of the EU's most important legislative body, the Council of the EU. In a system allowing each member-state to manage the Council for half a year, the policy- and decision-making processes are highly fragmented unless new instruments are put in place to ensure continuity. The creation of a permanent Brussels-based Office of the President of the European Council addressed this quandary by doing away with the rotating system at the European Council level.

Democracy has been a constant predicament for the EU's multilevel governance. The rejection of the Constitution Treaty draft in France and the Netherlands in 2005 brought the issue of the relationship between the EU and its citizens to the fore. The Lisbon reform of the Treaties sought to address the issue of democracy by strengthening the position of the European Parliament, empowering the national parliaments, and providing opportunities for

citizen participation. Still, the state of EU democracy remains much debated in the literature. Academics, media analysts, politicians, and citizens have raised a number of concerns about what they see as the EU's democratic deficit. The first concern has to do with a European integration process that has eroded parliamentary control over national governments. As a remedy, the national parliaments have set up European Affair Committees, whose tasks entail scrutinizing the behaviour of their government representatives in the Council of the EU and in formulating national policy on EU legislation. The European Affairs Committees have the right to receive reports from the government after any Council meeting. These reports contain the final decision taken by the Council and the position of the government. However, two factors inhibit this process. First, the stream of EU legislation increases the EU Committees' workload at a time when they have to prioritize national legislation and, second, there is a risk of information deficit caused by delays in the transmission of documents from Brussels or their translation into the home language; and third, even if a national parliament exercises tight democratic control of national governments, the extension of the Qualified Majority Vote (QMV)<sup>1</sup> in the executive-dominated decision-making fora of the EU means that a government's preferences may be defeated (Raunio 1999; Hurrelmann and DeBardeleben 2009).

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<sup>1</sup> Designed by the Treaty of Rome as the method for making decisions in the Council of the EU, Qualified majority voting (QMV) allocates votes to member states according to their population and size. QMV is heavily weighted in favour of the smaller states. After the Lisbon reform of the Treaties, a qualified majority is reached if when a proposal receives the vote in favour of 55% of member states vote in favour representing at least 65% of the total EU population (<http://www.euro-know.org/europages/dictionary/q.html>; [http://news.bbc.co.uk/2/hi/in\\_depth/europe/euro-glossary/1054052.stm](http://news.bbc.co.uk/2/hi/in_depth/europe/euro-glossary/1054052.stm); <http://www.consilium.europa.eu/en/council-eu/voting-system/qualified-majority>).

A second concern has to do with the weakness of the European Parliament (EP), the only directly elected institution at the EU level (Marquand 1979; Meny 2002; Follesdal and Hix 2006). Critics (Karlheinz and Schmitt 1980; De Vreese et al. 2006) point out that the elections to the EP are not genuinely European but national, revolving around domestic issues and constituting a test for domestic parties. Generally, there is little overt political competition, and few ideological battles are fought on European issues and policies. The lack of partisan and ideological competition during EU elections is one of the reasons why European parties are not emerging as structures distinct from those existing and running in national elections. (Hix 1999; Marks et al 2002; Follesdal and Hix 2006). It also contributes to the fact that decisions taken at the EU level tend to produce "policy drifts" from voters' preferences, thus leading to policies not supported by the majority of citizens. EU policy outcomes are skewed towards the right of the political spectrum. They consist of neo-liberal regulations for the Single Market and a monetarist orientation when it comes to the Economic and Monetary Union. Redistributive and social policies are still a nation-state domain (Scharpf 1997; Follesdal and Hix 2006). Overall, the citizens of European countries appear to perceive the EU and its issues as distant and remote. There is little debate on EU issues during the national elections. The EU is, for the citizens of the European member states, an awkward political structure that they can hardly make sense of (Follesdal and Hix 2006). Most recently, there have been improvements in the EP election process that address the thorny issues of partisan and ideological competition. The Spitzenkandidaten process<sup>2</sup> whereby each

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<sup>2</sup> It can be learned more about the Spitzenkandidaten process by consulting the following websites: <http://www.europarl.europa.eu/news/en/news-room/20150526STO59409/Spitzenkandidaten-the-story-of-what-made-last-year's-EP-elections-different>; <http://www.europeanmovement.ie/just-the-facts-the-spitzenkandidaten/>;

EP Party Group nominate a lead candidate for the position of President of the EU Commission, who, in turn, engage in a debate on European topics with the European citizenry, is an important step towards the Europeanization of competition. Moreover, the convention of electing as President of the Commission the candidate of the party receiving the highest share of votes in the EP elections connects the configuration of the EU executive to the electoral process. Yet, it remains to be seen whether the emergence of Spitzenkandidaten would lead to the prevalence of the European issues and the formation of a European public sphere through debate or, conversely, will be just a parody of a European Presidential race in which national issues are still predominant. In the latter case, the formation of European institutions through national electoral processes would continue to reinforce democratic deficit.

To be sure, there are scholars who downplay these concerns about the EU's democratic deficit. Andrew Moravcsik (2002), for instance, argues that the citizens of member-states scrutinize the decisions taken in the Council of the EU or the European Council with the same attention and effectiveness that they apply to decisions taken by their own national governments. At the same time, he emphasizes the guarantees offered by the mechanism of unanimity in important Council decisions or the processes of judicial review at the national and European levels. For Moravcsik, the EU is not a superstate. Its activities are restricted to only a modest subset of areas (trade in goods and services, the movement of factors of production, the production of and trade in agricultural commodities, exchange rates and monetary policy, foreign aid competition policy). On the other hand, areas such as fiscal

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<http://blogs.lse.ac.uk/europpblog/2014/09/10/the-spitzenkandidaten-process-has-presidentialised-the-commission-but-only-time-will-tell-whether-it-allows-for-better-representation-of-citizens-views/>

priorities, social welfare and education policy are not part of the supranational agenda. The EU lacks the fiscal, administrative, and legal authority of the nation state as well as the power to implement. Moreover, the EU's ability to act is constrained by institutional checks and balances though the separation of powers, a multi-level structure of decision-making, and a plural executive (Moravcsik 2002, pp. 606- 609).

For Giandomenico Majone (1994, 1996), the EU is a regulatory state for addressing market failures and its policy outcomes are not redistributive (producing winners and losers). According to Majone, the rise of a regulatory regime at the EU level is, on the one hand, due to the interest of multinational, export-oriented industries in their attempt to avoid inconsistent or stringent regulations in various EC and non-EC countries. Yet, on the other hand, he also argues that rules and decisions made at the supranational level tend to protect those diffuse interests that fail to find representation or protection at national level (Majone 1998, p. 13). The advantage of the EU's regulatory system lies in its insulation from the short-term political prerogatives of national policymakers. Majone makes four suggestions to enhance the accountability of the regulatory regime: (1) a process of judicial review that would require the regulators to open regulatory process to the public, (2) ad-hoc legislation standardizing administrative procedures, (3) the introduction of a supranational regulatory budget overseen by the national leaders, and (4) accountability by results through the establishment of clearly specified objectives and concrete measurements to evaluate the regulator's performance (Majone 1994 and 1998).

Unlike Majone, I argue in this dissertation that the EU's institutions do play a fundamental role in making decisions that directly affect its member-states' citizens, given that more and more areas of decision-making have shifted from the nation-state to the European political

arena. This dissertation also recognizes the critical role of the citizens and the parliamentary bodies in any accountability arrangement. While judicial review and accountability through output are important and necessary ways of securing accountability, they are not sufficient to ensure the viability of a democratic polity. Procedures involving the citizens and the parliamentary bodies must be devised to counterbalance the might of the regulatory state. And unlike Moravcsik, I acknowledge that there has been a tendency on the part of the European intergovernmental institutions to move towards majority voting; at the same time, the distance between the EU's institutions and its citizens remains a stubborn reality. Moreover, the current crisis has shown that EU decision making and the EU's supranational institutions may exert enormous pressure on national politics and policy. That is why studies about democratization in the EU are important. They tell us where the EU is going, what its potential for democracy is, and what deficits remain.

It is in the context of the democratic deficit that the office of the Permanent President of the European Council emerges as a pivotal actor in EU politics. The European Council is an official institution, whose members are the heads of states and governments of the 28 EU member countries. As such, the European Council is vulnerable to those facets of democratic deficit related to the indirect representation of member-state citizens through their governments. The creation of the office of the Permanent President (PP) produced another modification in the system of representation through governments. Under the pre-2009 system, the Presidency of the European Council rotated among its members. Nowadays, the President of the European Council is someone chosen by the members of the European Council and who no longer represents one of the national governments.

The President of the European Council is an important figure at the EU level. As organizer and chair of the most important EU institution, he is responsible for coordinating the top executive institutions of the EU, including the Commission, the rotating Presidency of the Council, and other Council bodies. His is a critical presence when important decisions affecting the EU citizens are being taken. That is why the impact of the President of the European Council on the democratic process at the EU level should be a matter of interest to any student of the EU. As of this writing, there have been three two years and a half European Council Presidential terms (for two terms, from December 01, 2009 until the 30-th of November, 2014, the President of the European Council was Herman Van Rompuy and since December 01, 2014, the position has been occupied by Donald Tusk. This dissertation covers the 2009-2014 period when the incumbent was Herman Van Rompuy. An important contextual factor informing the activity of the President of the European Council was (and still is) the European sovereign debt crisis. This crisis as an event is prominent in this analysis. Moreover, as the office of the President of the European Council is now identified with a person, the personality of the officeholder, his working style and his orientation vis-a-vis the institutional environment are critical points of reference in any scholarly assessment.

To describe the behaviour of the Permanent President in the context of the EU democracy, this dissertation employs four concepts: efficiency, accountability, deliberation, and participation. These concepts embody vital elements of the democratic process and taken together embrace it in all its dimensions. Efficiency is about optimal performance by politicians and administrators; it is what citizens expect from their elected governments. Accountability is about transparency and openness to scrutiny; it is about holding politicians accountable to the citizens through the electoral process as well as holding the executive

accountable through the parliament. Deliberation is about discussion in the process of crafting policies and making decisions, but it is also about dialogue between the citizens and the decision-makers. . Participation is about inclusiveness and elections. What makes this approach<sup>3</sup> interesting is the extent to which, according to Achim Hurrelmann and Joan DeBardeleben (2009), the inverse relationship between efficiency and accountability, on the one hand, and deliberation and participation, on the other, contributes to generating the problems of democracy at the EU level. It is the relationships between these pairs of variables that are this dissertation's primary focus.

This first chapter begins by introducing a particular conception of the democratic process coined by Achim Hurrelmann and Joan DeBardeleben (2009), while connecting this contribution to the dissertation's theoretical framework (discursive democracy). It then makes the case for the applicability of this lens to the executives of the EU (the Commission, the rotating Presidency of the Council of the EU and the Permanent Presidency of the European Council). Next it proceeds to introduce the Permanent President by way of a historical summary of the constitutional events and negotiations that preceded the creation of the office. The second half of the chapter provides a detailed conceptualization and contextualization of the four variables which lead to two questions about the Permanent President and its position vis-a-vis the democratic dilemmas characterizing the EU.

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<sup>3</sup> Hurrelmann and DeBardeleben's approach consists of the conceptualization of democracy as the synergy of four variables (efficiency, accountability, deliberation, and participation).

### **Democratic dilemmas of multilevel governance: The case of representative institutions**

The triad "government of the people, government by the people, and government for the people," originally coined by Abraham Lincoln in his Gettysburg Address, is a poignant description of the relationship between a government and the people who elect it. Achim Hurrelmann and Joan DeBardeleben (2009) contextualize this triad with reference to the various EU institutions. This conceptualization and contextualization represent the point of departure for this dissertation.

In examining the relationship between the EU institutions' performance and the democratic process, Hurrelmann and DeBardeleben (2009) identify a first incongruence between the configuration of the imagined communities at the national level and the European scope of the problems and decisions that affect the citizens. First, the government of the people paradigm requires that people affected by the decisions be at the same time decision-makers in the decisions that affect them. However, what underpins this statement are two considerations. The first is that the people affected by a particular course of action must be identical with the electorate choosing the representatives authorized to deal with this course of action. The second is that the people who select the representatives must conceive of themselves as a people (*demos*), an imagined community about which they are genuinely concerned and which motivates their engagement in the democratic process. The first "democratic dilemma" that Hurrelmann and DeBardeleben identify in the EU is that, while there is a European electorate that elects (via European and national elections) the decision-makers, the citizens of Europe do not conceive themselves as an imagined community of Europeans, as a European *demos*. The European electorate is, instead, an aggregation of self-centered national communities.

Hurrelmann and DeBardeleben (2009) also identify a second incongruence between participation and deliberation in the “government by the people” dimension. Participation in this context means the equal chance of every citizen to vote and participate in the decision-making process as a stakeholder. Deliberation is the opportunity for a dialogue between the voters and candidates prior to the elections or in the policy-making process on the issues and problems on which a representative body or executive will deliberate or decide. Eventually, deliberations on the decisions occur in small fora with few members who engage in long-term interactions, the trialogues among the political institutions (EP, Council, and Commission) being the most prominent instance. Moreover, equal participation of stakeholders in the pre-decision stage is hindered by the reality of unequal power resources across groups. At the EU level, policy-making deliberation through restricted supranational/intergovernmental fora and with input from well-resourced actors is disjoined from the participatory processes (national and EU elections) which remain irrelevant and inconsequential for EU policy-making.

Finally, Hurrelmann and DeBardeleben recognize a third incongruence between accountability and efficiency in the “government for the people” dimension. Efficiency refers to political institutions’ ability to contribute with their policy outputs to the welfare of their citizens (be it personal or common). Accountability refers to the citizens’ ability to sanction or reward by vote their representatives for their performance in office. In the EU, the constitutional structure of decision-making privileges effective institutional decision-making (both at the EP and Council levels) on issues for which the Members of the European Parliament and the members of the Council are not accountable during elections. Difficult agreements between the members of the Council or between the Council and the Parliament

demand flexibility and secrecy. Moreover, those members of civil society who contribute to the pre-decision and post-decision processes are neither chosen nor removed by popular vote.

For the purposes of this inquiry, I will focus on the deliberation/participation and efficiency/accountability incongruences, not just because they are variables that may be operationalized, measured, and observed across shorter time frames vis-a-vis the components of the first incongruence but because I consider them more pertinent to the democratic process itself rather than a premise for or a consequence of it. Indeed, later in this chapter, I argue that a “government of the people” is a function of the evolving and changing dynamics within the “government by the people” and “government for the people” dimensions.

Taken separately from their interaction with one another, these four variables are central to our idea of democracy (conceived in terms of a government in which the supreme power is vested in the people). Efficiency is crucial to the health and persistence of a democratic system, because institutions that are either incapable or unwilling, in the long run, to address their citizens’ common problems are likely to decay and collapse. Accountability is crucial for a democratic system, not only in terms of transparency about the actions of the people’s decision-making representatives, but , even more so, as a set of norms guaranteeing the peaceful alternation of power and the circulation of the elites. Deliberation is important for democracy because it emphasizes an elite-citizen dialogue as complementary and superior to all other methods of policy-formation and decision-making such as bargaining or majority rule. Finally, participation entails an equal chance of access available to all citizens. Participation is not just limited to citizens’ equal chance to vote, but also encompasses an equal opportunity for citizens to express their views and preferences on candidate policies

and determine the governments' agenda (Dahl 1989 at pp. 108–118, as cited in Hurrelmann and DeBardeleben 2009, p 234).

A prominent scholar of EU politics, Fritz Scharpf (2000), conceptualizes the interaction between efficiency and accountability as output democracy and the interaction between participation and deliberation as input democracy. In output democracy, accountability exposes the effectiveness of political process (or lack thereof) to the citizens and their representatives or to institutions such as the courts. In input democracy, citizens themselves participate in (or react to) the political process. They participate as equals and enter into a reasoned dialogue on decisions that affect them.

### **Theoretical underpinnings**

The purpose of this section is to outline and compare three theories of democracy and then connect them to the principal concepts of the Hurrelmann and DeBardeleben article. It is a way of discovering how the concepts exemplify the theories and how the theories inform the concepts, while grounding the dissertation in a body of political philosophy literature. The discourse theory of law-making in the work of Jürgen Habermas will serve as a framework normative theory, alongside the more classical Liberal and Republican theories of democracy (Hartz 1955; Locke 1967; Pocock 1975; Barber 1984; Epstein 1984; Michelman 1989).

Habermas (1996 and 1998b) distances himself from both liberal and republican views of the democratic process, but also borrows heavily from them. He rejects the liberal view, which reduces the democratic process to a compromise among atomistic interests of individuals and groups who unite themselves "into commonwealths" and "under

government" for the "mutual preservation of their lives, liberties and estates" as that might have occurred naturally in particular historical contexts (Hartz 1955; Locke 1967, ch. 9).

Habermas also disputes the republican view of opinion and will-formation<sup>4</sup> as an ethicopolitical self-understanding based on a shared cultural background. For him, the substance of the democratic process is instead grounded in validity-based rules of discourse and argumentation oriented towards reaching understanding. Discourse theory, according to Habermas, stands in between the two worldviews in such a position that it is quite a bit more vigorous than the liberal conceptualization of the democratic process, but far weaker than the republican conception of the latter. It is more than an aggregation of voices and interests, yet less than the full concentration of the sovereignty in a pre-determined community (the demos). In contradistinction to the republican view, discourse theory separates the crucial role of the civil society as a guarantor of a viable and autonomous public sphere from the state and the decision-making sphere (Habermas 1998b and Habermas 1996, pp. 288-387).

The pre-eminence of the citizens in civil society sets the background for a proceduralist paradigm of law whereby the citizens are the authors of the acts that affect them, to which they are addressees. This act of self-legislation consists of the permanent application of the discourse principle to the legal form against "the facticity of the legally uncontrolled social power that penetrates the law from outside" (Habermas 1996, p. 39). Indeed, the fact that modern legal forms assure the stability of expectations in a society and, as a result, are virtually not called into question by its addressees, ought to be tempered by the principle of their submission to critical scrutiny. It is the treatment of a law as a validity claim and the

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<sup>4</sup> The term "will formation" describes the process and the mix of practices by which citizens frame a collective course of action.

submission to a communicative process that empowers it with a claim to legitimacy that makes it acceptable (Habermas 1996, p xix, chapter 2 and chapter 8).

Discourse theory takes dialogue and exchange as the principal factors in the formation of those spaces that constitute the public sphere. The Theory of Communicative Action (TCA) underpins the tenets of discourse theory by providing a prescriptive map for the participants in the dialogue. Communicative action (CA) represents a multidimensional use of language as a medium of unhindered communication to the extent that a speaker relates it to all three basic dimensions of the world: the objective, the social (normative), and the subjective (the self). It does not refer just to a single dimension (as in the other uni-dimensional forms of speech such as the teleological, the normatively-regulated, and the dramaturgical). The purpose of communicative action is to reach an understanding. Hence, because the speakers are prepared to have the validity claims they raise contested by other participants, they must take them as relative and modifiable. Communicative action departs sharply from strategic models of action (such as the teleological), in which the speaker employs language as merely one of his available goal-reaching instruments (Habermas 1983, pp. 95-101).

Much like the republican view of democracy, discourse theory accepts political rights (participation and communication) as the basis for the dialogic (communicative) power, which founds and reproduces authority. Yet, unlike the republican conception, discourse theory does not focus only on political discourse's ethical aspect, but seeks to take a broader view of the range of themes and actions such as interests, compromises, means, moral justifications, or legal consistency testing. It is a process that through communicative action seeks to achieve a consensus that transcends a mere compromise of interests (Habermas 1983, p. 245). Rights are important to both the republican and liberal theories. Yet, in liberal theory, these rights

tend to emphasize the autonomy of the individual or groups of individuals vis-à-vis the political system. The epicentre of this worldview is a self-interested *homo economicus*. Barber points out three dispositions of liberalism: its conceptualization of freedom as the absence of external constraints (the anarchical disposition), of politics as the art of power sheltering and guaranteeing private interests (the realist disposition), and an institutional life that permits conflict and dissent (the minimalist dispositions) (Barber 1984, pp. 6-17).

Hence, for the partisans of liberal theory, rights only ground the rules of compromise between parties with respect to institutions such as voting rules or the constitution of parliamentary bodies and the set of powers accorded to them. In the liberal view, the exertion of authority extends from the right to vote to the rules governing the institutions, but hardly transcends this sequence. In line with the liberal view, discourse theory acknowledges the privileged position of the political system as a force capable of effecting binding decisions, but it also envisages a dialogue with citizens on the decisions that bind them. This contention departs from the republican principle of the non-delegation of sovereignty, that is, from the expectation that the latter resides only with the people-citizens (giving them the capacity for self-government). In this vein, no scholar has more brilliantly articulated the case for the Republic than James Madison who says that: "The Genius of the Republic Liberty seems to demand not only (1) that all power should be derived from the people, but (2) that those entrusted with it should be kept in dependence on the people by a short duration of their appointments; and (3) that even during this short period the trust should be placed not in a few, but in a number of hands" (Federalist 37. P. 227 as cited in Epstein 1984, p. 114).

The republican approach is premised on an idea of a common good (akin to a Rousseauian *volonté générale*), whose pursuit is a matter of wisdom and virtue against the danger of a

tyranny of factional collective but peculiar interests hostile to the rights of the rest of the citizens. The models of representative democracy in large polities (such as contemporary nation-states) best epitomize the ambitions of the republican approach. Representative democracies, save for specific consensual arrangements, produce majoritarian outcomes, which means that whoever is given the responsibility for governing enjoys the consent not of all, but only of a majority of the people. The precondition for majority rule is the existence of a we-identity that is either rooted in common ethnicity or in polity-formation through a constitutional moment that breaks with the past (Ackerman 1991; Scharpf 2000; Pocock 1975).

It should also be noted that discourse theory is premised on the existence of a public sphere, in which society's concerns influence the process of opinion-formation, which constantly determines the themes and debates of the institutions of will-formation and puts a check on the use of administrative power. More importantly, it does not assume a we-identity and it underpins the construction of political arrangements in those circumstances of plurality and diversity in which a we-identity is quite far from the surface.

I intend to treat the three conceptions of democracy as complementary rather than competitive, probing the links between them. Indeed, proponents of republicanism in the American tradition have posited some core principles as “participation in self-government,” “the common good” and other citizenship virtues as linguistic-expressive components of an ongoing political dialogue. (Barber 1984; Michelman 1989; Pocock 1975). This dialogue ultimately shapes underlying paradigmatic assumptions about human nature and society. In the context of a plurality of conceptions and doctrines of the good life (which may come as a natural expectation in a society honouring individual atomistic pursuits), communicative

action is the backbone of an agreement across paradigms on a set of normative principles that would transform these atomistic individuals into a self-governing community in line with the republican ideal. For a republican revivalist such as Michelman (1989), the identification of the people with laws occurs through a jurisgenerative, that is to say, discursive political process that transforms private-regarding 'men' into public-regarding citizens, while imbuing laws with a sense of validity that makes them binding. Discourse as a phenomenon is even more central when it purports to restore a model of republican democracy in environments characterized by deep-seated divisions and markers (such as linguistic and ethnic differences, as in the case of the EU). Notions such as that of "constitutional patriotism" (Habermas 1995) as linguistic-expressive components of the endeavour of constitutionalizing the EU legal order indicate the powerful appeal of the republican model in the European construction process.

In sum, discourse theory links the liberal and republican conceptions of democracy. Discourse is crucial in the transition from a focus on the individual which is the pivot of the liberal conception of democracy to the idea of a people which is central to the republican conception. It is this transition that leads to the establishment of a democratic polity. At the same time, discursive processes prevent the emergence of a political society that privileges one of the traditions (liberal or republican), but represses the other.

The triad "government of the people, government by the people, and government for the people" encapsulates the republican-liberal symbiosis in the architecture of a democratic polity. It is quite evident that the liberal component in this framework cannot be understood separately from the republican conception of people as a self-governing community. This triad forms the core of Hurrelmann and DeBardeleben's (2009) argument. Here the authors

seek to operationalize the triad, while contextualizing it with respect to the EU's institutions. What characterizes their strategy is a reference to processes that embody all three theoretical dimensions of the democratic process, while transcending the boundaries across them. By a simple approximate logic, the government of the people exemplifies the republican view of democracy, the government by the people underpins the discursive approach, and the government for the people has to do with the government's liberal origins and the republican idea of the common good and the practice of discourse. More specifically, while the government of the people pillar represents a weaker version of the republican ideal of non-delegation, by settling for a congruence between the people and their representatives, the second column (government by the people) suggests a coupling of all three approaches to democracy, the republican, discursive and liberal, but with the first two (republican and discursive) predominating.

When taking a closer look at each of the elements in the government by the people dimension, we find that participation, for instance, reflects the contention of the republican theory that all citizens ought to have a part in decision-making, while discourse theory makes participation more tangible through the organization of a public sphere and the preeminence of civil society. Deliberation, on its own, represents the procedural act through which participation ought to unfold, that is, via a truth-oriented dialogue directed at reaching a consensus (in the generation of policy inputs) by the power of better reasons. However, in line with liberal theory, policy inputs obtained through this process should not be consistently detrimental to the welfare of individuals and minorities (Habermas 1996; Scharpf 2000). The third column, "government for the people," represents another coupling of the three approaches. The urge for efficiency (which finds expression in the concept of output

legitimacy) is premised on the government's functional role in protecting and enhancing the pre-political private sphere of the individual citizen consistent with Lockean claims. Accountability, on the other hand, represents the process through which citizens reward or punish those responsible for their government, an endeavour consistent with the republican notion of sovereignty's residing with the people. Accountability as a process ensures not only that the interests of minorities or individuals are not crushed under the majority, but also that those who govern observe the public good rather than their own interests. Ultimately, accountability involves a deliberative process linking the citizenry with the representative and executive institutions.

Obviously, the most intractable irreconcilability remains the one associated with the government of the people pillar. The people-representative and the electorate-community incongruences across the three institutional modes of democratic decision-making unmask a societal quandary that may arrest the effectiveness of the discursive processes in the formation of civic republicanism at the EU level. Alternatively, the discursive processes in the government by the people and government for the people segments may contribute to making more manageable the social conditions that underpin the incongruences in the first pillar, while setting the ground for the creation of an overarching European identity. The no-demos thesis by Dieter Grimm, that is, the contention that since there is not a we-identity in Europe, there is not a European people, only peoples, which makes the efforts of building democracy at the EU level futile, is based on the first alternative (Grimm 1995; Weiler 1995). My dissertation will instead privilege the second alternative (emphasized by academics such as Jürgen Habermas), which premises the formation of the demos on a discursively-established constitutional principle of citizenship that undergirds the democratic process (Habermas

1995). It is for this reason that the focus of my research will be on the problems of the second and third pillar (government by the people and government for the people) to the extent that they embody those ongoing deliberative relations in the performance of a democratic regime that may ultimately contribute to establishing and strengthening the expectations of the first pillar in the long run.

Hurrelmann and DeBardeleben (2009) considered the incongruences of democracy in the EU with respect to three channels of democratic input: the European Parliament, the Council, and civil society's participation through the Commission. I extend this analysis to the Presidency of the Council, with a focus on the Presidency of the European Council, comparing the pre-2009 rotating system with the post-2009 Permanent President (who is in charge only of the European Council). The literature about the EU has paid little systematic attention to the Presidency's impact on the democratic process. Overall, the executive institutions of the European Union (the Commission and the rotating Presidency) have rarely been studied from the perspective of democratic theory. With the exception of the Commission's Committee System (Joerges and Neyer 1997; Abromeit 1999), which has been subjected to the application of a deliberative democracy lens, the EU's other institutions have never been analyzed from this perspective. This dissertation seeks to contribute to the literature, by focusing on a newcomer (the Permanent President of the European Council) in the light of the implications that his office has for the democratic process.

### **Democratic dilemmas of multilevel governance, the executives of the European Union**

“Democratic dilemmas of multilevel governance” (Hurrelmann and Debardeleben 2009) focuses on institutions that, at the EU level, represent the citizens, the EP, the Council of the

EU (through European or national elections), and civil society (representing the interests and issues of particular constituencies).

This dissertation applies the same approach to those EU institutions that have executive functions, that is, a set of functions whose purpose is not to legislate or issue guidelines but rather to steer the political process (proposing, coordinating, brokering, representing, overseeing). These three executive institutions of the EU are the European Commission, the Presidency of the Council of the EU, and the Presidency of the European Council, but the major focus of this dissertation is on the rotating Presidency of the Council before 2009 and the President of the European Council after 2009. In particular, the dissertation looks at the efficiency/accountability and participation/deliberation dilemmas, with an eye to determining the extent to which those executive institutions bridge or reinforce those dilemmas.

The definitions of the variables, efficiency excepted, undergo a change from their original conceptualization in the Hurrelmann/DeBardeleben article. For instance, accountability refers not to the citizen-elite relationship during the electoral process, but rather to the interaction of these elites with representative institutions, or their communication with citizens outside the electoral process. Deliberation, in this new context, describes the method of interaction between the political/territorial representatives or the representatives of civil society, on the one hand, and the executive agenda-setting, policy-making, and decision-making institutions on the other. Participation focuses, on the one hand, on the right of all citizens to have input into the determination of the issues that affect their lives, and, on the other, on the opportunities for citizen participation that institutions with executive functions provide.

But what do the European institutions accomplish and how do the dilemmas play out in their day-to-day business? The European Commission sets the agenda for the legislative

activity of the Council of the EU and the EP, it oversees the implementation of the European law, and it manages the EU budget and negotiates agreements between the EU and other countries. It is the European Council that nominates a candidate for president of the Commission, a nomination that must be approved by a majority of the members of the European Parliament. The list of Commissioners is approved by qualified majorities in both the Council of the EU and the European Parliament. The Parliament controls the work of the Commission by examining its reports, questioning its Commissioners, and, ultimately, in extraordinary circumstances, calling on it to resign by means of a motion of censure. The Commission embodies a demand for expertise and qualitative policy output. It is this demand that underpins the institution's relative autonomy, an autonomy institutionalized through a committee system. This background lessens the capacity of the representative institutions (especially the European Parliament) to hold the Commission to account. With regard to the deliberation/participation dilemma, the dialogue of civil society and interest groups with the Commission is well-developed; however, this process is hardly inclusive of all citizens' interests.<sup>5</sup>

The six-month Presidency of the Council of the EU chairs the meetings at every level, prepares compromises that facilitate decisions, and, alongside the previous and future Presidencies, drafts a joint programme guiding the Council's work over an 18-month period. The order of rotation is determined by the Council of the EU itself, and the rotating Presidency makes a statement of its priorities to the European Parliament just prior to the beginning of the term and reports on its achievements in a special session during one of the final days of the Presidency. Before the Lisbon Treaty came into force, the six-month

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<sup>5</sup> See [http://europa.eu/about-eu/institutions-bodies/european-commission/index\\_en.htm](http://europa.eu/about-eu/institutions-bodies/european-commission/index_en.htm)

chairmanship extended to both the European Council and the Foreign Affairs Council. After Lisbon, a Permanent President replaced the rotating Presidency as chair of the European Council, while the High Representative of the Union for Foreign Affairs and Security Policy was assigned to chair the Foreign Affairs Council. At the end of an European Council meeting, the Permanent President reports to the Parliament. The dilemmas of the rotation of the Presidency of the Council are similar to those dilemmas that Hurrelmann and DeBardeleben identify with reference to the Council of the EU.

There is an efficiency-accountability dilemma with respect to the rotating Presidency. On the one hand, there is an expectation that the rotating Presidency will act in the EU's best interest by setting aside parochial interests that may stall the policy-making and legislative processes at the EU level. Yet, on the other hand, the rotating Presidency represents the government of a country with its own interests in particular areas, interests that may be in conflict with policy direction at the EU level. These interests are important to the citizens of the country holding the Presidency and their government is ultimately accountable to them.

There is also a deliberation-participation dilemma. Few actors participate in the deliberative processes of the preparation phase of the Presidency. Those who do are primarily Ministers and bureaucrats responsible for the policy process. At times, dialogue in the preparatory stage also includes social partners and other well-resourced interest groups. On the other hand, the Presidency is not a matter of public concern and dialogue in the national public sphere in the way domestic issues are.

In this chapter and in the rest of this dissertation, I will focus on the third executive, the Permanent Presidency of the European Council, a new institution that came into life with the Treaty of Lisbon in late 2009.

## **The Permanent Presidency in the making**

Herman Van Rompuy's second mandate as President of the European Council ended in December 2014. He was elected for a second term in mid-2012. During the last summit he chaired, he summarized his record as an officeholder in a speech from which I have taken the following excerpt:

"Thanks to all of you and particularly to Angela, for her friendly words. Because she spoke on behalf of all of you, but also because they came from her personally. Politics is a rough trade – but loyalty, trust, respect, and even more, do exist. I've received them here, and given them too. ... I have tried to act in the name of the European interest, which is not abstract. It is more than the sum of twenty-eight national interests, but it also is this sum. Each time we have to agree, with twenty-eight. Not always "in one go", and sometimes with a bit of pulling and shoving. But together we have shown the implausible: that a Union with twenty-eight countries can work.

I've also tried to show that the Union's institutions can work together. Thanks in particular to José Manuel for that. The institutions are not rivals. We serve the same cause, Europe's cause, meaning ultimately the well-being of all our citizens.

In my life I've never had the feeling of being irreplaceable. There has been a European Council before me, and there will be a European Council without me. From December, I will be the first supporter of your decisions. *Un spectateur, mais un spectateur engagé*. I wish Donald and Jean-Claude "*bon vent*" and a smooth sail, as the French say.

There are many open projects for Europe. We avoided a catastrophe, the break-up of the eurozone. Sometimes it is just as important to avoid the worst, as it is to do the right thing." (Van Rompuy 2014).

The speech above provides an insight into what is expected from the Permanent President, as well as some of the Office's primary functions and the President's relationship to and obligations toward the members of the body he chairs. The purpose of this section is to dig further into what the institution of the President of the European Council represents and what led to its establishment as the most important innovation of the Treaty of the European Union reform at Lisbon in 2007.

While the idea for a Permanent President of the European Council was articulated for the first time during the Constitutional Convention, the values that underpin it originate in the political situation that the Union was experiencing at the turn of the new millennium. With an enlargement wave in sight (ten states would have joined the EU in 2004), the rotating Presidencies of the Council of the EU and the European Council could easily have become suboptimal choices for the challenges ahead.

The European Council cannot be understood in isolation, that is, separately from the rationale that has given rise to the Council of the EU, the most important legislative body at the EU level, along with the European Parliament. The Council of the EU is a compound structure that includes decision-making (the legislative Councils) and preparatory bodies (the Committee of Permanent Representatives<sup>6</sup> and, at a lower level the Working Parties<sup>7</sup>). The Presidency of the Council, established in the early 1950s, responded primarily to a need for improved coordination across this structure. From the early 1950s to the early 2000s, the Presidency rotated among the member-states every six months. In the first four decades of the integration process, the power of the Presidency grew by default, rather than by purposive reform. First, the institution evolved into a series of chairmanships encompassing not just the

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<sup>6</sup> Coreper I is composed of each country's deputy permanent representatives. Its meetings are chaired by the deputy permanent representative of the country holding the presidency of the General Affairs Council. It coordinates and prepares the work of Council configurations, working out agreements and compromises to be submitted for adoption by the Council. Coreper II is composed of each member states' permanent representatives. It is chaired by the permanent representative of the country holding the presidency of the General Affairs Council. (<http://www.consilium.europa.eu/en/council-eu/preparatory-bodies/coreper-i/>)

<sup>7</sup> The working groups consist of officials from the embassies of the EU member states and from the ministries and departments of the national governments(<http://en.euabc.com/word/2011>)

legislative Councils, but also European Political Cooperation<sup>8</sup> in the early 1970s and, after 1974, the European Council. The members of the European Council are the heads of state and government, and this body offers them the opportunity of becoming involved firsthand in European affairs. The European Council represents the highest echelon of the Council, not a legislating body, but a decision-maker of last resort on issues the legislative Councils and other Council formations are unable to agree on.

Two factors led to the empowerment of the rotating Presidency: first the decline of the Commission's influence and leadership after De Gaulle's request for the latter to consult national governments before issuing proposals, and, second, the growth of the Council through the addition of new legislative configurations. In the fifties and early sixties, the Presidency's duties consisted of simply a roster of procedural tasks, such as chairing meetings, preparing the agenda, producing records of the sessions, or representing the Council before the General Assembly. From the seventies onward, it grew to be a powerful agenda-manager and coordinator.

By the late nineties, the rotating Presidency was in charge of drawing up a program by selecting and emphasizing political issues and priorities. It was responsible for drafting the provisional agendas of the different Council formations and assuring that the Council's work was completed within reasonable deadlines. Moreover, the Maastricht Treaty entrusted the Presidency with the tasks of implementing measures and representing the Union's institutions

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<sup>8</sup> The Maastricht reform of the Treaties in the early 1990-s transformed European Political Cooperation into the Common Foreign and Security Policy.

in all the areas of cooperation outside the Community method<sup>9</sup> such as the Common Foreign and Security Policy, and Justice and Home Affairs. Beyond its agenda-setting and representative roles, the rotating Presidency was also in charge of conducting negotiations and brokering agreements, a time- and energy-consuming task. Lastly, the Presidency had to coordinate the work of all formations. Among other things, it had to chair two or three meetings of the European Council, about 45 Council meetings, 60 Committee of Permanent Representatives (COREPER) meetings, and 1,400 committee and working party meetings. But despite these vast responsibilities the Presidency's term was only half a year. The 1999 Trumpf-Piris report's main concerns about the Presidency were precisely these short-term time horizons. The fragmentation of the rotating system contributed to the discontinuation of the Council's work in all its structure, a phenomenon that was especially detrimental to the management of issues and problems that stretched over longer periods. Moreover, a rush associated with the ambition claiming the Presidency a success led either to makeshift decisions or "the proliferation of badly drafted and non-compulsory acts." The two authors also considered the sixth-month Presidency as inharmonious within an institutional configuration inhabited by permanent actors such as the European Parliament and the European Commission (The Trumpf-Piris Report 1999, pp. 32-34).

What they recommended in response was an improvement of the transition from one Presidency to another by creating yearly (instead of six-month) programs, while allowing the next Presidency to chair working parties in the preparation of the Council meetings. In

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<sup>9</sup> The Community method of decision-making is characterized by (i) the central role of the Commission in formulating proposals; (ii) qualified majority voting (QMV) in the Council as a rule; (iii) involvement of the European Parliament with varying intensity depending on the decision-making procedure; and (iv) the role of the Court in ensuring judicial accountability (see De Baere 2008).

addition, they proposed a better allocation of the workload between the national bureaucracies and the member-states' Permanent Representatives in Brussels, greater continuity in the Council formations, and a strengthened role for the General Secretariat. Thus, the Trumpf-Piris report did not entertain any revolutionary idea, such as, for instance, the abolition or disempowerment of the member-state Presidency and/or the creation of a new organism (Trumpf Piris Report 1999, pp 34-36).<sup>10</sup>

The first idea on a reformatting of the office surfaced during the 2002-2003 Convention on the Future of Europe. It took the form of an electoral statement by French President Chirac in early 2002, supported, later that year, by Spanish Prime Minister Aznar and the UK's Prime Minister Blair (known as the ABC proposal). The Permanent President, according to Chirac, would have replaced the inefficient six-month rotation. The Convention's chair Valéry Giscard d'Estaing tabled this suggestion at the Convention in the form of a proposal that included a list of tasks for the new President with few procedural constraints. The intent of both the ABC and Giscard was to empower the European Council as the EU's highest authority. However, the small member states saw the proposal of a Permanent President as an attempt of the larger states to create an instrument through which they would assert themselves. In lieu of the "fixed President," they favoured an arrangement increasing the power of both the Parliament and the Council of the Ministers<sup>11</sup>, including the former's task of appointing and censuring the Commission and its President. The small states also perceived the Commission as an important bulwark against domination by the most powerful

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<sup>10</sup> [http://www.cvce.eu/content/publication/2006/10/5/0bcead79-7ce6-45fa-972f-71860c4bf8b3/publishable\\_en.pdf](http://www.cvce.eu/content/publication/2006/10/5/0bcead79-7ce6-45fa-972f-71860c4bf8b3/publishable_en.pdf)

<sup>11</sup> The Council of Ministers was the name of the Council of the EU before the Lisbon reform of the Treaties.

members, and shrinking its role was perceived as a loss to them (Dauvergne 2004, pp. 106-109 and 327; Duhamel 2003, pp. 74,104 and 206; Lamassoure 2004, pp. 306-308).

Alternatively, during the Convention, two Members of the European Parliament, the British Andrew Duff and the Italian Lamberto Dini, proposed a combined ‘double-hatted’ Commission/European Council President. In their opinion, this fusion would have enhanced both efficiency, in the form of inter-institutional coordination, and transparency. Quite similar to the small states’ proposal, theirs defended a parliamentarization of the EU by separating the Council of Ministers into a legislative and executive wing. Unlike Chirac or Giscard, they favoured preserving a rotating Presidency at the helm of the legislative wing of the Council of Ministers (Hoffmann 2003).

On January 15, 2003, a Franco-German(Chirac/Schroeder) proposal backed the idea of the dual Presidency, a permanent long-term President of the Council and a President of the Commission. Both would be strong figures elected by a qualified majority of the European Parliament and the European Council. Much like Duff and Dini at the Convention, Chirac and Schroeder also agreed on a new Foreign Secretary. This new offer to the Convention was a combination of two separate preferences, a German preference for a double-hatted Commission and Council President and an EU Foreign Minister and a French preference for a separate High Representative and External Affairs Commissioner. Chirac and Schroeder also favoured the preservation of the rotating Presidency as the main authority of the legislative Councils. The final draft of the Constitution Treaty after the “smaller states’ revolt” contained a much watered-down role for the European Council and its President (Hoffmann 2003; Dauvergne 2004, pp. 135-143; Duhamel 2004, pp. 78-79; Lamassoure 2004, pp. 297-303; Wessels 2010).

The Lisbon Treaty's stipulations on the Permanent President mirrored the final draft of the defeated Constitution Treaty, and were the product of a European Council compromise between the small and large members. The Treaty incorporated the Franco-German proposal, which satisfied both the French (as well as the British) intergovernmental inclinations and the German focus on supranational efficiency under intergovernmental control. But, more important, it allayed the smaller states' concern about a powerful permanent incumbent acting at the behest of the larger and most resourceful members, and/or the concomitant abrogation of the rotation system. Contrary to these fears, the office of the President would only be a chair of the European Council, an office in charge of the preparation of the forum's work, not the powerful President of the original ABC and Franco-German proposals. All the other Council formations, including the General Affairs Council, would remain under the rotating Presidency. Moreover, during the Intergovernmental Conference (IGC), while preparing the Lisbon Treaty, the smaller states insisted that the President's preparatory tasks be undertaken "in cooperation with the President of the European Commission, and on the basis of the work of the General Affairs Council" (Art. 15 (6) (b) TEU; Art. 2 (1) Rules of Procedure).

At the same time, this proposal marked a departure from the Convention atmosphere. Inter-institutional cooperation, in this instance, represented a form of checks-and-balances among the EU's three executive organs. A demonstration of this effort to establish a balancing act between the three executives is exemplified by article 4 (1) of the Rules of Procedure that requires the rotating President of the Council to report, in consultation with the Permanent President, on the work of the General Affairs Council to the European Council. Moreover, the first Permanent President came from Belgium, one of the small 'rebels' that had opposed the

concept in the first place. Unlike the rotating President, the Permanent President does not hold concurrent national office<sup>12</sup>.

The institutional innovation of the Permanent Presidency must be considered in the context of the overall developments ushered in by the Lisbon Treaty. The creation of the office of the President of the European Council<sup>13</sup> coincides with the establishment of the European Council as a formal institution of the EU. In this respect, the Lisbon Treaty severs the directing (impetus-giving) functions from legislative activity, by functionally separating the European Council from the Council of Ministers (which was renamed as Council of the EU).

The Treaty also strengthens the legislatures both at the European and national levels. It further empowers the European Parliament by extending the co-decision procedure (Art. 289). It endows the European legislature with new competences such as the election of the President of the Commission (Art. 17.7 TEU<sup>14</sup>) and a vote on the EU budget (Art. 314 TFEU<sup>15</sup>). Moreover, the EP may call on the Commission to submit proposals on Treaty implementation matters (Art. 225 TFEU). The Treaty explicitly outlines the fire-watching powers<sup>16</sup> of the national Parliaments. These powers include a reading of a Commission's

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<sup>12</sup> See <http://www.europeanvoice.com/article/imported/council-president-an-ill-defined-role/66153.aspx>.

<sup>13</sup> [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/ec/111652.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/111652.pdf)

<sup>14</sup> This acronym stands for Treaty on European Union.

<sup>15</sup> This acronym stands for Treaty on the Functioning of the European Union.

<sup>16</sup> Fire-watching powers include the establishing parameters within which the administration should operate or recommendations in the aftermath of an investigation (see Harlow and Rawlings 2014).

proposals to review compliance with the principle of subsidiarity (Art. 5.3 TEU) and a right to veto decisions adopted through a passerelle clause<sup>17</sup>(Art. 48.7 TEU) (Mayoral 2011).

Another aspect of the Treaty is the new relationship that it seeks to restore with the citizens of the EU member-states (Article 10.3). The Treaty of Lisbon has transformed the Charter of the Fundamental Rights into binding law. Moreover, citizen participation has received a new impetus through the establishment of the European Citizens' Initiative (ECI) (Article 11.4) and a requirement for the EU institutions to ensure ongoing political debate with civil society on EU issues (Arts. 15 and 16 TFEU) (Mayoral 2011).

In sum, the Lisbon Treaty seeks to encourage the evolution of the European Union towards a multilevel democratic polity, both by enlarging the number of institutional actors involved in the decision-making process and by giving more power to the directly-elected fora and to the citizens themselves.

### **The Permanent Presidency from the perspective of democratic theory**

The Presidency of the European Council is an important EU institution. The President links the organs of ordinary decision-making (the European Parliament and the Council of the EU, the European Central Bank, and the Commission) with the European Council, the institution that sets the stage for the integration process itself. The President is a central actor in those decision-making fora, whose output affects the lives of the citizens of EU countries. Therefore, his or her orientations towards the public relationship to the representative institutions are important elements in any evaluation of the state of EU democracy.

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<sup>17</sup> The derogation from the legislative procedures initially envisaged in the Treaties by switching either the voting rule from unanimity to a qualified majority or from a special legislative procedure to the ordinary procedure.

The Permanent President organizes and coordinates the work of the European Council, the EU's most important decision-making institution. The manner in which he is appointed to the job, his relationship to the citizens of EU countries and to parliamentary institutions at the European and the national levels, and his interaction with the array of associations representing the interests of particular constituencies are highly significant. The extent to which the Permanent President opens up the black box of the policy process to the citizens, is accountable for the policy process to citizens' representatives in the parliamentary fora, and involves these fora and the various interest groups and civil society associations in the policy-making process, all affect the democratic quality of that process. Unlike the members of the Council (the heads of states and governments), who are occupied full-time with domestic political affairs except for the days of the summit, the President of the European Council spends his full time on EU affairs. The President of the European Council occupies a crucial position in the identification and formulation of policies that have both an immediate and longstanding impact on the national economies and the citizens of the EU countries. The President's relationship to the democratic process is what the next chapters (Chapters 3, 4, 5 and 6) of this dissertation will uncover.

Approaches such as the theories of leadership or agency that have characterized the studies of the Presidency to this point (e.g. Tallberg 2006 and Sherrington 2000) may successfully explain certain aspects of the functioning of the Presidency, but they are of little interest or relevance when tackling the relationship between the institution and the citizenry of the societies in which it is embedded. For instance, theories of leadership may give us important insights about the role of the Presidency in forging inter-state and inter-institutional consensus at the high levels of policymaking in the EU. But how consistent is this consensus with the

opinions and preferences of the citizens of the EU as a whole, the opinions and preferences of the citizens of a country or a set of countries, or the interests of a particular functional constituency? A leadership paradigm is insufficient to address these questions exhaustively.<sup>18</sup>

The rest of this chapter will focus on the four variables. It will consist of a literature review that will allow us to conceptualize them more fully, while contextualizing them with respect to the rotating Presidency of the Council before Lisbon and the Permanent President.

### **The four variables**

In this section, I thoroughly conceptualize the four variables through a literature review. Then we dwell on the rise of the EU governance dilemmas, between efficiency and accountability on the one hand, and deliberation and participation on the other. After looking at how these dilemmas unfold in the functioning of EU institutions, I formulate the two research questions. These two research questions focus on the role of the Permanent President in the interplay of the dilemmas, in particular on his ability to either bridge or reinforce the dilemmas.

#### Efficiency

Political scientist and EU student Karen Heard-Laureote (2010) defines efficiency as “the capacity of the political system to achieve its goals and produce policies that solve the citizens’ problems at a reasonable cost and without delay.” Similarly, the definition provided

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<sup>18</sup> For brilliant exposition of this problem see Fossum and Menendez 2005.

by Georgopoulos and Tannenbaum (1957, p. 540) emphasizes "the extent to which an organization as a social system, given certain resources and means, fulfills its objectives without in-capacitating its means and resources and without placing undue strain upon its members."

These conceptualizations contain two elements: "goal-attainment" and "problem-solving at a reasonable cost" without paralyzing means and resources. Indeed, two of the approaches to efficiency focus on these two elements, the goal approach dwells on goal-attainment, while the resource approach conceives efficiency as a means-ends (cost-outcome) relationship and hence concentrates on resources.

Efficiency remains the most significant variable informing theoretical inquiry in the study of the Presidency. This is the reason why two prominent public policy lenses (rational choice institutionalism and bureaucratic politics) still reign over the research agenda. Jonas Tallberg (2006), for instance, adopts rational choice institutionalism as a framework for explaining the formation and functions of the Council Presidency (as agenda-manager, negotiation broker and external representative). He subscribes, though, to a direction set out by earlier writers (Wallace 1985 and Wastlake/Galloway 2004), which trace the evolution of the Presidency to a demand for leadership (focus, coordination, continuity and representation) in the wake of continuing ECC/EU expansion.

I use three approaches in the study of efficiency (functional, system-resource and goal-oriented). Each of these approaches tackles three different dimensions.

The goal approach focuses on the organizational goals' clarity, concreteness and attainment (Georgopoulos and Tannenbaum 1957). The system-resource approach focuses on an organization's resources: those that it possesses originally, those that it mobilizes from its

environment either through competition or cooperation, and those that can be traced to the design of the office (Yuchtman and Seashore 1967; Molnar and Rogers 1976; Metcalfe 1998). In this dissertation, the emphasis is on the use of resources. The functional approach focuses on the values of a system and on the degree to which a given organization as part of the system reflects these values (Parsons 1956 a and b).

In terms of goals, the emergence of the Permanent President has altered the goal-setting process. There is no longer a Presidency program for the European Council. The European Council's goals are set by the member-states' leaders through the European Council Conclusions. (To be sure, the Permanent President participates in the formulation of these goals when carrying out his roles as an organizer and broker). In addition to his ordinary roles (e.g. organizer, broker), the President of the European Council has chaired two ad-hoc bodies: the Task Force on the European Governance in 2010 and the Group of Four Presidents in 2012.<sup>19</sup> The third chapter will examine the extent to which, through his chairmanship of the European Council and these special fora, the President has become an intellectual leader who develops long-term policies.

The second approach is system-resource. In the original conception of this approach, the organization communicates with an institutional environment in pursuit of valued and scarce resources. This competition for resources among different organizations determines a given organization's efficiency in the environment in which it is embedded (Blau 1964; Yuchtman and Seashore 1967). The system-resource approach evaluates efficiency in terms of an inter-organizational input-output exchange through which an organization acquires scarce and

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<sup>19</sup> These bodies were created with the purpose of strengthening and deepening the economic and monetary union in response to the crisis.

valued resources. For Yuchtman and Seashore, these resources include liquidities such as money or credit, human activity and intellect, physical facilities and technology. These resources have universal status, which means that no organization can do without them.

This dissertation complements Yuchtman and Seashore in two directions. First, in this dissertation, there is an emphasis on the use of resources, not on the competition for them. Secondly, limiting the concept of resources to those of universal status tends to oversimplify a scholar's research, especially, when he or she is dealing with compound and sui-generis organizations such as the European Union. As a remedy against this oversimplification, I will incorporate into the analysis Metcalfe's concept of leadership resources (1998). In contradistinction to universal resources, leadership resources are generated by environmental factors such as the nature of the office or the personality of the chair and his leadership style. Metcalfe identifies six types of resources: informational, coercion, reward, legitimacy, expertise, and socialization. The third chapter will look at these resources in more detail.

In terms of those resources of a universal nature outlined by Yuchtman and Seashore (1967), the Permanent President is less resourceful than the rotating President of the Council, who can count on the assistance of his national administration. Yet the Permanent Presidency has an advantage when compared to its rotating predecessor. He is more likely to act as an honest broker, since he does not represent one of the member-states. This expectation is an important element of what Metcalfe defines as legitimacy resources.

From a functional approach perspective, continuity and cohesion are two important values of the European Union as a polity and, especially, of the European Council as the EU's central institution. The office of the Permanent President has been created to guarantee continuity. In fact, unlike the rotating President, he is a Brussels-based official serving a longer term (two

years and a half). Moreover, the position of the Permanent President in the EU allows him to mobilize and integrate into the policy process important policymakers such as the European Commission, the European Central Bank, and the Eurogroup. He is thus a vital cohesive force at the EU level in spite of the modest size of his office.

What distinguishes the Permanent Presidency from its rotating counterpart is its detachment from the national democratic process. The creation of a neutral chair that stands at arm's length from national politics has simultaneously distanced the European Council President from the citizens of the EU. What are the instruments available to the citizens and their representatives for holding him accountable? The purpose of the next section (accountability) is not just to conceptualize accountability, but also to shed light on the development of accountability at the EU level and, from there, to identify the institutions that can act as account-seekers vis-a-vis the Permanent President.

### Accountability

Accountability is a key concept in our first question. It is through accountability arrangements that the black box of decision-making is opened, that the manner in which goals are set and accomplished undergoes scrutiny, and that appropriateness in obtaining and using resources is questioned. In sum, it is through accountability that account-seekers call into question the efficiency of account-givers. One crucial facet of democratic deficit in the EU's multilevel governance consists in the inability (or at least impaired ability) of those institutions that serve as account-seekers, such as national and European Parliaments, to control those institutions whose primary purpose is efficiency. Conceptualizing and categorizing accountability in

concrete terms has been an arduous task for the scholars in the field, given the multi-level institutional complexity that characterizes contemporary world politics.

Bovens (2007) defines accountability as “a relationship between an actor and a forum, in which the actor has an obligation to explain and to justify his or her conduct, the forum can pose questions and pass judgment, and the actor may face consequences” (p. 107). A number of prominent authors writing on the theme (e.g. March and Olsen 1995; Day and Klein 1987; Scott 2000; Davies 2001; Roche 2003; Harlow 2002; Mulgan 2000; Arnall 2003) seem to concur with Bovens in emphasizing the normative-interactive aspect of a process (e.g. the setting of the standards for the process by the forum, the providing of reasons and explanations for one’s political behaviour, the delivering of a judgment), and a right of authority on the part of the forum (i.e. imposing sanctions on the actor when the latter’s behaviour does not comply with the standards set by the forum). According to Harlow (2002), the giving of an account or explanation is essentially retrospective. However, accountability embodies a prospective dimension as well. To begin with, standards, principles, and rules form the framework that instructs the retrospective actions of the account-giver. In this logic, openness and transparency<sup>20</sup> to the public are values that any policymaker is expected to embrace. What underpins openness is the right of the citizens to have knowledge about the deliberations that lead to a government’s decisions (Curtin 1996).<sup>21</sup>

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<sup>20</sup> Defined by Carol Harlow (2002) as the attitude of a leader or an office in being as open as possible about the decisions and actions they take.

<sup>21</sup> Alternatively, Heritier (2003) coins the notion of 'passive access'

Scott (2000) poses three questions when attempting to map accountability in concrete terms: “Who is accountable?”, “To whom is the actor accountable?” and “For what is he accountable?”. With respect to Scott’s first question, when identifying the actor who is held to account, Bovens (2007) lists four types of accountability: corporate (a private company to its shareholders or public organization to the Parliament), hierarchical (the bureaucrat to the minister, the minister or the Prime Minister to the Parliament), collective (the members of the organisation or the cabinet in case of misconduct), and individual (each individual is held liable for his own actions or inactions).

The answer to the second question “To whom is the actor accountable?” is salient with respect not only to the nature of the forum, but also to the direction of the process, whether vertical/upwards or downwards, horizontal or diagonal. When the forum or the person is a representative body chosen by the citizens (the Parliament), a minister member of the Parliament or a local authority, accountability is political and takes the form of a vertical principal/agent interaction. Political accountability to a body of representatives is an outgrowth of the people’s sovereignty delegated through the electoral process. What Christopher Lord (1998) labels as electoral accountability and Richard Mulgan (2000) defines as democratic accountability is the reverse process whereby the public reconfirms or replaces its representatives in the legislative body. Although political and electoral accountabilities are the most important dimensions in a democratic polity, other forms are also found in a vibrant democracy. Accountability may be legal/judicial if the Court of Law mediates the relationship between institutions and citizens or if administrative quasi-legal forums (the Ombudsman or the Chamber of Audit) become agents for the public. In terms of the nature of the obligation, Bovens (2007) classifies legal and administrative accountabilities as diagonal

in that the supervision is indirect, and most often the supervisor is not the principal itself, but has been set up by the principal. Finally, more direct forms of accountability (social accountability<sup>22</sup> according to Bovens and Malena (2004) may link the public agencies and their managers directly to the larger public, be that public ordinary citizens or civil society associations such as interest groups or client representatives.

The nature of the mechanism for holding an actor accountable and the powers of the person scrutinizing the account-giver must also be taken into account when probing the first and second question (who and to whom). In terms of mechanism, accountability may be formal when an enforcement mechanism exists to hold an actor to account (if a company fails to keep proper accounting records, its officers may face imprisonment or fines), or informal (when informal incentives or sanctions are employed to hold someone to account). In terms of powers, the person or body receiving and scrutinizing may possess the statutory competence to direct the decision-maker to take further actions. Alternatively, if it lacks this clout, it may seek to persuade the decision-maker to take stock of its viewpoints and recommendations (Roche 2000). Besides its external dimension, an actor may be subject to internal (or professional) accountability when he must respond to a group of peers or shareholders, or a professional association or disciplinary tribunals (Mulgan 2000, pp. 559-560). Obviously, when speaking of transparency, we are dealing with an accounting of the policymakers to the citizenry as a whole and, in particular, to an informed and active civil society in the period between elections (Harlow 2002, pp. 11-12). In this dissertation, I define

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<sup>22</sup> There is a slight disagreement among scholars over the taxonomies describing the direction of social accountability. While Bovens considers social accountability truly horizontal, Malena (2004) and Colin (2000) emphasize its vertical downward character. Moreover, those types of accountabilities that Bovens categorizes as diagonal, Colin typifies as horizontal.

accountability only in terms of its external dimension and with particular focus on its political and democratic aspects (the accountability of an executive office to a body of democratically-elected representatives and its transparency towards the public).

The third question, “For what is the actor accountable?”, has received a number of different answers. The evaluation of the performance of the accounting actor based on pre-set criteria is the primary object of the accounting process (Day and Klein 1987, p. 2; March and Olsen 1995, p. 105; Laffan 2003, p. 763; Roche 2003, p. 47; Scott 2000, p. 42). By this logic, the process provides an incentive for the decision-maker to correct shortcomings. A taxonomy of accountability arrangements according to the nature of the account-giver’s conduct yields three categories, (a) financial (involving propriety in the use of public funds), (b) procedural (involving the propriety of the process), and/or (c) product (the propriety of an output or decision content) (Bovens 2007).

A fourth question<sup>23</sup> is the normative rationale for accounting, an aspect that focuses on the necessity and good associated with the act of accounting. Formally, first and foremost, accountability is political to the extent that it opens the black box of the policy-making process to representative institutions and the public sphere. By this logic, the process enhances the legitimacy not only of the actor who decides, adjudicates and accounts, but of the system overall (Bovens 2007; Laffan 2003, p. 763; Roche 2003, p. 48). Secondly, accountability is constitutional. It constrains public officers in order to prevent them from abusing the powers delegated to them by the agent as prescribed in the Constitution (Day and Klein 1987, pp. 1 and 13; Mulgan 2000, pp. 563-566; Keohane 2009). At this intersection, political accountability is an extension of electoral/democratic accountability. Finally, accountability

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<sup>23</sup> Scott seems to forgo this question.

is a learning experience to the extent that it improves the account-seeker's competence. The strengthening of this capacity benefits the account-giver to the extent that it provides him, in the long run, with a road map for making better decisions. At the same time, it benefits the account-taker (the Parliament, for instance) by supplying information about the policy-making process as a pre-condition for constructive input.

From another perspective, electoral accountability may lead to the concentration of power in the hands of a majority. This situation may not be problematic in those democracies relying on a homogeneous voting population, a *demos*. In heterogeneous societies, elections and parliamentary accountability are supplemented by other institutions. At another level, in the politics of the international system, where electoral processes are absent, accountability is secured through a pluralistic system that privileges internal to external accountability, and market pressure and legal contestation to institutional hierarchy, reputational accountability, and peer criticism. For instance, international organizations like the IMF or the World Bank are internally accountable to the major shareholding states rather than externally to the people affected by their decisions. Financial markets constrain the freedom of governments to act, while international tribunals or Courts sanction or punish them or their leaders for breaching agreements or mistreating their citizens. States may criticize each other's policies in international fora or reflect over the impact of their behaviour on their reputation in the international community (Keohane 2009). The European Union represents a political experiment between these two conditions, a regime that is evolving from a transnational elite organization (typical of the international system) into a democratic domestic order.

This evolution is broadly reflected in the present institutional design. Of Lipjhart's ten methods<sup>24</sup> that plural societies employ to secure the viability of a democratic political system, the EU political system embodies four features: strong bicameralism (the Council of the EU and the European Parliament), an influential judiciary (the Court of Justice of the European Union- CJEU), central bank (ECB) independence, and constitutional rigidity. Moreover, the Union's institutional framework and the areas in which the supranational institutions operate are determined through a formal delegation of sovereignty by the members of the European Council via Treaties as in international law. Indeed, the representatives of the national executives in a supranational or international organization may withhold consent in any matter on the behalf of their people (Abromeit 1999, p. 62).

These features produce interesting implications for the application of accountability in all its forms. Since day-to-day legislative power is shared between the European Parliament (a body representing the citizens) and the Council of the EU (a body representing the executives of the member-states), the institutions to which executive powers (e.g. agenda-setting, implementing, enforcing, representing) have been delegated, such as the Commission or the rotating Presidency, must be accountable to both of them. The members of the Council of the EU or Parliament precondition the agenda-setting powers of the Commission to the extent that the latter consciously refrains from proposing policies that run against the wishes of the two institutions. Unlike most international financial institutions, the Commission is not accountable internally to a handful of wealthy contributors, but rather to institutions

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<sup>24</sup> These methods are: (1) executive Power-sharing in broad coalition cabinets, (2) executive-legislative balance of power, (3) multiparty systems, (4) proportional representation,(5) interest group corporatism, (6) federal and decentralized government, (7) strong bicameralism, (8) constitutional rigidity, (9) judicial review, (10) central bank independence (Lipjhart 1999, pp. 31-47).

representing the member-states and the citizens of the Union. This form of political accountability has crystallized and developed in the last two decades following the entry into force of the Treaty of the European Union. While the European Parliament may approve a motion of censure to remove the Commission, it does not possess a similar instrument against the rotating Presidency. The rotating Presidency reports to the EP without having to listen to its members' remarks or take stock of the negative opinion of the plenary (Van De Steeg 2007). Thus, while the EP can bridge the efficiency/accountability discrepancy with respect to the European Commission, it cannot do so with respect to the member-state Presidency. This dissertation applies Van De Steeg's analysis of the Presidency- EP relationship to four pre-Lisbon European Council Presidencies (France, Sweden, Belgium, and Germany)<sup>25</sup> and moves further to investigate the relationship of these Presidencies to their national legislatures and the latter's ability to hold the Presidency to account.

Other forms of accountability were developed much earlier than the TEU and bear some similarity to those described by Keohane in reference to world politics. For instance, a complex judiciary-administrative regime (the Court of Justice of the European Union and the Court of Auditors and even the Commission in terms of implementation and enforcement) arbitrates the relationship between the European Treaties and norms and the European institutions and between the European institutions and citizens, as well as between the European Treaties/institutions and the member-states. This arbitration may go both ways. It may enhance financial accountability to the citizens (as is the case for the Court of Auditors), or, alternatively, it may enhance the unaccounted power of the supranational institutions (as is

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<sup>25</sup> The 2000 French Presidency, the 2001 Swedish Presidency, the 2001 Belgium Presidency, the 2007 German Presidency of the Council.

often the case with the Court of Justice of the European Union). This is the typical dilemma between efficiency and accountability that this dissertation seeks to investigate in a context in which a central decision-maker like the ECB enjoys unprecedented levels of independence to the point that instead of being required to do so, it rather volunteers to testify before the European Parliament. To the extent that Treaties have created a single market, legal/judicial accountability in the EU combines with market accountability, while forms of financial/fiscal accountability borrow heavily from the administrative traditions of the member-states. Authors like Menon and Weatherhill argue that undertakings like the single market may lead to a process of institution-building that is aimed at the principal's<sup>26</sup> drift rather than the agent's accountability (Laffan 2003; Keohane 2009; Menon and Weatherill 2002).

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<sup>26</sup> The delegation of authority to an agent, be it a bureaucratic agency at the national level, an international organization or a supranational institution, is a frequent trend in the institutional design process. A number of reasons incentivize the transferring of power to an agent. A principal may delegate power to an agent to ensure compliance and identify free-riding in collective action situations. Power is delegated to an agent for the purpose of adjudicating disputes arising from incomplete contracting. Principals delegate authority for the purpose of ensuring the credibility and impartiality of regulation, something that a legislative body may be not capable of providing as efficiently as a specialized bureaucracy. A principal transfers power to an agent for the purpose of having a neutral agenda-setter as a bulwark against the agenda-setting instability caused by alternating parliamentary majorities. In the EU, the Commission and the Court of Justice of the EU are agents for the member-states (the principals). The Commission is the "guardian of the Treaties", a regulatory bureaucracy, an agenda-setter, while the Court of Justice of the EU interprets and monitors the application of the EU law (Pollack 1995, Kassim and Menon 2003). In turn, the principal exerts checks on the agent through a repertoire of administrative and oversight measures (the requirement for transparency, greater legislation precision against drift, the commitology system of 'police patrol,' judicial review or citizen action, the sanctioning of agency shirking through budget retrenchment or the appointment power, and the revision of an agent's mandate through treaty change are all prominent oversight measures (Pollack 1997, Kassim and Menon 2003). Principal drift is a

Returning to the question about the relationship between efficiency and accountability, this dissertation probes the role of the various branches of the judiciary at both levels (EU and national) in exercising control over the Presidencies, first with respect to the government which held the rotating Presidency of the European Council before the Lisbon reform, and then with respect to the Permanent President in the current regime.

As noted earlier, the work of the Permanent President (PP) is important for the EU and has a significant impact on the EU's citizens. The PP prepares the summit of the European Council and, in the process, becomes the chief coordinator at the EU apex, bringing together the intergovernmental and supranational institutions (the Commission, the ECB and other Council formations). While being efficient would he also be accountable? And how would he balance efficiency and accountability? There are two institutions that, to differing degrees, may hold him to account: the European Council, its principal, and the European Parliament as the body of directly-elected representatives to whom he is required to report. The European judiciary may also play a role in reviewing the propriety of his action and/or specifying its relationship to the other institutions or the citizens. Moreover, the President's office's interaction with the public sphere through the media or other outlets may contribute to transparency and openness. It is along these lines that I study the accountability process with respect to the PP.

Hence my first question: Will the Permanent President, as a new structure in the institutional complex and in the course of discharging his duties influence positively the relationship between efficiency and accountability? By a positive efficiency-accountability

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situation in which the autonomy of the agent in the areas assigned to him through delegation is considered of a higher priority and importance than its accountability to the principal.

relationship, I refer to a situation in which efficiency considerations or performance does not make the actor less accountable to the public, but rather one in which efficiency and accountability go hand-in-hand.

### Participation

Participation is a virtue of citizenship. Citizenship means membership in a community expressed in terms of a body of fundamental rights (freedom of speech or assembly), which creates an auspicious environment for popular control of the government. It is the citizen's participation in the electoral process that forms representative institutions, and, thus, secures the principal-agent accountability chain that runs from the executive to the parliament and the citizenry. Alternatively, citizens may participate directly in the policy-making process.

Besides voting, in majoritarian democratic systems, people participate in the policy-making process at all levels of government. But direct participation is even more of the essence in those polities (like the EU) that have failed to develop an electoral communication process that determines the direction of public policy. This inadequacy inhibits the relationship between the representative institutions and their citizens, and helps explain the comparatively lower voter turnout in European elections, as compared to most national elections.

This chapter employs the terms civil society and interest groups. It is thus better, at this point, to define civil society and distinguish it from other concepts (such as interest groups). Civil society is a well-developed attitudinal and institutional capability of the members of a society (the citizens) to organize themselves in the pursuit of common goals. Charles Taylor (as cited by Dunn 1996) defines it as "a web of autonomous web of associations independent

of the state, which binds citizens together in matters of common concern and by their existence or action could have an effect on public policy." Civil society represents a space in the society that does not submit to the logic of administrative and economic mechanisms and that is autonomous in respect to the state and economic forces (Cohen and Arato 1992). Interest groups concentrating on market-related specific policies (for instance, in business and agriculture) or Non-Governmental Organizations (NGO-s) embracing issues such as environment or human rights are civil society actors. Business firms, corporations, and political institutions and parties are not part of civil society (Heidbreder 2012).

As was the case with accountability, a number of questions will guide the transition from concept to operationalization when dealing with participation at the EU level. The first question has to do with its dynamics. "Who participates in the political process?" The answer is simple and straightforward. Any citizen has the right to participate in the political process, individually or in association with others. Political scientists, however, seem more concerned with the latter form, in particular with the mobilization of these interests and identities to exert political influence, and with the collective action problems that underpin mobilization efforts. My research strategy on participation is that of conceiving it primarily as collective action and contention. The literature uses both terms alternatively without distinguishing clearly between them.

For Imig and Tarrow (2001, p. 4), contentious politics implies episodic, collective interactions among makers of claims and their objects when, (1) at least one government is a claimant, the object of a claim or a party to the claims; and (2), the claims would, if realized, affect the interests of at least one of the claimants. For Balme and Chabanet (2008, p. 21), collective action is the organization and promotion of social interests by interest groups

through lobbying and social movements through protest in interaction and/or in opposition to the makers of public policy. For Imig and Tarrow, conflict and cooperation between non-state and public actors are crucial to the formation of a European polity.

A number of approaches are prominent in the research on collective action. A shared beliefs/grievances paradigm (Gurr 1970; Smelser 1962) emphasizes a pre-existing discontent as the incentive motivating collective action. In contradistinction to Marxism, the shared beliefs/grievances paradigm does not presuppose a particular subject such as a social class. Other authors such as Thomson (1971) and Snow et al (1986) zero in on the salience of culture and cultural framing as powerful catalysts for mass movements. Still other authors like Olson (1965) construe interests in terms of an individual's attitude to forms of goods (public, private, or club goods). Interest may be related to material well-being (business or labour) or post-material questions (environment). They may be private (such as the farmer's quota) or public (human rights). What is important is that interests are not just structural fixtures. They are constructs, formed in a variety of societal circumstances and which find expression in collective action and mobilization. Cognitive frames are important in this respect. A cognitive frame creates the perception of an issue and prescribes the means for addressing it. It can be dominated by political actors and arguments when the status and legitimacy of interests is at stake. It is bureaucratic when the details and means of public policy govern the agenda. It is public when public opinion is involved.

Arrow, Tilly, and MacAdam (2001) divide contention into two categories, contained and transgressive. The only difference between these two forms is whether the parties are constituted as political actors and employ established institutional venues to exert influence or not. The three authors seem to have devoted much of their effort to the study of

unconventional/transgressive forms of contention. These forms of contention include marches, sits-in, forms of boycotts (e.g. bus boycotts), insurgency (Arrow, Tilly, and MacAdam, 2001, pp. 39-43, pp .98-99). Other scholars, such as Balme and Chabanet, who focus on all forms of contention in the EU, fine-tune the array of repertoires by the degree of confrontation with the authorities. These repertoires may range from violent and peaceful conflict-based protests, confrontational, confidential or communicative pressure forms of persuasion and lobbying to, ultimately, cooptation (i.e. integration of groups into a decision-making structure through formal consultation and cooperation).

The resource mobilization paradigm (Olson 1965; McCarthy and Zald 1977) stresses the strategic and tactical salience of resource aggregation (money and labour), the incentives for individual participation in the group, and the role of outsiders in creating and assisting collective action. Obviously, resource mobilization is unequal across groups. The unemployed, migrant workers, or people with disabilities do not enjoy the same financial, legal, and cognitive (information/know-how) resources as business interests or even established trade unions. According to Balme and Chabanet, GDP and the Human Development Index (HDI) are associated with high levels of mobilization. The organization of the interests also correlates with the peculiar structure of the polity. In a concentrated structure, hierarchy underpins collective action, and hence stable political exchange is the norm. In a segmented structure, collective action hinges on direct interactions among holders of specific interests, but it may fall short of coordination and continuity. In a more diffused structure, motivating collective action is a difficult enterprise. Therefore, all factors (communication, motivation of cooperative behaviour, innovative forms of coordination, and

continuing sustainability) must be engaged to their maximum to yield collective action (Balme and Chabanet 2008, p. 54).

A political opportunity structure (Kitschelt 1986; Tarrow 1998; McAdam et al. 2001) instead dwells on “specific resource configurations, institutional arrangements and historical precedents” that facilitate or constrain the development of social movements (Kitschelt 1986, p. 58). Both Kitschelt and Tarrow emphasize the openness of the political system as a key variable. However, they differ in terms of the indicators that characterize the openness/insularity of the political system. Kitschelt lists factors such as (1) the multitude of factions, (2) the strength of the policy-making capacity of the legislature, (3) the pluralist pattern of intermediation between interest groups and the executive, and (4) the capacity of the political system to aggregate new demands into a political consensus. Tarrow, on the other hand, stresses particular developments in a country’s party system and leadership such as the breakdown in the electoral fortunes of the established parties, a partisan realignment, and influential allies within the existing elites or divisions among the latter.

Kitschelt offers three indicators of the implementation capacity of the political system: the centralized/decentralized structure, government’s control over market participants, and the judiciary’s independence and authority. In contrast, Tarrow attempts to probe the relationship between state strength and the levels of mobilization and confrontation. State strength is conceptualized both in terms of structure (centralized/decentralized) and attitudes toward social movements (inclusive or exclusive). At one extreme, weak inclusive states like Switzerland exhibit high degrees of mobilization and low degrees of violence, and strong exclusive states like France, the converse.

With respect to the European Union, Balme and Chabanet (2008) classify the structure of political opportunities in terms of three variables: the accessibility of political institutions, policy opportunities (the direction of public policy), or threats and media opportunities (in line with a prominent indicator of the resource mobilization paradigm). In terms of strength and openness alone, the EU is a multilevel polity marked by an institutional horizontal separation of powers and a division of labour across institutions and elites that varies across issues. From a political/policy perspective, this creates more points of access than even a decentralized nation-state (Balme and Chabanet 2008, p. 76). Yet the capacity of the European political system to aggregate new demands into a political consensus is to a large degree hampered by the distance between citizens and institutions, something that the principle of subsidiarity reinforces. Moreover, with respect to policy, the political opportunity for collective action at the EU level is due to the expansion of competencies at this level. Two historical periods have been associated with the germination of European interest groups: the 1955-1962 period following the establishment of the Common Market, and a more recent tide following the coming into force of the Single European Act in 1986.

But reducing European associational life only to European interest groups fails to do justice to a much more complex reality. A prominent student of interest representation such as Justin Greenwood (2006, p. 26), distinguishes two routes of organization and influence: the Brussels route and the national route. Resource mobilization makes the difference between these two routes. Usually, the larger and better-resourced associations are capable of aggregating at the EU level, while the smaller and more poorly resourced associations of south and central-eastern Europe remain national. Similarly, in quantitative terms, there is an asymmetry of representation across interests. According to Balme and Chabanet (2008, pp.

80-81) and Nugent (2001, p. 72), business groups at the European level outnumber both public interest organizations (e.g. human rights, environmental, or social charity groups) as well as professional organizations. For their part, scholars like Bouwen (2002) conceive institutionalized interaction at the EU level with interest groups as an exchange, whereby groups provide goods (expertise, information on encompassing domestic or European interests) in exchange for access.

Before moving to an evaluation of the state of collective action in the EU, I should describe Chabanet and Balme's (2008) three collective action regimes (pluralist, corporatist and protest-based), and then integrate them in the evaluation of each of the institutions. These three collective action regimes are ideal typologies that encompass all the factors that structure collective action.

The pluralist regime is characterized by policy (rather than institutional or media) opportunities in an environment dominated by the political framing of the issues and a segmented organizational capacity. In this regime, lobbying and legal action are the most prominent repertoires of contention. However, opportunities to influence policy reward well-resourced groups. In line with Kitschelt's or Tarrow's factor list, a pluralist regime thrives in an open/inclusive political system typified by a weak or moderate implementation capacity. Institutional opportunities, a bureaucratic framing of the issues, and a concentrated organizational capacity underpin a corporatist regime. In terms of repertoires, the co-optation of, consultation with or the co-management of policy with interest groups remain the most preferred routes. A corporatist regime represents an effort of the state elites to streamline and routinize (or even insulate) the decision-making process by institutionalizing and constitutionalizing interactions with interest groups. Strong states are more prone to and

capable of integrating particular civil society elements into the decision-making process. Finally, a protest-based regime may flourish in a weak inclusive state, but most certainly conflict intensifies when a social movement encounters a strong exclusive state. It goes without saying that these regimes are ideal typologies. In a polity such as the EU, elements of the three cohabit, but pluralism still dominates, despite efforts to promote forms of corporatist arrangements.

At the EU level, the European Commission is the chief institution dealing with interest groups because it possesses the right to initiate policy and legislation and to oversee the policy adoption and implementation process. The characteristics of the first two regimes of collective action (pluralist and corporatist) are clearly discernible in their interaction with interest groups. In the first stage of policy preparation, the Commission employs Green and White Papers or web-based sources such as “Your Voice in Europe” or the SINAPSE E-Network<sup>27</sup> to engage European citizens and stakeholders by inviting them to contribute to problem-solving in a given area (such as fisheries, for instance). This pattern complies with the features of a pluralist collective action regime. The public web-based database of interest groups, CONECCS,<sup>28</sup> embodies a tendency to provide a political opportunity structure favouring an unbiased pluralist regime (Tanasescu 2009, pp. 82-83).

On the other hand, the committee system is the outcome of a pre-selection routine. Expert/scientific committees are well-established councils of national officials, experts, and specialists. The members of the expert/scientific committees are nominated by the national

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<sup>27</sup> Scientific Information for Policy Support in Europe,  
<https://europa.eu/sinapse/sinapse/index.cfm?fuseaction=sinapse.home>

<sup>28</sup> Consultation, the European Commission and Civil Society database.

governments, but the committees themselves are set up by the Commission. They offer technical advice to the Commission in the drafting phase of proposed legislation, while, at the same time warning the latter of problems that may arise from the reaction of a government to a given proposal. Consultative Committees are ad hoc councils of national interests' representatives (members of European-level aggregations) which also offer technical input. They are selected and set up by the Commission only. Even more powerful are the committees in the implementation phase (the comitology committees) that must rubber-stamp a Commission's decision and can even block it. While their members have been nominated by member-states, the committees are jointly managed by the Council of the EU and the Commission. The committee system complies with the features of a corporatist collective action regime, which amounts to a biased constitutionalization of cooptation pluralism at the expense of particular un-resourced interests. Indeed, it reflects an effort to rationalize its consultation procedures in view of a (slowly but steadily) populating European public space. (Chabanet and Balme 2008, pp. 63-65; Nugent 2001, pp. 167-171 and 176-177; Greenwood 2007, p. 34; Heritier 2001; Bouwen 2002; Mazey and Richardson 1993).

The Council of the EU is another venue for influence. Various scholars (e.g. Greenwood 2007; Bouwen 2002; Balme and Chabanet 2008; Mazey and Richardson 1993) concur that, in comparison to the relationship between the interest groups and the Commission, the interaction between the Council of the EU and interest groups tends to be quite unstructured and informal. At the lower and meso levels of the Council of the EU, the national route prevails, since interest groups lobby the national bureaucrats of the working groups and COREPER (this is especially the case in areas of unanimity). This lobbying also extends to the preparation of the rotating Presidency. At the same time, Europe-wide associations such as

Business Europe (BE) and the European Trade Union Confederation (ETUC), known as the social partners, defer both to the Commission and to the Presidency of the Council. It is also worth noting that the comparative work of Wurzel (1996, p. 282) showed that the relationship between the Presidency and civil society extended beyond business or labour interests. However, at the decision-making stage, the need for consensus in the course of inter-institutional (e.g. Council-Parliament) deliberation often necessitates the exclusion of other actors. It is quite difficult to define the features of the collective action regimes with respect to the interaction of the interest groups with the Council of the EU. Research about national influence on executive representatives is almost non-existent. State structure defines the regimes of collective action. Either corporatism or pluralism dominates the state-society interactions, but protest politics is not far from the surface. The sixth chapter of this dissertation will take a look at the relationship between the Presidency of the Council and the Brussels-based social actors.

The European Parliament is the product of Europe-wide elections. Considered as second-order elections, they can hardly aggregate electoral preferences into an overarching majority/opposition nexus distinct from national politics. Yet the growing power of the European Parliament (including its legislative initiative, combined with a tendency for fluid-coalition building rather than a stern majority) makes it a favoured target for the activities of civil society. When a standing committee delegates the drafting of a proposal to a rapporteur, a window of opportunity opens up for organized interests to contribute and shape the outcome. The same goes on when the legislation is returned to the Parliament by the Council under the co-decision rules. Additionally, party and inter-party groups contribute to forging connections with interest groups. According to Greenwood (2007), citizen interests are more

welcome at the EP than in the Commission's committee system, while the converse is valid for business interests. On the other hand, the relationship between large firms/business interests and the Commission has always occupied a privileged position vis-a-vis other interests (human rights, women, or even professional). The European Parliament's interaction with civil society complies with the pluralist collective action regime. A procedure for the obligatory registration and accreditation of pressure groups assures that lobbying does not evolve into an utterly biased regime in favour of the well-resourced interests (Greenwood 2007, pp. 38 and 50).

Unlike in the corporatist and pluralist regimes, where lobbying and cooptation indicate forms of influence by input, a protest-based regime is premised on opposition to EU institutions and their output. But has a protest-based regime developed in the EU? According to Tarrow and Imig (2001), occupational groups such as farmers (more than any other group), fishermen, construction workers and miners and other occupational organizations react forcefully against EU policies. Yet the largest proportion of contentious action against EU policies takes place at home rather than in Brussels, and the constituencies organizing them frequently adopt tactics such as blockades or occupations. Other groups, such as those organized around the environment or women's issues, are reluctant to employ protest at the European level as a means of advancing their issues, preferring to do so by means of lobbying. The success of this approach is suggested by the fact that environmental groups such as the European Environmental Bureau, though not involved in the preparatory stage of the decisions, are sought after by the Commission to provide expertise on particular issues.

On the domestic front, the standards and strategies of both the national environmental and women's movements vary, which is an additional reason why their convergence in forms of

contentious action in Brussels is either impossible or inconceivable. Similarly, the European institutions, and especially the Commission alongside the national leaders of the labour movement, play a very important role in determining the European Trade Union Confederation's structure, goals and strategies. ETUC is a prominent member of the Commission-initiated Social Dialogue configurations. This stands in stark contrast with the anti-elitist rank-and file mobilization that characterized the development of the national labour movements a century or two earlier. Moreover, in support of the labour, environmental, and women's movement umbrella associations, the European Commission and Parliament offer significant financial support, while the national associations have deliberately failed to provide the necessary resources for their umbrella associations in Brussels (Martin and Ross 2001; Helfferich and Kolb 2001).

What about the Permanent President of the European Council? As a comparatively new institutional actor, has he provided new opportunities for participation at the EU level? How accessible, inclusive and close to the citizens has he been? As a Brussels-based actor, has he had a role in corporatist arrangements (the Social Dialogue or the Committee system) at the EU level?

### Deliberation

While collective action/contention may help make participation more tangible and easier to operationalize, the concept of deliberation is often associated with communicative rationality, which citizens ought to make use of in their dialogue among them.

Ideally, communicative rationality (Habermas 1998a) involves normative argumentation among parties of diverse interests seeking to solve collective action problems. Equality is

essential. Ideally, no actor should be in a position of authority vis-a-vis the other participants in the forum, no threats are permissible, and any agreement is premised on the authority of the best argument. This process is basic to legitimacy and legitimation. In principle, if decisions affect someone, then, he or she should be the author of those decisions. The actors who partake in these procedures are primarily citizens, otherwise envisioned as publics, whether local, national, supranational, or international. Jose Luis Marti (2006) offers two underlying assumptions in the form of hypotheses to defend his epistemic conception of deliberative democracy, one ontological and one epistemological. According to the ontological thesis, there exists a standard of rightness independent from the decision-making process and the participant's beliefs, preferences, and desires. According to the epistemological thesis, democratic deliberation is, in general, the most reliable democratic procedure for the purpose of identifying which are the right political decisions, and it is the most adequate method to use in making them.

According to Eriksen and Fossum (2000), deliberation is superior to bargaining or voting. In the bargaining process, actors act strategically in defence of their interests, which are rational and transitive and remain unaltered in the course of negotiations until all actors agree on an outcome based on the lowest common denominator. Voting, on the other hand, consists of an aggregation of preferences, usually along two or more political platforms. The end result of the aggregation through voting is that it reflects the will of only a majority of the constituents (not of the people as a whole), resulting in arbitrary decision-making. Moreover, much like bargainers, voters may also be egoistic and self-interested in the assessment of the different alternatives in front of them (Folesdall 2006).

Deliberation, instead, vies for the alteration of these preferences and an effective learning process, resulting in argued and informed decisions. A necessary pre-condition in deliberation is that participants must vote sincerely and independently of one another for what they think is correct, and strategic behaviour is excluded. Deliberation per se exhibits a number of virtues that guarantee impartiality and justice. It increases the exchange and pooling of information, including the information of those potentially affected by a decision. It permits and improves the identification and correction of factual and logical mistakes in citizens' reasoning about the world. It also controls for and filters emotional factors and irrational processes, while making increasingly difficult the manipulation of information and political agendas (Fearon 1998, pp. 49-52; Przeworski 1998; Stokes 1998).

Moreover, deliberation may reshape the identities of the actors and/or recreate them anew, thus leading to integration. In an ideal scenario, the citizens/publics who deliberate share a body of substantive values (akin to a lifeworld), which includes a language and an ancestral or invented history. Some democratic nation-states are premised on such a shared lifeworld. Obviously a supranational polity is not. The heterogeneity of backgrounds, memories, interests, and visions would make it quite difficult to construct a thick lifeworld. However, its absence does not necessarily mean that communicative action is impossible. In lieu of a lifeworld, a constitutionalized system of procedures and rights establishes and governs the political process. Integration builds around these values. These constitutional norms are the outcome of a reasoned consensus reached through argumentative and deliberative behaviour (Risse 2000; Müller 2004).

On the other hand, the literature on deliberation shows that it tends to lead to elitism. Participation in deliberation may be restricted to those with a higher degree of competence or

those groups that are more resourceful. The principle of affectedness is not always respected. According to Estlund (1993a and b), this expertise or wisdom may be necessary for uncovering those procedure-independent (objective) standards of justice and common good that Marti's ontological thesis underscores. With respect to the relationship between deliberation and elitism, students of deliberative democracy are concerned with questions such as "Who knows the knowers?", "Should these knowers have a moral reason for holding power?" and "If so, who controls those who govern?" (Marti 2006; Estlund 1993a and b). As I will explain in the following paragraphs, these questions have serious implications for the legitimacy of EU governance. In second place, the structural problem with deliberation is that if deliberators are to engage in serious discussion, they ought to be insulated from the public. The assumption, in this respect, is that the participants in deliberation represent themselves rather than the opinions of society. Lastly, elite debates or special interests may influence public opinion or the legislature, which in turn, influences a government's decision on a policy (Elster 1998; Stokes 1998).

In modern democracies, deliberation occurs at two levels: in the multilayered public sphere and in the bodies of the citizens' representatives. Opinion formation goes on in a "weak" public sphere populated by institutionalized non-political and non-governmental actors that stand in opposition to the government. Also, there is will-formation that, while being generated in the dialogue between political actors and citizens, resides with the decision-making actors in the "strong" public sphere of official political institutions. Usually, the process of will-formation in the strong public of political institutions relies on opinion-formation within the weak public in the wider public sphere (Fraser 1990). It is civil society that collects, organizes, and communicates public opinion to the formal structures of will-

formation in the political system. At the other extreme of this bottom-up pattern, EU governance is also characterized by a dominant top-down approach spearheaded by the Commission (Amiya-Nakada 2004; Curtin 2006).

The last three decades have been characterized by an intensive institutional build-up beyond the nation-state, which has not always been accompanied by a similar strength when it comes to the formation of a public sphere. It goes without saying that historically, at the nation-state level, the formation of the public sphere was an expected consequence of the establishment of the democratic state and its institutions. Both electoral mobilization (voting) and civil society participation were (and are) essential elements for the viability of a national democracy. In the EU context, a handful of interest groups, experts, and umbrella associations are active participants in Brussels' policymaking. On the other hand, there is little capacity for interest aggregation through voting at the European level. Indeed, this condition reflects the democratic dilemmas of multilevel governance. EU-wide electoral processes are primarily about domestic issues reflecting the interests of domestic constituencies, while political processes at the EU level are European.

In parallel to the Council's decision-making, a tradition of associative and expert comitology has emerged. These associative and experts committees meet the demand for efficient and legitimate policy-making, decision-making, and implementation through deliberation, in contradistinction to political bargaining in the Council. The primary aim of these fora is problem-solving,<sup>29</sup> and the participating members adjust their preferences to take

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<sup>29</sup> A bargaining approach focuses primarily on the states as represented by a group of negotiators. States have specific interests that are assumed to be fixed and unitary, and the negotiator's task is to try to maximize these interests through negotiation. Bargaining is premised on the use of rewards and threats of sanctions to induce a party to concession, and the making of concessions signifies that parties are getting closer to a concord (Hopman

into account the preferences and concerns of the others (Joerges and Neyer 1997). Committees are governance structures standing between the nation-state and supranational political institutions. They provide Europe-wide coordination without pre-empting national action or reaction. The Committee system thus represents a form of deliberation coordinated through the Commission in lieu of a supranational hierarchy (Sabel and Zeitlin 2004). However, these corporatist-style governance structures remain exclusive. Even when networks are ‘opened,’ it is quite difficult to ascertain their point of access, both because they are so numerous and because the rules of engagement are quite obscure. Usually, the most powerful dominate, and thus asymmetry is the norm. Indeed, Abromeit (1999) argues that these networks “close themselves” through a process of specific selectivity. Even more important, none of the actors who staff the committees holds a democratic mandate, and they are virtually unknown to the wider public. (Heritier 2003; Abromeit 1999).

A number of scholars write about forms of participation that transcend top-down restrictive arrangements. Abromeit proposes democratizing network groups by variegating their membership and linking them to their home base constituencies (Abromeit 1999, pp. 80 - 86). Beate Kohler-Koch (2008, p. 7) and her group of researchers deal with "Instruments of participatory engineering aiming at directly involving citizens, such as “citizens’ forums” or “Café debates.” However, they admit that these initiatives reach only small groups and at best raise awareness of European issues in general. Large fora or more mass-oriented consultation devices offer little space for deliberation and are of little influence at the proposal stage.

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1995). A problem-solving situation does not reject the role of interests, but takes them alongside the influence of norms and institutions. The acceptance of institutions and norms sets the basis for deliberation to occur.

In sum, integration through deliberation among a few actors at the EU level cannot match the intensive processes of opinion and will-formation that characterize participatory democracy in the nation-state and cannot compensate for them. Whether or not committee networks help to forge new identities and norms transcending national interests is irrelevant for the EU democracy as long as the work of these networks is not accompanied by increased participation and the crystallization of a public sphere at the EU level. The challenge for the EU institutions is to create meaningful opportunities for participation that enhance inclusiveness and representativeness.

Hence my second question: Will the Permanent Presidency in the discharge of its duties influence positively the relationship between deliberation and participation? A positive deliberation-participation relationship entails a situation in which the proclivity to incentivize deliberation in policy-making is accompanied by inclusion and participation of the citizenry and civil society representatives in terms of input.

### **Structure of the dissertation**

The following chapter (Chapter two) is about the types of questions that inform this inquiry, the nature of this study, and the methodological procedures I pursued in carrying it out.

Chapters three, four, five and six deal with each variable separately. The third chapter focuses on efficiency. The fourth focuses on accountability. The fifth tackles deliberation. Finally, the sixth chapter looks at participation. Each chapter looks at the Permanent President in comparison to its predecessor, the rotating Presidency. The rotating Presidency in this dissertation is represented by four governments occupying the Council Presidency between 2000 and 2007.

Chapter seven is the Conclusion. Here I bring the threads together by describing the extent to which the PP affects the relationship between efficiency and accountability and the relationship between deliberation and participation while explaining the PP's behaviour through the application of the output (government for the people) and input (government by the people) paradigms. I also look at the relationship between the findings from this research process and some larger questions on polity-building and EU democratization as well as their implications for further research.

## CHAPTER 2: METHODOLOGY

### The research questions

*What are the implications of the office of the Permanent President of the European Council for the democratic process at the EU level? To what degree does the activity of the Permanent Presidency contribute to enhance the quality of output democracy by bridging the gap between efficiency and accountability? To what extent are the actions and initiatives of the Permanent Presidency attempting to reconcile the quality of deliberation with the requirement for participation as essential elements of input democracy?*

According to Simon and McCall (1985), a research question may be descriptive, explanatory, or verifying. A descriptive question involves the discovery of a reality that is still unknown to the researcher (e.g. “what is going on there?). An explanatory question seeks to unravel the reason underpinning the actions of the unit under study (how come it happens in this way?). A verifying question seeks to test explanations (does a given explanation stand?). Norman Blaikie<sup>30</sup>(2009) offers a similar taxonomy by distinguishing descriptive, explanation/understanding, and change questions.

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<sup>30</sup> According to Blaikie, descriptive research address 'what?' questions (like, for instance, what types of people are involved? What is their characteristic behaviour?) that aim at accounting for the characteristics of and patterns in some social phenomenon like categories of individuals, social groups and social processes. Analytical research addresses "why?" questions that aim at understanding and explaining relations between events (like why do people think and act this way? Why did these patterns come to be this way?). Change questions address possibilities for transformation (How can these characteristics, social phenomena or patterns be changed?).

The research questions that I have listed above belong to the first group, but this research project cannot be merely descriptive. What I seek to evaluate is the effect of the work of the Presidency on the democratic process expressed through the efficiency/accountability and deliberation/participation dilemmas. The clarification and evaluation of these relationships will, then, serve as a foundation for further exploration of the patterns of behaviour on the part of the Permanent President with reference to the output/input model of democratic politics. The choice of a descriptive/evaluative question at the first stage is not accidental. It reflects the current level of knowledge about the Presidency. Therefore, this dissertation attempts primarily to situate and describe the new office's role in the processes and political institutions of the European Union.

### **Design, strategy, and sources in the existing literature about the rotating residency**

In general, the literature on the Presidency is overwhelmingly descriptive. Most often, it has been integrated into larger works on the Council of Ministers and the European Council (Wallace 1985; Bulmer and Wessels 1987; Westlake 1999). From an approach standpoint, inductive<sup>31</sup> and deductive<sup>32</sup> approaches complement each other, but induction dominates the

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<sup>31</sup> Description of social phenomena to answer “what?” questions. The researcher chooses a set of characteristics, collect data on them (in a specific location and at a particular time), draw generalizations from them (the initial question: What kind of young people engage in juvenile crime?). It is an approach grounded in the background knowledge both from theory and previous research and traditions within our discipline. Patterns of association (what happens) within a limited space must be established between characteristics as a first step paving the way for the “why” question.

<sup>32</sup> The aim of deductive research is to find an explanation for the association between two concepts by proposing a theory, the relevance of which can be tested. The association itself may be established by way of inductive or

scholarly literature. With few exceptions, these contributions tend leave the reader in the dark about the procedures by which they obtain their data. Case studies (Ludlow,1998; Maurer 2000; Lequesne 2001) prevail, especially in theory-building or theory-testing research (Schout and Vanhoonacker 2001).

Two major contributions (O’Nuailan 1985 and Elgstrom 2003) are collections of in-depth descriptive single case studies, which culminate either in a summary of commonalities (O’Nuailan) or in the evaluation of competing theoretical perspectives (rational choice and sociological institutionalism in Elgstrom). The virtue of these two volumes is that they both attempt to engage in a cross-case analysis of the different Presidencies in their concluding chapters. Tallberg (2006) adopts rational choice institutionalism as a framework for explaining the formation and functions of the Council Presidency (as agenda-manager, negotiation broker, and external representative). He subscribes, however, to a direction set out by earlier contributions (Wallace 1985; Wastelake and Galloway 2004), which trace the evolution of the Presidency to a demand for leadership (focus, coordination, continuity and representation) in the wake of continuing EU expansion. What sets Tallberg apart from the other authors is that he treats the institution of the Presidency (and not a single or a number of single Presidencies) as a case study.

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deductive research strategy. Hence, it addresses ‘why’ questions. Your original contribution begins with a hypothesis or a set of hypotheses that form a theory. With the help of previously accepted hypotheses, or by specifying the conditions under which the hypotheses are expected to hold, the researcher deduce a number of conclusions.

Before Elgstrom, Emile Kirchner (1992) opted for a timid deductive explanatory research strategy<sup>33</sup> by applying a neo-functionalist framework (co-operative federalism) to national governments' role in the negotiation of the Single European Act and, more importantly, the role of the rotating Presidency in its implementation. Unlike Kirchner, Metcalfe (1998) pursues a more rigorous deductive approach by applying a resource-theory model of leadership to the working of the Council's Presidency. Philippa Sherrington (2000) analyzes the Council of Ministers as a case study, and treats the Presidency as a part of the whole. She applies to the Council's political process an analytical framework based on the bureaucratic politics paradigm (a public policy lens) proposed by Graham Allison and Morton Halperin (1972). On a topic such as the accountability of the European Council to the EP, Marianne Van de Steeg (2009) applies a concept-oriented inductive approach to get insights into the relationship between the European Council and the European Parliament. Crum (2006) and Jan Werts (2008) engage in counterfactual thinking, an uncommon strategy in studies of the EU. In spite of the descriptive style that characterizes Werts' works, the theory of leadership informs the inquiry. Leadership roles of the Permanent President are no different from those of the rotating Presidency (Werts 2008, pp. 163-174). On the other hand, the few comparisons across Presidencies have focused on particular areas of interests (Wurzel 2000), and their utility has been informative rather than theoretical.

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<sup>33</sup> I am making use of the word 'timid', because what I find in Kirchner's work is a dominant preoccupation with the minute specification of the Council's Presidency role in the European Community(EC) policy process typical of an inductive research strategy focused on the description of characteristics and patterns. However, he is explicit about his purpose of contrasting the efficacy of the neo-institutional theory to the then-reigning paradigms in European integration studies, neo-functionalism and intergovernmentalism.

Predominantly, Council Presidency scholars employing either qualitative methods with an exploratory/inductive strategy without a particular theoretical commitment or a theoretically informed deductive strategy have utilized multiple data-collection technologies (triangulation). This is especially the case when the focus is the account of a single Presidency. The authors in Elgstrom (2003) combine their analysis of the Euro-barometer public opinion surveys with official documents from the Presidency, newspaper articles, interviews with member-state diplomats and representatives of the Commission, Council, and the European Parliament. Kirchner (1992) makes use of reports from experts, the data and bulletins produced or managed by the Commission. He engages in a content analysis of the Treaties or draft Treaties, of institutional press releases, of newspaper articles or announcements. Sherrington (2000) devotes an entire section to methodological considerations. In lieu of the unavailable Council minutes (whose disclosure is restricted by law), she avails herself of the EP and Commission's official documentations and the Council's press releases, accompanied by in-depth interviews with officials. Tallberg (2006) also focuses on the content-analyses of statesmen's speeches. Van De Steeg (2009) employs content analysis of EP minutes, and, to a lesser extent, interviews with MEPs.

From a thematic/theoretical standpoint, efficiency (meaning the capacity to deliver or serve the national interest) remains the most significant variable informing theoretical inquiry in the study of the Presidency. This is the reason why two prominent public policy lenses (rational choice institutionalism and bureaucratic politics) still reign over the research agenda. Theory-guided and theory-generating empirical inquiry about the Presidency as an actor in the "government by the people" pillar is almost nonexistent. Research on concepts and theories of democracy is still at an infant stage, where the methodological approach remains

predominantly descriptive and non-inferential. There is no clear definition of participation as a concept and variable. There is no distinction between acts of deliberation and acts of participation. There is no explicit and detailed discussion of the extent of citizen participation during a Presidency. The role of the government in providing opportunities for participation is limited to the management of the media in an attempt to turn public opinion in favour of the European integration process (Van Keulen and Rood 2003, p. 84; Manners 2003, p 101; and Bjurulf 2003, pp. 150-151).

### **The Permanent Presidency as a case study with comparative instances**

My research strategy is inductive. While a theoretical framework guides the analysis (typical of a deductive approach), my intent is not to test a theory, eliminating the false one and corroborating the survivor.

First, the theoretical framework I have chosen (discursive democracy) is a normative theory, which means that it seeks not only to explain, but also to provide a perspective about the behaviour expected from an actor in an institutional configuration that either is or ought to be democratic. More than finding out whether there is a incongruence between efficiency and accountability or deliberation and participation and whether that incongruence motivates or explains the actions of the Permanent President, my research contends that if such incongruences characterize and/or underpin the behaviour of the Presidency, then the democratic process in that aspect of the European institutional life is, at best, flawed. Hence, I do not seek to build or confirm a mega-theory, but rather to generalize on the institution that I am studying, while paving the way for more ambitious generalization with respect to the behaviour of executive institutions. A theory of leadership is a valid lens for

explaining certain aspects of the actions of the Presidency, much as discursive democracy may explain other aspects. However, what I seek to evaluate is the relationship of a new institution to the democratic process. Therefore, an explanation would be a difficult process without a complex combination of exploration, description, and understanding.

I find case studies to be the appropriate method to guide research on an exploratory question beginning with a 'what', a question that explores the effect of the Permanent Presidency, as a new institution, on the democratic aspects of overall institutional life in the European Union. This dissertation will also incorporate elements of comparison with four rotating Presidencies preceding the coming into force of the Lisbon Treaty: the 2000 French Presidency, the early 2001 Swedish Presidency, the late 2001 Belgian Presidency, and the 2007 German Presidency. There is a rationale behind such a comparison. The Permanent Presidency is an indication of both innovation and continuity. At the end of the day, the Permanent Presidency does not occupy a brand new site in the policy-making process, but is part of a configuration that has been in place since the formation of the European Council, nearly four decades ago. In terms of continuity, the PP incorporates some of the functions associated with the pre-Lisbon rotating Presidency (broker, agenda-manager, external representative, and inter-institutional coordinator). This similarity may explain the feasibility of a comparison to its predecessor. The historical record of the rotating Presidency offers an array of precedents and developments against which the activity of the new office can be compared and evaluated. This comparison and evaluation may provide us with important insights into the expected behaviour and progress of the Permanent Presidency in the years to come, since it will expose more clearly both the dilemmas and certainties that the pre- and post-Lisbon constitutional configurations have faced.

Why have I chosen these four Presidencies? These are telling instances of a member-state's political management of the EU, each of them original in its own right. I have selected them with the intent of having a mix of big and small states, successful and unsuccessful managers, and open-minded and dialogic versus arrogant decision-makers.<sup>34</sup> The nature of the issues dealt with by the presidency is another criterion underpinning the selection. I have given preference to constitutive, distributive and regulatory issues<sup>35</sup> that affect the democratic process at the EU level. In fact, these Presidencies have taken place in the wake of significant Treaty revisions (the Treaty of Nice, the Constitutional Convention, and the Treaty of Lisbon).<sup>36</sup> Moreover, what all these Presidencies have in common is difficulty of coping with the efficiency-accountability and deliberation-participation dilemmas.<sup>37</sup>

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<sup>34</sup> The 2000 French Presidency is a typical case of arrogant mismanagement in the challenging landscape of the Gaullist-Socialist cohabitation. The Swedish Presidency is an example of an arduous, refreshing and innovative approach to issues of transparency with the public at the European level. Much like Sweden, the Belgian Presidency represents the case of a small state that accomplishes an important breakthrough in the debate about the future of Europe (such as the Laeken declaration). The German Presidency of 2007 takes place during a usual moment both in the political life of Germany (the Grand Coalition) and in Europe (when questions related to Treaty Reform prop up in the aftermath of the Constitution Treaty demise).

<sup>35</sup> Lowi (1972, p. 300) offers a fourfold classification of policies as constituent (tackling the basic rules and principles of the system); redistributive (the transfer of the financial resources from some actors to others); distributive (the allocation of Community funds within sectors); and regulatory (the adoption of common regulations for the activity of the public and private sector).

<sup>36</sup> The major challenges that all the rotating Presidencies have faced is that of reconciling their prerogatives as national leaders with the expectation of effective problem-solving management at the EU level during a stint of six months. This has resulted in a contradiction between the nature and sources of policy-formation and accountability (located at the nation-state level), on the one hand, and, on the other, the scope and site of decision-making in both terms of performance and problem-solving (located at the EU). This contradiction

However, in spite of the comparative twist, the focus of this dissertation is on the Permanent Presidency in the context of the post-Lisbon EU, and it is this focus that constitutes the added value of this work in the literature. This dissertation is the case study of one Presidency of the European Council, that of its inaugural holder, Herman Van Rompuy. The focus is on one individual, his position, activity, and relations, evaluated from the perspective of democratic theory. The intent of this dissertation is to shed light on these relations, on the Presidents' contribution to the democratic process or lack thereof, and on the changes that have occurred with the Permanent Presidency. Moreover, the President has operated in the extraordinarily difficult economic environment ushered in by the 2008-2009 global financial crisis and its repercussions. One might contest the feasibility of a study that does not encompass a longer stretch in the life of an institution. However, an inaugural holder operating in the context of extraordinary conditions may leave indelible traces in an institution's structure. Indeed, developments occurring during the tenure of the inaugural holder may give rise to a path dependency from which the initial President's successors may not be able to escape.

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approximates the incongruence thesis to the extent that the outcome of participation and expectation of accountability trumps the efficiency-deliberation considerations.

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There are similarities between the method I employ here and the process-tracing method of historical and current narrative. Process-tracing consists of a theory-guided detailed evidence-gathering process, with the aim of uncovering an actor's stimuli and motivations, the course through which these latter are translated into decisions, the actor's behaviour during such a course, and the effect of the institutions and other variables. It is evidence that may contribute to supporting or overturning alternative explanatory hypotheses. The predominantly exploratory nature of this study does not mean that I will not travel backward from outcomes to causes. By all means, this dissertation's trajectory leads towards this destination. The clarification of the 'what' questions will enable me as a scholar to answer a number of 'why' questions. (George and McKeown 1985, p. 35; Bennett 2010, pp. 207-211).

### **The operationalization process and methodological procedures**

The conceptual precision of the variables is crucial to the research process, especially when there are multiple definitions covering the same semantic unit. In terms of research route, I operationalize the four variables (efficiency, accountability, deliberation, and participation) with an eye to the behaviour of the EU's executive institutions, and, in particular, the current Permanent Presidency of the European Council vis-a-vis the different publics (the Parliaments, citizens, and civil society organizations) and other actors like the judiciary or the press.

Below, a table is included with different indicators of what constitutes efficiency, accountability, deliberation, and participation. I treat these indicators as interpretive devices for evaluating the extent to which the President of the European Council is, in comparison to its predecessor, more or less efficient, more or less accountable, more or less likely to

induce deliberation, or more or less likely to encourage participation . To accomplish operationalization, I relied on various theoretical contributions, some of which are referenced in the first chapter. For efficiency, I have drawn on Parsons 1956; Georgopoulos and Tannenbaum 1957; and Yuchtman and Seashore 1967. For accountability I have used March and Olsen 1995; Scott 2000; Bovens 2007; Harlow 2002; Van De Steeg 2007; Laffan 2003; and Roche 2003). For deliberation I have drawn on Elster, 1986; Habermas 1987; Miller 1992; Gerstenberg and Sabel 2002; and Deitelhoff and Müller, 2005, and for participation, I have used Tarrow 1994; Greenwood 1997; and Balme and Chabanet 2008.

## **OPERATIONALIZING THE VARIABLES**

### **Efficiency**

The ability to organize and manage the agenda of the European Council effectively, especially in the period between the two Intergovernmental Conferences;

The ability to broker agreements on given issues before the IGC;

The ability to identify problems of European interests and initiate problem-solving at the EU level;

The ability to set clear objectives and goals as a basis for coordinating the policy process across institutions, or the ability to shape the goals and objectives set by the principal;

The ability to mobilize and exploit resources beyond the original size and capacity of his office;

The ability to maintain harmonious relations and to work effectively with the office of the President of the Commission, the Council Secretariat and the rotating Presidency; and,

The ability to promote further learning through the act of steering the policy-making process in response to unexpected events and experiences.

## **Accountability**

The European Council's ability to exercise control over the Permanent President and his office;

The ability of MEPs, singly or in groups, as well as the members of the European Council, to ask the President of the European Council to inform them about, explain, and justify his actions;

The European Parliament's ability and willingness, through both formal and informal instruments, to take the European Council President to task with respect to particular actions;

The Permanent President's explanation of and assumption of responsibility for his actions to the European Parliament on issues related to work as organizer and chair of the European Council;

The Permanent President's assumption of responsibility for his actions in front of both the European Council and the European Parliament;

Regular and frequent contact between the Permanent President and the European Parliament;

Regular communication between the Permanent President and national parliaments (for instance, with the Committees on European Affairs), including regular meetings with their representatives and/or their umbrella organizations in Brussels to discuss issues and concerns that affect different nations or different constituencies within the nation-states;

Regular interaction between the Permanent President and EU citizens, through the office's own communication structure and other media outlets;

The possibility of judicial review of the Permanent President's actions;

The Permanent President's obligation, under EU law, to provide citizens with access to all documents produced by his office;

The Permanent President's and his office's frequent exposure to the public by European and national media; and,

The Permanent President's electoral accountability to European citizens.

### **Deliberation**

The Permanent President's encouragement, in the fora he chairs, of an argument-based exchange of ideas among members or institutions that seeks to alter preferences through the power of best argument;

The Permanent President's chairing of fora that are not restrictive in membership and are not focused only on technical issues;

The Permanent Presidency's incorporation of input from the European Parliament (or the national Parliaments) and other stakeholders in the work of the fora he chairs;

The Permanent Presidency's incorporation of themes coming from the national public spheres in the work of other fora he chairs; and,

The Permanent President's creation, through agenda-setting, of premises for deliberation at both national and subnational levels.

### **Participation**

Provision, by the Permanent President, of meaningful opportunities for European citizens to participate in the policy-making process;

Provision, by the office of the Permanent President, of openings for a large variety of civil society organizations, not just a handful of large, well-resourced associations;

The Permanent President becomes target of contentious action in violent and non-violent forms, at the national or European levels;

The Permanent President's pivotal role in various EU corporatist arrangements, such as consultations with the Economic and Social Committee and the Committee of the Regions and/or the Dialogue with the Social Partners; and,

The Permanent Presidency's regular promotion or co-promotion (with other institutions) of initiatives aimed at increasing citizen participation and dialogue on given European issues and problems, as well as national and local problems of special Europe-wide interest.

With respect to validity, this dissertation proposes three strategies for verifying the accuracy of information and data. First, I aim for an indiscriminating, comprehensive treatment of all events in which the Permanent President participates, to produce plausible and truthful conclusions about the behaviour of the institution and its incumbents. Secondly, through the triangulation process (the combination of multiple qualitative methods outlined below), I seek to garner multiple perspectives with the intent of offering a theory-guided complete and meticulous narrative of the policy-making environment surrounding the Presidency. Thirdly, the use of the comparative method with respect to the four rotating Presidencies aims at estimating whether the post-Lisbon reform of creating an office of the European Council has had a positive or negative impact on democracy at the EU level (Flick 1998, pp. 224-227, 227-230; Silverman 2000, pp. 175-185).

When it comes to methodological techniques and procedures, I perform a content analysis of official documents of the office of the Permanent President of the European Council (press releases, speeches), the transcripts of the European Parliament's hearings and its resolutions, transcripts of the hearings from national parliaments and party group motions, the opinions and judgments of the various Courts at the national and EU levels, and the reports, policy

positions, opinions and papers, written declarations, speeches and press conferences of other policy-makers such as the Commission, the Eurogroup and the ECB. I do the same with website manifestos, protocols, reports, correspondence, opinion papers, flyers, announcements of demonstrations, and ex-post accounts of events such as conferences, fora, and demonstrations. The scrutiny of official documents is occasionally corroborated by several reviews of news articles from the major text-based online media or academic reports in such periodicals as *European Voice*, *Eurocomment*, *Euractiv*, and *European Observer*. Moreover, I also consult the different websites of the Presidencies to trace the dynamics and modes of reaching out to the citizenry at large. This segment of the inquiry allows us to construct a narrative which focuses on describing the state of affairs within the European Council, the relations between the different branches of the EU executive (Commission, the Permanent President, and the rotating Presidency), the relationship between the rotating and Permanent Presidents and the EP and national Parliaments, and the interaction between the rotating and Permanent Presidents and civil society.

The aim of these unobtrusive procedures is to investigate the impact of the Permanent Presidency on the policy process, and on the interactions among institutions as well as with the larger public sphere. Even more so, these procedures will allow us to evaluate the performance of both the Permanent and rotating Presidencies with respect to variables such as accountability, deliberation and participation. In this regard, each of the empirical chapters contains sections in which the concepts behind the variables are delineated with precision, embedded in larger approaches (as in the efficiency chapter), or articulated in the form of ideal arrangements by political scientists or philosophy scholars (as in the accountability and deliberation chapters). In each chapter, I will analyze the President's performance in the light

of these approaches. Official documents from institutions such as the Parliament, Commission, Rotating Presidency, the ECB, and the Eurogroup will be examined not only to determine if they contain minutes of interaction with the Permanent President, but also to try to discover the extent to which they engage in behaviour that contributes to the advancement of democracy, whether as account-seekers, as participants in deliberation, or as providers of opportunity for participation.

In pursuit of a strategy of triangulation, I have also conducted in-depth, semi-structured elite interviews, whose primary function is to expose interviewees' knowledge of given topics. Elite interviews are interviews with people who have either been a position of authority to influence decisions, who have assisted in the policy and decision-making processes, or who have, by virtue of their membership and reputation, a thorough knowledge of the political and policy processes. Elite interviews occupy the most important place by virtue of serving the strategic purpose of generating specific insights and interconnecting them. Here I should point out that the sampling process is purposively theoretical, which means that there is a theoretical proposition (Hurrelman and DeBardeleben 2009) that specifies the relations that I set out to observe. These interviews resemble what in psychology is known as the problem-centered interview, that is, each of them targets a particular phenomenon or two phenomena in conjunction with one another (e.g., efficiency or accountability) with questions generated in the operationalization process, but with substantive freedom for the interviewees to express themselves, and articulate and expand on their responses (Flick 1998, pp. 65-69 and 88-91; Silverman 2000, pp. 104-105).

All the interviews that I have conducted are elite interviews. These actors either have a privileged position in decision-making, policy-making, or other EU-level arrangements or else

have thoroughgoing knowledge of the EU's day-to-day activities. The aim of the interviews was to gather information and identify the perception of these actors about the new office, its position and behaviour, and the changes that have occurred after the coming into force of the Lisbon Treaty and the impact of those changes. These interviews contain information that cannot be conveyed through unobtrusive procedures. Interviews began as structured and then in particular fragments change to open questions. Obviously, my intent was to have as many face-to-face interviews as possible, given that this strategy is recognized as the most flexible data collection method, since it allows for optimal communication through a combination of structured and partly structured open questioning (Manheim and Rich 1981, pp. 128-129 and 133-136).

I completed most of the interviews between September and December 2012 during my fieldwork in Brussels, the EU's capital. Another set of interviews was conducted via email between January and May 2013. There is a set of interviews with civil servants speaking on behalf of the office of the Permanent President and other institutions (e.g. the Commission) or sectors (e.g. the Legal Secretariat of the Council, the Eurogroup Working Group) that interact with the Permanent President on a regular basis and assist him in carrying out his tasks. There is another set of interviews was with Members of the European Parliament (MEPs) and representatives of civil society. This set of interviews focus on the democratizing potential of the Permanent President, the degree to which he is open, transparent and accountable and the degree to which he encourages participation in the policy process. While contacting and interviewing representatives of civil society was a smooth process, this was not the case with the members of the European Parliament. When planning the fieldwork, my aim was that of interviewing a sample of ten MEP-s, but their unavailability reduced the

sample to just three (one face-to-face interview taken during out fieldwork in Brussels and two, through email with the MEP's accredited assistants after the return). The MEPs were members of different party groups<sup>38</sup>. They were also members or chairs of important EP Committees (Committee on Economic and Monetary Affairs, Committee on Constitutional Affairs). Hence, they were knowledgeable of both the pre and post-Lisbon architecture and of the oscillations of the new economic governance regime (where the European Council has taken center stage). Moreover, in lieu of and in addition to the interviews, I made use of publications authored by prominent MEPs (Verhofstadt and Cohn Bendit, 2012), in which they discuss the EU after the Lisbon reform of the Treaties.

When it comes to the civil society actors, I have attempted to cover a variety of Brussels-based associations, the most important and largest umbrella associations as well as a cluster of those existing outside the umbrella associations. For instance, Business Europe and the European Trade Union Confederation are the two most important umbrella associations representing, respectively, the business and labour interests. On the other hand, CESI speaks for those labour unions that have chosen to stay outside the ETUC umbrella. Moreover, these organizations represent a variety of interests, from labour and capital to municipalities and disadvantaged constituencies.

Methodological procedures are an important element in a dissertation. It is through these methods that we tackle the sphere of EU politics not only to uncover the changes that have occurred after the Lisbon, but also to probe the pre-Lisbon era. The next four chapters delve

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<sup>38</sup> Group of the European People's Party (Christian Democrats), Group of the Progressive Alliance of Socialists and Democrats, Group of the Alliance of Liberals and Democrats for Europe.

into this sphere and look at it from different vantage points and, especially, from that of the Permanent President of the European Council.

### **CHAPTER 3: EFFICIENCY**

This chapter evaluates the Permanent President's actions in terms of efficiency. It draws on a definition of efficiency coined by political scientist Karen Heard-Laureote (2010, p. 19). She defines efficiency as "the capacity of the political system to achieve its goals and produce policies that solve the citizens' problems at a reasonable cost and without delay." Here, I go a bit farther than Heard-Laureote, defining efficiency not only in terms of goals and goal-attainment, but also with respect to the ability to mobilize resources and apply them to those goals, as well as to the ability to foster cooperation with the other members of the system in which an organization or unit operates and is a member.

I achieve this evaluation by means of three lenses: a goal approach, a resource approach, and a functional approach. The first part of the evaluation focuses on the goals, not just on the extent to which they may be clear or unambiguous, and therefore measurable, but also on their connection to the values of the particular institution in question. More important, the first part focuses on the processes that lead to goal-accomplishment and on the roles that these processes engender. The second part focuses on resources, including both those related to its adaptation to the system's demands (e.g. for money and personnel) and those that are generated by virtue of the President's position, authority and reputation, which Metcalfe (1998) describes as leadership resources. The third part focuses on the President's relation to the office that he occupies and his and its relations with the other parts of the system as his office discharges its tasks.

This chapter argues that the Permanent President as an institution possesses features that improve efficiency. Unlike his rotating predecessor, he is a Brussels-based neutral chair who

serves for a longer term and does not represent particular national interests or preferences. This position privileges him in goal-attainment processes. This position also privileges him in terms of leadership resources, especially since he does not possess the same resource capacity<sup>39</sup> as the rotating Presidency. The longer mandate gives him an opportunity to be a successful intellectual leader and shape the goals of the European Council and of the EU system. Moreover, as an agent for the European Council, he is able to mobilize the intelligence of the other supranational actors and bring them together under the aegis of the European Council.

This chapter is divided into two parts. Part one tackles efficiency with respect to the Permanent President, while the second part is concerned with the rotating Presidency. Each part is divided into three sections. A first section focuses on goal-attainment. A second section focuses on resources. A third section focuses on the Parsonian concept of integration, that is, the Presidency's ability to bring about a cooperative inter-institutional environment. The next section outlines the three approaches, including their origins, worldviews, and interconnections.

### **Three approaches to the study of efficiency.**

The first approach is about goals. Each organization has a goal and other more narrow and concrete sub-goals (Georgopoulos and Tannenbaum 1957). In this vein, Parsons classifies organizations according to their primary goal: (1) Organizations oriented to economic

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<sup>39</sup> Resource capacity entails those scarce and valued resources that an organization acquires through inter-organizational input-output exchange (Yuchtman and Seashore, 1967). These resources consist of liquidities such as money or credit, human activity and intellect, physical facilities and technology. We distinguish this group of resources from the other set of resources defined as leadership resources.

production (e.g. business firms); (2) Organizations oriented to political goals (e.g., political/state institutions); (3) Integrative organizations (e.g., courts); and (4) Pattern-maintenance organizations (e.g. universities). Additionally, exchange and cooperation among the organizations and other groups develop other goals besides those specific or proper to the organization itself (Parsons 1956a).

The European Council is an organization oriented towards political goals.<sup>40</sup> This means that it generates power for itself through the authority of its members and then allocates or delegates this power to other levels within the Council or to its member-states. To this end, the European Council issues directives to other members of the EU institutional complex. It invites the Commission to draft proposals and write reports. It urges the different Council formations to act promptly on given legislation. It may reprimand member states and instruct them to embark on a particular path or coordinate. It may create new investigative or expert bodies. At the same time, the European Council is an integrative<sup>41</sup> institution to the extent that it resolves inter-state conflicts as a decision-maker of last resort.

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<sup>40</sup> *Organizations oriented to political goals*, that is, to the generation and allocation of power in the society: This category includes most organs of government, but in a society like ours, various other organizations are involved. The allocation of purchasing power through credit creation is an exercise of power in this sense; hence a good part of the banking system should be treated as residing in primarily political organizations. More generally, it seems legitimate to speak of incorporation as an allocation of power in a political sense; hence the corporate aspect of formal organizations generally is a political aspect (cited from Parsons 1956).

<sup>41</sup> *Integrative organizations*: These are organizations which contribute primarily to efficiency, not effectiveness, on the societal level. They concern the adjustment of conflicts and the direction of motivation to the fulfillment of institutionalized expectations. A substantial part of the functions of the courts and of the legal profession should be classed here. Political parties, whose function is the mobilization of support for those responsible for government operations, belong in this category, and, to a certain extent, "interest groups" belong here, too.

The overarching goal of the office of the Presidency of the European Council is that of assisting and supporting the European Council in the accomplishment of its mission, first by carrying out its work in between summits, and then by managing the decision-making process at those summits. The more concrete sub-goals assigned to the Permanent President of the European Council are the outcome of various fora and circumstances. They are defined by particular situations or events, are shaped in the period between summits through the work of Brussels-based institutions (including the Permanent President), and, even more important, they are articulated in the European Council Summit Conclusions after the heads of states and governments have deliberated on them.

When it comes to assessing efficiency in terms of goals and goal-attainment, the focus is usually on clarity, concreteness, and the extent to which achievements are measurable. But the assessment of efficiency with respect to the President of the European Council involves more than that. Efficiency also depends on the Presidency's ability to respond to the urgency of a particular moment, to prioritize issues, and to define the goals of the European Council and of the European Union. It also has to do with time management and better task-sharing across institutions.

Secondly, there is a resource approach. There are those universal resources of the kind that Yuchtman and Seashore (1967) consider as "scarce and valued" and which consist primarily of money, premises and personnel. These resources are useful to the extent that they support organizational activity in general. Yet the resource approach cannot be reduced to them alone. In fact, resources are not limited only to the inflow or outflow of resources, such as the

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Finally, those organizations that are primarily mechanisms of social control in the narrower sense, for example hospitals, are mainly integrative.

presence and acquisition of facilities or the turnover as opposed to the expansion of personnel. Resources are also about behavior, status and skill. For instance, an individual's status as a neutral chair or a negotiator's experience are resources having to do with the personality and standing of an incumbent rather than just with the capacity of the mechanism supporting him. Metcalfe classifies such resources as leadership resources.<sup>42</sup>(Metcalfe 1998, pp. 416-426). In terms of universal resources, the Presidency of the European Council is a small office financed through the EU budget. However, the President can rely on his status and skill to provide leadership.

Efficiency with respect to resources is not just about having enough of them, but also about using them wisely. Institutions are efficient when they achieve results by industriously employing all the resources in their possession. When evaluating the Permanent President in comparison to the rotating Presidency, this principle (the wise use of resources) is of primary importance.

The functional approach (the third approach) treats the organization as a social system, part or subsystem of a larger system from which it borrows its values and of which it is a specialized, differentiated function. Hence, the values of the system and their institutionalization are central to the functional approach and guide what Parsons defines as the organization's<sup>43</sup> three basic functions: adaptation to the environment, goal-attainment, and

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<sup>42</sup> I conceptualize valued resources (or adaptation resources) as pre-existing goal-attainment, while leadership resources are part and parcel of goal-attainment.

<sup>43</sup> In his 1956 "Suggestions for a Sociological Approach to the Theory of Organizations", Parsons writes: "For the purposes of this article the term "organization" will be used to refer to a broad type of collectivity which has assumed a particularly important place in modern industrial societies—the type to which the term "bureaucracy" is most often applied. Familiar examples are the governmental bureau or department, the business firm

integration with the social system, including interaction with other organizations. Adaptation to the environment entails those measures that secure the organization's survival and sustainability, such as the procurement of resources. Goal-attainment implies focus and clarity in the organization's endeavours, legitimized by values. Integration has a twofold meaning, the first involving the placement of the organization as a social system within the larger system and, the other, the membership of the individual in the organization (Parsons 1956a). Two of the three Parsonian functions (goal-attainment and adaptation) mirror the tenets of the two approaches outlined above (the goal and resource approaches), but Parsons frames them in terms of a relationship to the larger system in which they are embedded.

This chapter takes up the functional approach as an analytical lens for two purposes. First, it is intended to identify the values undergirding the European Council as a component of the EU system and to establish the extent to which the Office of the Presidency reflects those values. Secondly, in line with the Parsonian concept of integration, it appraises the position of the Permanent President in the EU institutional complex and its orientation towards other EU institutions, in particular those most closely associated with his tasks. The rationale underpinning the functional approach (especially in its integration segment) is a conceptualization of efficiency as inter-institutional cooperation and cohesion rather than competition. It is this cooperation that holds the system together.

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(especially above a certain size), the university, and the hospital. It is by now almost a commonplace that there are features common to all these types of organization which cut across the ordinary distinctions between the social science disciplines. Something is lost if study of the firm is left only to economists, of governmental organizations to political scientists, and of schools and universities to "educationists." (Parsons 1956a, pp. 63-64).

The job description of the President in Article 15(6) of the Treaty of the European Union<sup>44</sup> exhibits a number of values that the European Council deems as fundamental. Continuity is one such value. Continuity becomes particularly valuable in a situation where the members of the European Council (the EU's most important institution) are occupied nearly full-time on the domestic front whilst their EU business comprises but a fraction of their overloaded agendas. Cohesion and consensus constitute another set of values. They become indispensable when a body of high officials (the European Council) representing identifiable national interests must function as a decision-making organ for a supranational polity. Legitimacy is also a value. It has to do with the expectation that the organizer and chair in charge of European Council business will not exploit his position to the detriment of the other members of the forum. Equality of representation is yet another part of the value-system. The equality of representation principle gives any member-state an equal chance to control the Council (and the European Council's agenda).<sup>45</sup>

The creation of the office of the Permanent President of the European Council responded to a quest for continuity, consensus, cohesion, and legitimacy. Since the heads of states and governments are primarily concerned with domestic issues, there needs to be a Brussels-based lieutenant, an executive figure who handles European Council business in between summits. To the extent that cohesion, consensus, and legitimacy are important, the individual who can best secure them is a neutral chair who does not represent one of the parties. To the extent that

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<sup>44</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012M/TXT&from=EN>

<sup>45</sup> To the extent that equality of representation is still part of the value-system, but it has lost its pre-eminence, the member-state Presidency assists the Permanent President in his preparatory tasks, but no longer chairs the European Council.

equality of representation remains an important value, the rotating Presidency assists the Permanent President in the preparation of the summit.

In terms of integration, the Permanent Presidency is embedded in a larger system (the EU) as the institution carrying out the work of the most important actor in this system, the European Council. The President and his office are thus located at a critical juncture in EU decision-making, and he is a key presence at a number of round-tables. In this process, he must cooperate with and coordinate various institutions. Efficiency in terms of integration consists of the President's ability to harness the energy of the various EU bodies while averting inter-institutional competition in the areas covered by the European Council agenda.

Finally, there are the Presidency's roles. The literature categorizes the work of the Presidency as a number of tasks such as the management of day-to-day Council business, coordination, chairing, mediation, serving as spokesperson and external representative, and taking political initiatives. On the basis of these tasks, Schout and Vanhoonacker (2006) create four roles: organizer (taskmaster), broker, political leader at the EU level, and national leader. In a more recent study of the 2007 German Presidency, Daniela Kietz (2008) lists seven functions of the Presidency: management, brokerage, strategic guidance, impulse-giving, external representation of the EU in the Common Foreign and Security Policy, inter-institutional representation of the Council to other EU institutions,, and internal representation of the EU towards its citizens. These roles or functions were initially portrayed as norms and expectations for the purpose of evaluating the actual behaviour of the officials of the Presiding member-state. With the Permanent President, we have a new role, that of

intellectual leader. This role embodies two of Kietz's functions: strategic guidance and impulse-giving. In this chapter, the focus will be on the roles<sup>46</sup>.

There is no body of literature connecting the roles of the Presidency to the three approaches and, especially, to the functional approach that embodies the other two. However, the roles/functions may be connected to both the goal-oriented and functional approaches. The values and needs of an institution (in our case, the European Council) are those that generate the roles. The role as an organizer, for instance, is both a remedy to the problem of agenda-failure and an effort to sustain continuity. The role as a chair of ad hoc fora subscribes to the overarching European Council goal of overseeing the political process at the EU level. Roles are also intrinsically associated with goals and goal-attainment. Indeed, a given goal may require the President to perform in a certain role. For instance, the goal of reaching an agreement on a topic requires him to act as a broker. On the other hand, a conflict of roles may hinder goal-attainment. In this chapter, I deal with roles predominantly with respect to goals and goal-attainment, because this is what allows us to observe the President's performance in all his roles and hence better evaluate the degree to which these affect efficiency as we compare and contrast the Presidencies before and the after the Lisbon reform. Yet, single roles (such as that of organizer) are important even in other segments such as, for instance, in our treatment of integration.

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<sup>46</sup> Organizer, broker, EU leader, national leader, intellectual leader.

## **Permanent President of the Council**

### Goal-attainment

The office of the Permanent President of the European Council became operational in January 2010. The President of the European Council does not represent a member-state government, nor does he present a program as the rotating Presidency does.<sup>47</sup> He is appointed by the members of the European Council as an organizer (preparing the summit and accomplishing the work of the European Council in between summits), a chair (including the role of a consensus-building honest broker), and a representative vis-à-vis other EU institutions, particularly the European Parliament.

The interaction between the European Council and the Permanent President in setting the agenda is one of synergy. While the broad guidelines and lines of action that bind the whole EU system (including the Permanent President) are approved by the members of the European Council, the narrow agenda of the summit that approves the Conclusions is a joint deliberative effort of the President of the European Council, the Commission's President, and the General Affairs Council. With the division of labour between the Presidencies, the six-month member-state Presidency for the legislative Councils (the Council of the EU), and the European President at the European Council, the workload of the latter is less cumbersome<sup>48</sup> than it used to be during the pre-Lisbon double-hatted Presidency (see Michea 2012 and Chaltiel 2009). The Permanent President's focus is on major issues, that is, on the macro-phenomena that affect the entire European area and on issues connecting the EU to the

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<sup>47</sup> The Trio Presidency is still in charge of all levels of the Council except for the European Council itself.

<sup>48</sup> In fact, the President is not responsible for managing and chairing segments outside European Council such as the working groups, Coreper I or II and the legislative Councils.

international system. This relatively narrow focus greatly improves the dynamics of policy-making by allowing him to pick a small set of priorities and treat them more thoroughly, both in the preparation phase and during the summit itself. The dominating priority of Van Rompuy's five-year tenure as President of the European Council has been the complex economic crisis in the Eurozone.<sup>49</sup>

The work of the Permanent President demonstrates that his roles as organizer/agenda-setter and broker are well-wedded to one another and geared towards the accomplishment of goals related to the management and resolution of the current Eurozone crisis. His definition as chairman of the European Council seems to encompass these two roles. In other words, the Permanent President carefully prepares policies and packages that take into account the viewpoints and expectations of all the members/stakeholders in the Council and thus are likely to be agreed on at the European Council level. Competences such as that of taking the initiative in calling a summit and determining its duration<sup>50</sup> combined with constant, formal or informal and ongoing interaction with the members of the European Council allow him (and the European Council) to promptly address unforeseen or aggravating events in the context of the crisis. Indeed, increasing the number of summits per year has led to a more active involvement of the European Council, and thus to the latter's improved ability to provide leadership. It is worth noting, with respect to his work as an organizer, that the

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<sup>49</sup> The economic crisis in the European Union was an unprecedented and multifaceted phenomenon. In its early stages, its main feature was a dramatic shortcoming of capital in the national banking systems of some EU countries. By early 2010, the financial crisis became a currency crisis when several Eurozone countries in the southern periphery (most notably, Greece) experienced an escalation of their public debts in proportion to the size and growth of their economies (for more details see the Euractiv and European Voice reports of 2009).

<sup>50</sup> For instance, the President can depart from the rule that meetings should run for a maximum of two days

President has reconfigured the summit in such a way as to exclude from the room any other representative from the member-states who is not a head of state or government. This configuration facilitates discussions and provides for better time management (Ludlow 2010d).

Van Rompuy's first act on the job, the Special European Council of February 2010, exemplifies both the extent to which he performs his roles and his ability to set goals and drive the work forward. The statement of February 11, 2010 on the Greek debt crisis had to take stock of a pre-summit exchange between the Permanent President, the German Chancellor (Angela Merkel), the French President (Nicolas Sarkozy), and the Greek Prime Minister (George Papandreou). This exchange and the deliberations during the summit were useful in defining the emergency situation and identifying the immediate measures needed to address it. Through the February statement, President Van Rompuy also revisited and shortened the text of a Eurogroup draft to remove all those elements likely to cause friction at the European Council.<sup>51</sup> However, beyond quelling concerns on one side or the other, the February 11th statement had the merit of setting out rules and charting a road map at a time when the EU had failed to adopt a common line in response to the crisis, while specifying the role of the member-states at home and in Europe. The statement created a sense of urgency for the heads of state and governments, inviting them to brainstorm on immediate measures before events in the market could get out of control. Additionally, beginning with the February Council, Van Rompuy initiated a profound long-term reflection on economic

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<sup>51</sup> In order to quell Merkel's and/or any heads of state's concerns about the disbursement of national money, Van Rompuy's text (the February statement) included a fresh new sentence stating that the Greek government had not requested any financial support. Thus, in parallel, the statement conveyed a message for the Greek government that financial aid would potentially be available.

governance at the European level pivoting around some key points such as identification of barriers to growth, monitoring economic and fiscal imbalances particularly in the Euro area, strengthened EU<sup>52</sup> and national programs<sup>53</sup>, and the preeminence of the European Council in

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<sup>52</sup> There are a number of EU programs pertaining to Economic Governance. The Commission produces regular analyses on a broad range of national and international economic data, issues forecasts for a wide-range of economic indicators such as GDP growth, inflation, and unemployment, conducts assessments of national budgets, of stability or convergence programmes and national reform programmes. In addition, the European Commission produces two key economic reports that help to identify and address economic problems every year: the Annual Growth Survey and the Alert Mechanism Report. The Annual Growth Survey analyses the progress of the EU towards its long-term, strategic priorities, and provides an in-depth assessment of employment and macroeconomic trends. The Alert Mechanism Report identifies countries that may experience imbalances, such as declining competitiveness or asset bubbles. These diagnoses are discussed among EU governments. Following that, an in-depth review is carried out for each of these Member States to analyse if an imbalance exists and to examine its origin, nature and severity ([http://ec.europa.eu/economy\\_finance/economic\\_governance/index\\_en.htm](http://ec.europa.eu/economy_finance/economic_governance/index_en.htm)).

<sup>53</sup> All EU Member States are committed under rules known as the Stability and Growth Pact (SGP) to pursuing sound public finances because they are an essential pre-requisite for sustainable economic growth and financial stability. Every April, EU Member States are required to lay out their fiscal plans for the next three years. This exercise is based on economic governance rules in the Stability and Growth Pact, which aim to prevent the emergence or exacerbation of fiscal difficulties. Member States sharing the euro currency do this in documents known as ‘Stability Programmes,’ while Member States that have not adopted the euro submit ‘Convergence Programmes,’ which include additional information about monetary policies. At the same time, all EU Member States also submit details of the structural reforms they are planning to boost growth and jobs in ‘National Reform Programmes’. The Commission analyses the two programmes of every country and then makes specific policy recommendations to each of them. Governments discuss these recommendations with the Commission and with each other

economic governance. The principles of the February statement thus informed the activity of the legislative Councils (Ludlow 2010a and 2010b).

The Special European Council of February 2010 set the stage for the President's new role in the ambit of the EU economic governance, that of intellectual leader. For James MacGregor Burns (1978, p. 141), an intellectual leader is transformational to the extent that he critically examines and applies moral norms to values, data, purposes, and ends rather than taking them for granted as the basis of transactional relations. In terms of goal-attainment, an intellectual leader refines and redefines an organization's goals as well as the premises that led to those goals. An intellectual leader generates systems of thought, from which goals ensue. These goals, in turn, may shape preferences.

The 2010 March European Council summit mandated Van Rompuy to chair a Task Force on Economic Governance (TFEG). The members of the Task Force included Jean-Claude Juncker, the chairman of the Eurogroup, Olli Rehn, the commissioner for economic and financial policies, Jean-Claude Trichet, the president of the ECB, and the 27 finance ministers. The Task Force met six times between May and October 2010 (Ludlow 2010a and 2010b; Closa 2012). Its focus was that of reinvigorating existing institutions, while accommodating new ones. In this vein, the TFEG advocated a stricter Stability and Growth Pact (SGP).<sup>54</sup> It considered the establishment of a "European semester."<sup>55</sup> It also set the

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([http://ec.europa.eu/economy\\_finance/economic\\_governance/index\\_en.htm](http://ec.europa.eu/economy_finance/economic_governance/index_en.htm); [http://ec.europa.eu/economy\\_finance/economic\\_governance/index\\_en.htm](http://ec.europa.eu/economy_finance/economic_governance/index_en.htm)).

<sup>54</sup> With the aim of enforcing fiscal discipline through automatic sanctions on debt offender states.

<sup>55</sup> The European Semester is the EU's annual cycle of economic policy guidance and surveillance. Implementation of the EU's economic rules is organised annually in a cycle, known as the European Semester. During a European Semester, the European Commission analyses the fiscal and structural reform policies of

stage for an anti-contagion medium-term crisis resolution framework, and made the case for new independent institutions at the national level specialized in the analysis of domestic fiscal policy matters (Report of Task Force, 2010). In July 2012, the European Council summit mandated Van Rompuy to coordinate a restricted group of European high officials (Commission President, Barroso, Eurogroup chair Jean-Claude Juncker, and ECB President Mario Draghi) with the aim of producing proposals furthering economic integration. The Four Presidents' Report<sup>56</sup> (entitled "Towards a Genuine Economic and Monetary Union")

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every Member State, provides recommendations, and monitors their implementation and the Member States implement the commonly agreed policies. The European Semester compels the member-states to present their budgetary plans for review to the Commission and the other member-states [http://ec.europa.eu/economy\\_finance/economic\\_governance/the\\_european\\_semester/index\\_en.htm](http://ec.europa.eu/economy_finance/economic_governance/the_european_semester/index_en.htm)).

<sup>56</sup> The report sketched out three stages, a first stage of ensuring fiscal sustainability and breaking the link between banks and sovereigns, a second stage, covering the period 2013-2014, for the completion of an integrated financial framework with sound structural policies, a third stage, covering the post 2014 period, strengthening the Economic and Monetary Union through the creation of a central shock-absorption function. More in particular, at the first stage, the Report referred to the Treaty on Stability, Coordination and Governance, which had been approved at the European Council, and to the "Six Pack". The first stage included Single Supervisory Mechanism (SSM) for the banking sector and the entry into force of the Capital Requirements Regulation and Directive, capital requirement and ESM recapitalization of the banks with the aim of moving towards a financial union. At a second stage, the Report advocated the foundation of a common resolution authority (echoing an important theme of the TFEG). At a third stage, the Report stipulated the establishment of a well-defined and limited fiscal capacity to improve the absorption of country specific economic shocks through a central insurance system. The development of this fiscal capacity in the EMU, would build on the common budgetary and economic decision-making already laid in the Euro Plus Pact. Finally, in the third chapter of the report, the necessity of an "Integrated economic policy framework" was linked to concerns about growth and competitiveness brought to light, earlier on, during the special Council of February 2010. "The integrated

further amplified and articulated the policies developed and agreed on in the period between late 2010 and 2012.<sup>57</sup> The Task Force provided an opportunity for the Permanent President to expand on the principled reflection begun with the 2010 February Special Council.<sup>58</sup> The Report echoed the contributions of the Permanent President and the fora he chaired (the special February Council seven-point plan and TFEG conclusions), the European Council guidelines, and other legislation that the President had dealt with in his capacity as taskmaster and broker. His leadership, in this instance, consisted of an ongoing effort to crystallize longstanding policies by building incrementally on both norms and experience, while entrenching a learning process (Van Rompuy 2012).

In the post-Lisbon regime and in the context of the crisis, the European Council has created new bodies and mandated them to pursue concrete goals at particular stages of the policy-making process. For instance, while the Van Rompuy-led TFEG identified problems and issued recommendations, the European Council entrusted the technical work on the European Stability Mechanism (ESM) to an ad hoc Task Force of senior officials chaired by Maarten

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economic policy framework” was also a step forward vis-a-vis the idea of the European Semester already contained in the Task Force on the Economic Governance document.

<sup>57</sup> Indeed, at the first stage (Ensuring fiscal sustainability and breaking the link between banks and sovereigns), the Report referred to the Treaty on Stability, Coordination and Governance, which had been approved at the European Council, and to the “Six Pack”. At the second stage. (Completing the integrated financial framework and promoting sound structural policies) it advocated the creation of a common resolution authority (echoing an important theme of the TFEG).

<sup>58</sup> Macroeconomic surveillance and divergences in competitiveness were issues related to the concerns over barriers to growth. The idea of surveillance itself and the European Semester may be traced back to the necessity for better monitoring and surveillance within the scope of the Stability and Growth Pact and in terms of country-specific recommendations.

Verwey of the Dutch Ministry of Finance. This division of labour among political (the European Council as decision-maker), technical-political (the TFEG), and purely technical bodies (the Verwey Group), which work in sequence and are linked together through by the Permanent President and its office, contributes to the creation of policy instruments that are more viable and resilient over the longer term. The impact of this choice may only be assessed against the alternative costs of a previous or parallel process dominated by temporary political interests and/or superficial or incomplete technical work that contribute to a problematic situation. (This was the case with the pre-crisis Stability and Growth Pact, as Van Rompuy himself admits to Luc Rosenzweig in an interview (Rosenzweig 2011)).

In sum, when it comes to efficiency in terms of goal-attainment, what facilitates the efforts of the President of the European Council is a division of labour across different sectors of the Council that permits him to concentrate on just a few themes of major importance. Moreover, there is a pattern in the execution of roles (organizer/agenda-setter and broker) that aims towards efficiency in terms of time use and responsiveness. His new role as intellectual leader has transformed the President of the European Council into a policy-maker and goal-shaper. Indeed, ground-breaking achievements in European economic governance such as the Treaty on Stability, Coordination and Governance or the European Stability Mechanism owe much to his leadership.

#### The Resources of the Permanent President

Resources are important for efficiency. In the system-resource approach (Blau 1964; Yuchtman and Seashore 1967) , the inter-organizational input-output exchange and competition for valued and scarce resources determine the primacy of any given organization

in the systemic hierarchy. Yet the competition for resources cannot be an end in itself, because efficiency is a means to an end, which means that resources are brought to bear on the organization's goals and its activities in general. Thus this dissertation concentrates not only on the mobilization of resources, but also on their use in the process of goal-attainment.

In terms of valued and scarce resources of universal nature (Blau 1964; Yuchtman and Seashore 1967), the Permanent President's office has a budget of 22.3 million Euros a year, a relatively small staff of 60 people, and a Cabinet of 33 experts and administrative assistants. The Cabinet is divided into four main teams : a team of three focused on the management of horizontal questions (inter-institutional relations, coordination and protocol); a second team of six focused on socioeconomic questions (economic governance, foreign economic relations, the EU budget, competitiveness, industry, agriculture, and relations with the civil society); a third team of five focused on external relations (foreign relations and the Common Foreign and Security Policy, CFSP); and a fourth team of four (Press and Communications) dealing with public relations.

The Permanent Presidency's greatest resource, compared to its predecessor, is time. In contradistinction to the rotating Presidency, the post-Lisbon European Council President enjoys a longer term in office. He serves for two years and a half with a right to a second term. Time is, indeed, a powerful instrument in the process of becoming familiar with problems, procedures and conventions. Furthermore, it is of enormous utility for engaging in a learning process, improving performance through experience, and crafting visionary policies.

The other group of resources are those that Metcalfe (1998) defines as leadership resources. These resources facilitate the supply of leadership by a chair or chief negotiator.

They enable him or her in the act of devising strategies and working out methods that sustain the achievement of goals, be they the successful completion of a negotiation round, a vote on a complex policy package, or the European Council conclusions. Metcalfe identifies six types of resources: legitimacy, reward, coercion, expertise, information, and socialization.

Legitimacy resources have been classified by Metcalfe into impartial and disinterested leadership. Impartial leadership is a situation in which the leader has no biases in favour of a particular outcome, but listens to all sides, engages in a dialogue and informs all parties of developments and outcomes. Impartial leadership applies to the management of those situations in which the outcome of a negotiation may hurt the interests of a state or a group of members but not those of the chair. Disinterested leadership is a situation in which the mediator to an agreement does not advance his own interest at the cost of the interests of the other negotiating parties. Disinterested leadership applies to the management of those situations in which the outcome of a negotiation may hurt the interests of the chair. With respect to impartiality, a study by Tobias Van Assche (2009), defines Van Rompuy's leadership style as opportunistic or collegial, equipped with "calm resolve"(open to information, respectful of the constraints, a consensus builder, cautious and thorough in problem analysis). Two instances in the activity of the Permanent President are illustrative of this tendency (1) the controversy surrounding the Competitiveness Pact of February 2011<sup>59</sup>

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<sup>59</sup> In early February 2011, the Merkel/Sarkozy's Competitiveness Pact risked to be imposed on the rest of the members of the summit. The Pact contained controversial proposals such as the abolition of wage indexation, the adjustment of the pension system to the demographic developments and the obligation to inscribe debt alert mechanism into the constitution. The rest of the European Council members opposed this Pact. In the end, Van Rompuy and his office took the Pact in their hands and, after a tour of capitals, reduced it into a number of non-

and (2) the incorporation of the Letter of Twelve into the March 2012 European Council Conclusion.<sup>60</sup>

But to what extent does the Presidency make use of other leadership resources at its disposal? Reward resources, for instance, entail “the leader giving something to the negotiating parties that they did not previously have” (Metcalf 1998). The granting of a textile subsidy to Portugal in exchange for its acceptance of the Uruguay Round negotiations or Germany’s brokerage and altruistic leadership in the Samara Summit with Russia during its 2007 Presidency<sup>61</sup> are two prominent examples. The Permanent President cannot offer

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controversial objectives, while removing from the start the compulsory constitutional entrenchment of the debt mechanism (Ludlow 2011b).

<sup>60</sup> The *Plan for Growth in Europe*, was a document signed by twelve prime ministers on the 20th of February 2012 and the driving force behind it was British Prime Minister David Cameron. It purported to voice an alternative to the austerity paradigm advocated by Merkel and Sarkozy by putting emphasis on growth and the role of the single market. The twelve leaders aimed at incorporating their ideas into the draft Conclusion of the summit, but their proposals were submitted when the Draft Conclusions were already written. This situation pitted against one another the representatives of the Commission, on the one hand, and Cameron himself, on the other. Before the beginning of the summit, Van Rompuy took the decision of revising the Conclusions to incorporate many of the ideas of the Twelve’s letter (Ludlow 2012).

<sup>61</sup> Russia was Germany's most important trading partner and energy supplier. Germany had entered into an ambitious energy project with Russia, the Baltic Sea pipeline project undertaken by a German-Russian consortium (the North European Gas Pipeline Company), whose board chairman was former Chancellor Gerhard Schröder. This project made a number of Eastern European countries (Poland, the Czech Republic and the Baltic States) even more suspicious of the two countries' bilateral relationship so much so that they labeled it “the Schröder pipeline”. Although the conclusion of a Partnership and Co-operation Agreement (PCA) was in the German national interest, the Presidency acted as a European leader and honest broker by moving slower on the PCA.

these side payments (as a powerful state occupying the Presidency used to be able to). Moreover, the idea of specific European Council agenda items that serve the chair's national interest is irrelevant in the post-Lisbon European Council.

Coercive resources consist of the chair's exercise of discretion in calling meetings and setting deadlines as means of getting an agreement by discovering bargaining points and inducing concessions from the more recalcitrant negotiating parties. The Permanent President does not employ these resources. As a neutral chair appointed by the principals (the members of the European Council) he is required to establish consensus, which requires a relaxed and harmonious atmosphere for conversation to unfold. More important, the President's success results not just from the timing (time-efficiency) of agreements but also from their quality. The most prominent, but rare, instances of what may be interpreted as "coercive behaviour" are those related to agenda control, namely the setting aside of particular proposals from the members of the European Council<sup>62</sup> (Ludlow 2011a).

Metcalfé classifies expertise resources into process expertise (leadership and negotiating skills) and content expertise (technical knowledge of the subject matter). Expertise, generally, belongs to the family of those valued/ universal resources appertaining to the quest for qualified personnel,<sup>63</sup> but it also applies to the chair's ability to get results. Both Presidencies, rotating and permanent, have enjoyed sufficient content expertise. It is in process expertise

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<sup>62</sup> Two instances are relevant in this connection (1) the insistence of Van Rompuy to keep off the agenda a discussion of the Multiannual Financial Framework, or (2) his firm refusal, in face of the opposition by most non-Euro states, to accommodate Cameron's request for a safeguard mechanism for the internal market(Ludlow 2011a).

<sup>63</sup> While in the resource approach, this quest is dealt with in terms of cost, in the leadership approach, the concept of expertise suggests how these resources are brought to bear on goal attainment.

that the Permanent Presidency enjoys a competitive edge over its predecessor, to the extent that he does not represent one of the parties in the negotiation or potentially affected by new policies. This increases his chances of gaining the parties' trust. His attention to the German Chancellor's prerogatives and occasional deference to the German-French axis have not jeopardized his relationship (or that of his aides) to the other members of the Council so as to make them reserved, suspicious, or insincere, thus poisoning any one-to-one contacts or caucusing. Trust also privileges the Permanent President with respect to information-based resources, which entail the chair's ability to garner sufficient information about the situation, but even more so, about "the parties' needs, goals, means of action, personality and values"(Metcalf 1998, p. 425). Leaders are more willing to confide in a person they trust, and a chair who stands above the parties is more likely to accomplish this mission. For instance, Van Rompuy's relationship with two important leaders of countries outside the Euro area (UK Prime Minister David Cameron and Poland's Prime Minister Donald Tusk) exemplify a concern and an attempt to build trust through bilateral dialogue (Ludlow 2011a, p. 15; Ludlow 2011b, p. 23).

In sum, the Permanent President's Office possesses few of those universal resources labelled as "scarce and valued," at least when compared to the rotating Presidencies. This also applies to reward resources in the leadership category. On the other hand, the Permanent President fares quite well with respect to those leadership resources generated and reinforced by trust or impartiality rather than by strength (process expertise, legitimacy, information). These resources contribute to his success, especially in the performance of his role as a broker.

### Socialization and integration

This section focuses on the Parsonian concept of integration. Integration is not only about an individual's position within and allegiance to an organization, but also about the role and behaviour of an organization/institution in the context of the system within which it operates. The Permanent President is not just an individual, it is an office that ensures the smooth functioning of the European Council. The European Council's output becomes an input for the lower levels of the Council machinery. Article 15.6 of the Treaty on European Union (TEU)<sup>64</sup> outlining the role of the Permanent President constitutes a binding contract vis-a-vis the European Council as a forum. At the same time, Article 15.6b requires the President to cooperate with other institutions, namely, the President of the Commission and the General Affairs Council, to "ensure the preparation and continuity of the work of the European Council."

There is a similarity between the Parsonian concept of integration and Metcalfe's socialization resources. While integration deals with the position of the Permanent President in the EU institutional complex and his orientation towards other institutions (in terms of his predisposition towards exchange and cooperation), socialization resources refer to the development, through continuous interaction, of a common perspective or shared viewpoints and, more important, the establishment of a strong *esprit de corps* among institutions (Metcalfe 1998, p. 419). Socialization thus leads to a more harmonious, integrated system, which is why we treat it not just as a resource in itself, but as part and parcel of the integration function. In the next section, we will consider the development of inter-institutional

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<sup>64</sup> <http://www.lisbon-treaty.org/wcm/the-lisbon-treaty/treaty-on-european-union-and-comments/title-3-provisions-on-the-institutions/88-article-15.html>

socialization and system integration by describing the relationship between the Permanent President and the rotating Presidency of the Council of the EU, the Commission and its President, and the Council Secretariat.

*The relationship of the Permanent President to the rotating Presidency of the Council of the EU*

The Permanent President has taken *de jure* and *de facto* from the rotating Presidency the role and influence in setting the European Council's agenda. Concurrently, the power of the General Affairs Council (the almighty guardian of the process in the pre-Lisbon period) has declined. Yet, for the effective functioning of the institutional machinery, the two Presidencies must maintain close ties. Van Rompuy and his cabinet establish these connections well before the rotating Presidency takes its seat, and the interaction between the two Presidencies culminates in early January or early July. Collaboration is both mutual (between the member-state in charge of the Council Presidency and the European Council Presidency) and collective (between the Trio Presidencies and the European Council Presidency). The Permanent President brings his contribution to each Trio Presidency program (Dinan 2013).

Kaczynski (2011) classifies the post-Lisbon rotating Presidencies into two sorts, legislative-administrative (or functional) and political. Functional Presidencies are those that acknowledge the primacy of the Permanent President and focus on providing the necessary administrative and legislative support for the PP. Political Presidencies are those more ambitious ones that seek to exert their influence on EU affairs by refusing to relinquish what used to be the customary role of the Head of State or Government as agenda-setter for the

European Council. From a functional perspective,<sup>65</sup> while the Permanent Presidency has taken a leadership role in defining major directions on a crisis resolution framework and budgetary discipline, the rotating Presidency has been responsible for operationalizing, debating in the appropriate legislative Councils, and supervising the implementation of these directions. Moreover, it is the European Council President who prepares the Key Issues Papers (KIPs), based on an exchange of views among Ministers in the appropriate Council. These KIPs are then summarized by the incumbent Presidency before being consolidated by the General Affairs Council (GAC)<sup>66</sup>. Compared to the pre-Lisbon era, the sectoral Councils' role in KIP authorship has declined. With respect to procedure, a draft of the European Council Conclusions goes to the Coreper<sup>67</sup> for discussion so that member-states may state their positions and comment on the document. Based on the comments from the Coreper, Van Rompuy's office rewrites the draft. From a political perspective, a rotating Presidency may influence the agenda as much as the Permanent President. Yet it is the Permanent

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<sup>65</sup> There is also a division of areas that is usually settled between Van Rompuy and the Head of Government holding the Presidency. For instance, during the Polish Presidency, President Herman Van Rompuy and Prime Minister Donald Tusk divided their labour in such a way that the former dealt with the Eurozone crisis and the latter inserted into the agenda a settlement related to the problematic admission of Bulgaria and Romania into the Schengen area.

<sup>66</sup> The General Affairs Council coordinates preparations for European Council meetings. The General Affairs Council is also responsible for ensuring consistency in the work of all Council configurations. The primary members of the General Affairs Council are the European affairs ministers from all EU member states. The European Commission is usually represented by the Commissioner for interinstitutional relations and other Commission depending on the matter discussed. GAC meetings are held once a month (<http://www.consilium.europa.eu/en/council-eu/configurations/gac/>).

<sup>67</sup> The Coreper is still chaired by a representative of the rotating Presidency.

President who has come to occupy a central place in policy generation and who has the ultimate control over the main document that the summit deals with. In the next paragraphs, I will focus on the relations between the Permanent President and three rotating Presidencies: the Spanish, Belgium and the Cyprus Presidencies (Bowen and De Bievre 2011; Kajnc et al 2011; and an interview with Official of the Cyprus Presidency of the Council of Minister , December 2012).

Coordination was a concern during the Spanish Presidency of the Council. Van Rompuy and the Spanish government agreed on the creation of a working group for the coordination of both Presidencies staffed with representatives from the Foreign Affairs Ministry and headed by Van Rompuy's and Zapatero's<sup>68</sup> chiefs of staff. The group devised the working methods and established a common agenda centred around the recession, job creation and the Europe 2020 strategy. In addition, the Spanish Prime Minister (much like his Polish counterpart after him) strove for more visibility and prominence, an instance of this strategy being the failed EU-US summit that was planned to be held in Madrid rather than Brussels ((Dinan 2013; Closa 2012).

Aiding the coordination between the Belgian Presidency and Van Rompuy was the common nationality and party affiliation of both Presidents,<sup>69</sup> but, unlike during the Spanish Presidency, no particular cooperation arrangement was envisaged. Also, unlike the Spanish case, the major efforts at coordination came from the Belgium Presidency. The latter sought

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<sup>68</sup> José Luis Rodríguez Zapatero, Prime Minister of Spain from 2004 until 2011.

<sup>69</sup> Both Herman Van Rompuy and Belgium's Prime Minister Yves Leterme were members of the Christian Democratic Party and Flemish (in Dutch: Christen-Democratisch en Vlaams, CD&V). Yves Leterme was Belgium's Prime Minister during the country's 2010 Presidency and he succeeded Van Rompuy himself in this position when he was appointed President of the European Council in November 2009.

to stimulate a discussion in the aftermath of the European Council and invited the Permanent President to join as a participant. The Council Presidency also invited Van Daele, Van Rompuy's Chief of Cabinet, to attend the discussion of Coreper meetings preceding and following the European Council summit. Overall, the Belgian Presidency put all its resources at the service of the Permanent President, acknowledging his pre-eminence and authority (Bowen and De Bievre 2011; Drieskens et al 2010; Kajnc et al 2011). With the Cyprus President in the second half of 2012, cooperation between the rotating and Permanent Presidencies continued, on the functional rather than political path, with officers on both sides engaging in constant dialogue (interview with Cyprus EU Presidency Official, December 2012).<sup>70</sup>

The predominance of the functional Presidencies has had a positive impact on efficiency. First, there is a set of practices that gives the PP primacy in the policymaking process, and which thus allows him to mobilize resources beyond the capacity of his small office. Secondly, the PP contributes to keeping the Council system together under the aegis of the European Council. Finally, cooperation with the rotating Presidency allows him to better transmit the directions of the European Council to the lower levels of the Council while benefiting from input from the lower levels.

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<sup>70</sup> Van Rompuy and Barroso had breakfast talk before the beginning of any European Council summit. Moreover, in the press conference following the December European Council, all the three Presidents participated (Van Rompuy, Barroso and the Cyprus President). At a lower level, the Permanent Representative of the rotating Presidency and the Director of the Office of Mr. Van Rompuy had a meeting, every Monday, to discuss the agenda of the week, a set of hot issues that are likely to dominate the work of the Council.

### *The relationship to the Commission*

Unlike the Permanent President's Office, the Commission is a large machinery of 23,000 civil servants. It is the oldest of the supranational institutions. Its intellectual leadership has been fundamental for the European integration process, especially at particular intervals such as the Delors incumbency. The Werner and Delors Reports on the EMU, the Cockfield White Paper, the Deheane Group, and the above-mentioned Kok Report on the Lisbon strategy are prominent examples of the Commission's work.

Since January 2010 (European Council decision 2009), the rules of procedure have required the Permanent President to cooperate in the preparation of a European Council summit with the Commission and the rotating Presidency. Moreover, the two major issues covered by the two main teams of Van Rompuy's Office, (the Socio-Economic and External Relations teams), overlap with some of the areas dealt by the Commission. Obviously roles differ. The Commission has a monopoly when it comes to proposing rules and regulations, while the Permanent President serves as an authoritative link between the Commission and the political process associated with it and the member-state leaders, who are the ultimate decision-makers (European Council President website 2012).

In spite of some turf wars, cooperation has prevailed. The President of the European Council met regularly with the Commission President (every Monday morning).<sup>71</sup> These encounters aimed at sorting out ideas and defining and coordinating agendas. Agreeing on the division of tasks in foreign policy has been an important development in the relations between the two institutions. Van Rompuy and Barroso represented the Union jointly in the

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<sup>71</sup> <http://www.euractiv.com/future-eu/van-rompuy-hails-flexibility-his-job-news-497991>

G8 and G20, but they discussed different dossiers<sup>72</sup> in these meetings. In general, the Commission communicated with the President of the European Council through its President.<sup>73</sup> At particular moments, the Commission President's and the European Council President's offices have joined forces. In early 2011, the two Presidents were instrumental in challenging the Merkel-Sarkozy Competitiveness Pact by putting forward an alternative set of proposals (interview with Commission President's Office on December 02, 2012; interview with representative of the Office of the Commissioner for European and Monetary Affairs, 21 March 2013; Closa 2012; Ludlow 2011b).

Above and beyond the preparation of the Conclusions of the European Council, the Permanent President's preeminence as a leader in economic governance allowed him to engage the Commission's resources as he charts the roadmap of the new economic governance. The participation of the Commissioner for Economic and Monetary Affairs in the Task Force on Economic Governance brought the Commission's Directorate General for Economic and Financial Affairs' expertise to the sessions of the TFEG. On the other hand, the authority of the Task Force and its all-encompassing membership overshadowed parallel efforts of the Commission to launch an alternative set of proposals. Ultimately, the parallel work by the Commission had to fall in line with the Task Force's recommendations and guidelines. Almost, two years later, President Barroso, on behalf of the Commission, was a

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<sup>72</sup> Van Rompuy is more focused on foreign policy, while Barroso focuses on all that concerns Union competences.

<sup>73</sup> In other words, there is no formalized systemic interaction, for instance, between the Permanent President of the European Council and the Commissioner for the Economic and Monetary Affairs (Oli Rehn) or the Directorate General for Economic and Monetary Affairs (interview with EMA DG representative on February 25, 2013).

member of the group that wrote the “ Towards a Genuine Economic and Monetary Union” report (Closa 2012; Ludlow 2010b).

Thus, the overall combination of the European Council’s allocation of the tasks (privileging its own President) and the nature of the crisis (in the monetary field covered by both the ECB and the European Council) has locked the European Commission into a network of cooperation where the Permanent President of the European Council has the upper hand. In this setting, the Commission sought to provide solutions with respect to particular elements of an overall strategy for which the Permanent President has taken charge on the behalf of the European Council. For instance, the conception of a crisis mechanism and its subsequent entrenchment in a Treaty were sequences in a month-long continuing process during which the office of the Permanent President had to bring together the ideas and energy of the Commission,<sup>74</sup> the ECB, the member-states, and the Council’s General Secretariat. In this vein, another Commission-run project like Europe 2020 has become increasingly associated with the realm of economic governance where the European Council is the main actor and the Permanent President, the chief manager (Ludlow 2010d and 2011a).

#### *The relationship to the Council Secretariat*

To what extent has the emergence of the Permanent Presidency affected the position of the Council Secretariat?<sup>75</sup>

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<sup>74</sup> The Commission had received from the European Council the task of elaborating the mechanism.

<sup>75</sup> The Council Secretariat is one of the oldest supranational institutions of the European Union. Its main tasks are organisational-administrative (preparation of the meeting and agendas, translation of the documents, the drafting of the minutes) but also advisory and mediatory. The Council Secretariat is an agent for the Council. It assists all

The impression of an official of the Legal Services was that the change has been imperceptible (interview, Legal Services, October 12, 2012 ). The official notes that the Council Secretariat continues to perform the same roles as before. Legal Services, for instance, ensures that the Council's activity (including that of the European Council) is compatible with the Treaties and EU law. High Officials of the Private Office of the General Secretariat such as Jim Cloos systematically assist the members of the Permanent President's office in drafting the Conclusions of the European Council and of the Euro summits, including critical documents such as the Statement of February 11, 2010. As a legal advisor, the Council Secretariat became an important actor in creating the necessary setting for the Treaty change embedding the crisis mechanism (Ludlow 2010a, 2010c, 2010d).

Yet, the change becomes perceptible when one is comparing the pre-Lisbon era to the new reality after the Lisbon constitutional reform. As we will see later in this chapter, the relationship between the Council Secretariat and the rotating Presidency before Lisbon was contingent on the approach of the member-state administration occupying the Presidency. Moreover, there is, after Lisbon, a Brussels-based structure (the office of the President of the European Council) and a Brussels-based two and a half-year President, which results in long-term interaction between the PP Office and the Council Secretariat (with all the benefits associated with such interaction). The Permanent President treats the high officials of the Council Secretariat as members of his team and seeks to canvass their ideas and views through a constructive dialogue over the content of the candidate policies. The Council's Secretary General, Pierre Boissieu, meets with Chef de Cabinet Van Daele and the permanent

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levels of the Council up to the European Council itself (most notably, in the preparations of the Intergovernmental Conferences).

representative of the rotating Presidency every week. This team spirit pervades not only the sectors of the General Secretariat that are more immediately related to the tasks of the President, but even organs of the Council such as the Eurogroup Working Group (interview Eurogroup Working Group Representative, December 10, 2012). Van Rompuy has managed, during his years in office, "to graft a regime on to the existing structures" that Ludlow ((2014) labels "The President plus." This "plus" consists of a small core including Van Rompuy's chiefs of staff and collaborators around which the sherpas,<sup>76</sup> the permanent representatives, the rotating Presidents and the Commission, as well the chairs of ECB and Eurogroups gravitate. In this "plus," the German Chancellor and French President are "permanent fixtures." This arrangement is the outcome of the most recent endeavour on the part of the European Council to become the epicentre of EU decision-making, and as such, Van Rompuy's successor, Donald Tusk, must assure its continuity.<sup>77</sup>

In sum, the ability to maintain the integration of an institutional setting is an important indicator of efficiency. One of the PP's major successes is that of giving a new impetus to coordination across different levels of the Council, cementing an institutional alliance with the European Commission, and nurturing good understanding among institutions. Ultimately, the PP has taken over the task of ensuring the unity of the EU system around the European Council at a time when the European Council has become the most central node in cardinal areas of EU governance.

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<sup>76</sup> Of the heads of state and governments' the closest advisors.

<sup>77</sup> <http://www.politico.eu/article/finance-horsemen-euros-future/>

## **Rotating Presidency**

### Goal-attainment

In the pre-Lisbon regime, the equality of representation principle gave any member-state an opportunity to set the agenda (setting goals and objectives) and chair the legislative Councils. This exercise also included the setting of the agenda for the European Council, whose meetings were chaired by the head of state and government of the country holding the Presidency. Yet a concern with continuity diluted the equality principle and changed the dynamics behind the Presidency's working program. After the release of the London Report in 1981, cooperation among Presidencies (the incumbent, the outgoing, and the incoming) became the norm. The 1999 Trumpf-Piris Report criticized the fragmentation inherent in the rotating system by underscoring the excessive workload of the Presidency, that is, the profusion of goals well beyond capacities and deadlines. Moreover, the Report highlighted the problem of expertise in the EU areas and the insufficient time horizons for the member-state Presidency to develop such expertise. According to the report, these dynamics led to "makeshift decisions" and "the proliferation of badly drafted and non-compulsory acts."

Since 2004, first with the bilateral, and, then, the trilateral operational programme, cooperation has become a formal institutionalized routine (Fernandez Passarin 2011). The Presidencies from 2004 onward have introduced team programs hereinafter referred to as operational programs).<sup>78</sup> Since January 1, 2007, the "Trio Presidency" has coordinated the EU Presidencies over an 18-month period.<sup>79</sup> Priorities, aims, and to some extent procedural deadlines have been unified. The previous Trio Presidency binds the next one, especially

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<sup>78</sup> These programs were completed by teams consisting of officers from three (or even six) member-states.

<sup>79</sup> Moreover, starting in 2003, six presidencies prepare a "Multiannual Strategic Program."

when it comes to goals of major institutional reform that must be elaborated with patience and care before they are tabled for final settlement.<sup>80</sup> Out of the operational program, each Presidency develops a working program outlining its own approach on the key elements of that program. Obviously, particular preferences (that is, a member state's own input) persist, although the space for national governments' discretion has shrunk. Foreign relations, for example, remained an area of discretion<sup>81</sup> and innovation for the administration holding the Presidency (Fernandez Passarin 2011; Mildner 2008). To counter agenda-setting fragmentation, the European Council as a body was setting its own agenda in the decades preceding Lisbon irrespective of the sitting chair.

Another problem with the rotating Presidency was role conflict. Being a national leader with particular preferences or viewpoints often led the Presidency to use the Council agenda as an opportunity to promote these interests. A number of studies provide evidence in support of this claim (Manners 2003; Morata and Fernández 2003; Bengtsson 2004). Role conflict has implications for efficiency when national preferences and viewpoints compel the chair to neglect other roles, particularly his roles as honest broker and EU leader. Authors like Alexandrova and Timmermans (2013) fail, however, to find "evidence for the expectation that the office of the Presidency of the European Council has induced incumbent Member States to

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<sup>80</sup> Recent examples are instructive. In 2006, the Austrian and Finnish Presidencies initiated a road map out of a self-imposed reflection period following the defeat of the Constitutional Treaty in 2005. Yet, it was the German Presidency in 2007 that completed most of the work, first in conducting negotiations with the member-states and, then, setting out the details for a prospective revision of the Treaties that brought into light the Treaty of Lisbon during the Portuguese Presidency in the first half of 2008 (Maurer 2008).

<sup>81</sup> The German Presidency in 2007 made a concerted effort to promote and strengthen transatlantic relations (EU-US) as no other member of the team presidency did.

pursue topics of national prominence in agenda setting in the EU.” In their study of 25 Presidencies of five member-states, they make use of a sequence of Pearson correlation and fractional logit regressions to claim that the prominence of topics in the domestic agenda did not translate into a heightened attention (or extensive influence on) in the European Council agenda during those Presidencies. We may accept Alexandrova and Timmermans’ argument that national agendas or topics of national prominence did not take the spotlight in the European Council’s agenda. However, their argument and method do not embrace the complexity of role conflict and the multitude of ways in which the latter may influence the agenda.

In the representative rotating system, roles came into conflict, which hindered goal-attainment. At least two of the four Presidencies<sup>82</sup> show that there is a conflict of roles. The country holding the Presidency had particular national interests, which not only prevented its officers from acting as honest brokers, but also prevented them from acting as political leaders at the EU level. This was the case with the French Presidency in the second half of the year 2000 with respect to the negotiation of three important constitutional issues<sup>83</sup> during the Nice summit. Without a pre-prepared negotiating strategy, and armed with powerful preferences on the themes, the French Presidency contributed to the negotiation’s deadlock<sup>84</sup> and lack of

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<sup>82</sup> The four Pre-Lisbon rotating Presidencies we focus on in this dissertation (the 2000 French Presidency, the 2001 Swedish and Belgian Presidencies and the 2007 German Presidency).

<sup>83</sup> The composition of the Commission, the extension of the Qualified Majority Voting in the Council of Ministers, the reweighting of the votes in the Council.

<sup>84</sup> “Chirac’s brokerage positions were seriously hampered by his attempts to make friends by regularly giving in to other countries’ demands, with the hope of safeguarding French interests on the reweighting of votes” (Schout and Vanhoonaeker 2006, p 1068).

progress in the Qualified Majority Voting dossier. Even in areas where an agreement was reached<sup>85</sup> (e.g. the size of the Commission), the Presidency still failed to stimulate debate about what was best for the EU.<sup>86</sup> At the end of the day, the outcome of the Nice summit--the Nice Declaration-- was inadequate for tackling the challenges ahead, in particular enlargement. In fact, it was the incompleteness of Nice that triggered the Constitutional Convention process of Treaty reform (Gray and Stubb 2001; Schout and Vanhoonacker 2006; Tallberg 2006 and 2007). The conflict of roles during the French Presidency impaired goal-attainment and hence efficiency, but such conflict has equally affected agenda-setting . A conflict of roles (pitting a national leader against an EU leader affected the agenda-setting process by the Swedish Presidency in the first half of 2001. The Swedish government was quite passive on a salient topic such as the Economic and Monetary Union (EMU), at the

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<sup>85</sup> Not because of the effort by the French Presidency, but by other member states (the government of the Netherlands) (Schout and Vanhoonacker 2006 ).

<sup>86</sup> With respect to reforming the Commission, the French Presidency strongly pursued the strategy of a “small and efficient” body, thus, disregarding the concerns of the small member states, which preferred not to lose their Commissioner. Only proposals from the Netherlands and the Council Secretariat managed to stimulate the brokerage skills of the French authorities. When the French Presidency reached a settlement on a rotating system in the Commission (loss of a permanent Commissioner for the large state), it sought to compensate by seeking parity with the more populous Federal Republic of Germany in the recalculation of the votes in the Council. The refusal of accepting a double majority as a compromise, when, contrary to this attitude, the French government should have prioritized the search for a compromise, left this issue unresolved. Finally, in the extension of the QMV, the French government had its own preferences in favour of an extension but excluding fields like culture and education. Here, the French authorities were more effective in their role as brokers, yet, at the end of the day, they realized an imperfect agreement based on the lowest common denominator rather than setting the foundations of a functioning system of decision-making (Schout and Vanhoonacker 2006).

same time as it emphasized one of its traditional national issues, the environment (Ludlow 2001; Miles 2001).

To what extent were the rotating Presidencies able or empowered to exert intellectual leadership, and what was the latter's effect on goal-attainment? The 2007 German Presidency took the role of intellectual leader during the negotiations of the post-Constitution Treaty for the purpose of facilitating brokerage in an atmosphere of discord and skepticism about the feasibility of restoring the Constitution Treaty. Indeed, this effort aimed only at stimulating a discussion that would lead to a basic structure for the Treaty-drafting process. The Presidency had to identify the problems that led to the defeat of the Constitution Treaty in the French and Dutch referenda, discuss them among member-states, and, on this basis, prepare the key points for an intergovernmental constitutional conference. What the German Presidency achieved was a transition from a focus on managing divergences to the completion of a dense and well-articulated document that the member-states would turn into a Treaty<sup>87</sup> (Tallberg 2006; Kietz 2008; Ludlow 2007a and 2007b).

The Belgian Presidency in the second half of 2001 also acted as an intellectual leader on those institutional issues that the Nice summit had acknowledged, but not settled. More concretely, the Nice Declaration had called for a broad discussion on the institutional questions to be held during the Swedish and Belgian Presidencies. The Belgian Presidency under Prime Minister Guy Verhofstadt drafted the Laeken Declaration, assisted by five personal advisers.<sup>88</sup> The most important proposal contained in the declaration was the

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<sup>87</sup> What became the Lisbon Treaty.

<sup>88</sup> Former Commission president Jacques Delors, former prime ministers from Belgium (Jean-Luc Dehaene), Poland (Bronislaw Geremek) and Italy (Giuliano Amato), and the former adviser to British prime minister Blair, David Miliband.

devising of a new arrangement (the Convention)<sup>89</sup> tasked with answering the main questions about the future of Europe. Moreover, the Laeken declaration also took a normative turn by advancing concepts such as democracy, transparency, and the EU-citizen relationship (Vos and Bailleul 2002; Kerremans and Drieskens 2002).

On the socioeconomic front, one of the most important landmarks of EU politics in this decade has been the Lisbon Strategy launched by the Portuguese Presidency in the Spring Council of March 2000. The Lisbon Strategy<sup>90</sup> raised the challenges that awaited Europe in the impending century and identified a niche in the extensive diffusion of “knowledge-based” technologies. The Strategy should have been a state-based concerted effort systematized at the European level through goals, benchmarks, and the exchange of best practices (what has come to be known as the Open method of Coordination<sup>91</sup>). In terms of goal-attainment, the Lisbon strategy as presented by the Portuguese Presidency failed to produce results; this failure led the European Council to look for leadership elsewhere. It was the European Commission via two reports (the 2004 Kok Report and the 2005 Mid-Term Review) that recommended goal-restructuring<sup>92</sup> and a new, more precise division of labour<sup>93</sup> between intergovernmental

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<sup>89</sup> The Convention was a law-making body created alongside the Intergovernmental Conference (the traditional venue for drafting and debating the Treaties).

<sup>90</sup> An important national incentive underpinning the promotion of the Lisbon strategy lay with a concern over potential unemployment in the immediate future (the fears about its textile, clothing and footwear industries becoming uncompetitive upon openness to competition).

<sup>91</sup> For a discussion of the OMC read Zeitlin 2005; Hodson and Maher 2001; Dion 2003; Bruno et al.2006; Borras and Jaccobson 2004 .

<sup>92</sup> Narrowing of the agenda to just a few areas.

<sup>93</sup>The Lisbon Strategy in the form that it was presented by the Portuguese Presidency, strengthened the intergovernmental dimension at the expense of the supranational. Its modus operandi consisted in a group of

(Council and member-states) and supranational institutions such as the Commission and European Parliament (The 2000 Portuguese Presidency Conclusions; Kok 2004; Ludlow 2007b; Edwards and Wiessala 2000; Deroose et al 2008; Radaelli 2003).

Emphasizing role conflict in goal-attainment does not lead to the conclusion that the rotating Presidencies were generally inefficient. What the role conflict argument does highlight are problems in the original design of the Presidency of the Council of Ministers that, in a number of instances, hindered goal-attainment. The Trumpf-Piris report (1999, pp. 32-34) drew attention to the damaging effects of the six-month fragmentation (e.g., makeshift decisions and proliferation of badly drafted and non-compulsory acts). Role conflict paved the way to similar malfunctions, such as incomplete agreements, unaccomplished goals, and preferential agenda-setting. The purpose of having a member-state government organize the Presidency of the Council and chair its formations and the European Council was to give it latitude which in the worst case scenario (the French Presidency) has been exploited for selfish reasons.

Instances of intellectual leadership were relatively infrequent during the Pre-Lisbon rotating Presidency, though the record is mixed, with both successes and failures. The most successful exercise in intellectual leadership during the 2001 Belgian Presidency led to groundbreaking events such as the Convention, an unprecedented democratic experiment at the supranational level. The Germans' intellectual leadership, during their 2007 Presidency, 

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sherpas appointed by the heads of state and governments and coordinated by a junior minister in his office). Rather than the Commission, the Ecofin (the Council of Economic and Finance Ministers) played the most active role while confusion about domain boundaries reigned in the other sectoral Council. Beyond its position as proposer under the Community method, the Commission had, in the context of the Strategy, a reporting duty on the member-states' success and failure.

had a less ambitious objective and was an appendix to a process dominated by ordinary roles (those of organizer and broker), but it was equally effective at achieving its ends. On the other hand, Portugal's intellectual leadership in the Lisbon strategy proved to be inadequate and the strategy itself had to be revisited. What all the instances have in common, when compared to the post-Lisbon era, are time constraints. These time constraints become particularly harmful in the creation and management of long-term economic policy-making such as the Lisbon strategy, areas that require the intensive involvement of the EU bureaucracy (the Commission).

#### The Resources of the rotating Presidency

In terms of valued resources, the rotating Presidency had (and still has) the backing of its domestic administrative and government machinery. The arrangements for managing the Presidency were very important in the procurement and concentration of resources. Countries differed in these arrangements, but there are definite similarities across them. A cross-country characteristic, for instance, is that each Ministry prepared (or prepares) the work and chaired (or chairs) a particular Council. Yet, there was(is) a unit to coordinate the Ministries. In the four cases we compared, this unit<sup>94</sup> was either located in the Prime Ministers' Office or was

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<sup>94</sup> In France, the General Secretariat of the European Affairs(SGAE) (former Secrétariat général du comité interministériel pour les questions de coopération économique européenne -SGCI) pools together the contribution of all Ministries to elaborate a French position and facilitates the interaction between the French government and the European institutions. Under the auspices of the Prime Minister, the summit of the SGAE includes the foreign minister, the minister of economics and finance and other concerned ministers. The SGAE employs 200 agents/experts. At the time of the Presidency, a General Secretary of the European Union(GSEU) in liaison with the SGAE defines the list of events and meetings, evaluates their costs and supervises

an autonomous directorate.<sup>95</sup> In the case of Belgium,<sup>96</sup> common arrangements between the federal and the subnational governments were devised.

The costs<sup>97</sup> of the rotating Presidencies have risen over the years. The Swedish Presidency went from SEK 835 million in 2001 to SEK 971 million in 2009. The French Presidency went

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expenditure. (Cours Des Comptes, 2009: SGAE document 2012; SGAE document 2005; Drake 2001). In Sweden, inter-Council, inter-Coreper and inter-ministerial coordination, during the 2001 Presidency, was an attribute of the “Situation Room”, an entity situated in the Prime Minister’s Office, also serving as a supplier of general information for the other government offices and the Swedish embassies and as a cross-ministerial and cross-departmental dispute resolver (Ekengren and Sudelius 2002; Ekengren 2004; Johansson and Raunio 2010).

<sup>95</sup> In Germany, the Federal Ministry of Economics chaired a cross-ministerial coordinating unit such as “the Lisbon Permanent Working Group” (Lisbon Strategy). In this context, Departments within Ministries consulted with their respective Councils counterparts in other member-states, drafted the respective Council’s Key Issue Papers (KIP-s) and discussed them before the Spring Council. Each Ministry played a role in the drafting the Presidency program. To supervise the whole process, a directory of six officials was created and it included Germany’s Brussels representatives, a high officials from the Ministry of Foreign Affairs and the Chancellery and the Federal Minister of Economics Michael Glos (Ludlow 2007a; Becker 2008).

<sup>96</sup> In federal Belgium, the system is highly decentralised and multileveled since the (negotiating) position of Belgium at the EU institutions is the outcome of a two-level negotiation between the national government and five sub-national governments. At the COREPER and the ministerial level, the national Ministry of Foreign Affairs European Integration and Co-ordination Department P11 supervises the search for an agreement between ministerial representatives. If agreement is not attained at this level, then, ministers themselves meet through the Inter-ministerial Conference for Foreign Policy(ICFP), and if disagreement persists, a Concertation Committee between the Prime Minister, its deputies and the sub-national PM-s irons out any outstanding dispute. After 2001, a coordination mechanism (SOO) headed by a Prime Minister’s representative brings together all the federal ministries for the purpose of determining the content and priorities of the Presidency (Bunse 2009, 141-149).

from an estimated at €14m in 1995 and €57m in 2000 to an estimated €171m. They were indeed more resourceful than the Permanent President's office is, with its annual budget of 22,3 million Euros. (European Council President Cabinet 2012; Swedish Government 2012; Guardian 2009; Nemo Insula Est 2012) . From a universal resource perspective, Presidencies were efficient. The governments of the smaller member-states, in particular, were eager to make the best of their resources in order to earn a reputation as successful Presidency managers.

In terms of leadership resources, the rotating Presidency employed coercive resources as an efficiency booster just prior to the expiry of the six-month tenure. Hence, coercion thrived under conditions in which time as a resource was scarce, but the urge to achieve was high. This most often resulted in suboptimal outcomes such as lower goals and lower joint gains (Metcalf 1998). In the four Presidencies covered by this dissertation, there is no instance of pressure exerted on a member by the chair of the European Council. However, during the 2007 German Presidency, coercion took other forms. At the Coreper level, for instance, the German chairman Wilhelm Schönfelder pushed his colleagues to approve the European Council Conclusions without inviting discussion and revision. He considered a binding commitment on renewable energy a matter only for the leaders. The use of the chair's authority in this instance inhibited deliberation at the Coreper level, which, in turn, could have improved the policy proposals (Ludlow 2007a, pp. 10 and 11).

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<sup>97</sup> At the risk of sounding repetitive, I want to emphasize yet again that any detailing of the costs must take into account the scope of the European Council Presidency business before and after the Lisbon reform. The Presidency before Lisbon dealt with the Council business at all levels, from the working groups all the way to the European Council. The European Council Presidency after Lisbon is only in charge of the preparatory work for a European Council summit.

Additionally, powerful Presidencies could offer rewards or forsake their interests in particular fields in order to advance negotiations. The case of the German pipeline project during the 2007 Presidency is the most prominent in this connection. However, in the history of the rotating Presidency of the European Council, these were rare occurrences. Legitimacy resources, process expertise and informational resources during the rotating Presidency could develop only out of trust. Efficient Presidencies were those that were able to gain the trust of all the other members of the Council. Of the four Presidencies, two cases are polar opposites in this respect, Merkel's chairmanship of the European Council during the post-Constitution negotiations and Chirac's chairmanship at the Nice summit. Merkel's chairmanship led to the Lisbon Treaty just a few months after the end of the European Council. Chirac's chairmanship, on the other hand, elicited a lengthy process that only ended three years after the French Presidency, when the Constitutional Convention submitted a Constitution Treaty draft to the Intergovernmental Conference.

### Socialization and Integration

#### *Relationship to the Commission and the Council Secretariat*

What is characteristic of the pre-Lisbon period is a strict separation of the member-state administration, including the Prime Minister/Chancellor in charge of the Council and the Commission and its President. This separation coincided with another cleavage, intellectual leadership on the part of the Commission on the one hand and negotiation/formal decision-making (administered through the member-state Presidency) on the other. While the Commission had a right to propose the meeting of a particular Council configuration, the preparation of the European Council was the domain of the member-state Presidency and the

General Affairs Council (GAC). However, the European Council as a body could not do without the Commission, especially in technical areas such as the Lisbon Strategy, enlargement, and energy policy (Council Decisions 2004).

To ensure continuity, the Kok Report on the Lisbon strategy recommended that the strategy's monitoring and guideline-preparation functions be assigned to an institutionalized coordinating "Lisbon Group" of Commissioners headed by the Commission's President. At the same time, the preparation of the Spring summit was the business of the Council machinery. During the German Presidency, it was coordinated by the German government through the Lisbon Permanent Working Group and the General Affairs Council with input from the Commission (Ludlow 2001b, 2001c, and 2007a).

On the institutional questions (a field in which the heads of state and government have the upper hand), the Commission had an indisputable role as intellectual leader in some instances but not in others. For instance, the Deheane Group, in 1999, was a creation of the Commission for the purpose of addressing the institutional implications of the enlargement process. Immediately in its aftermath, The Commission's Paper, *Adapting the Institutions to Make a Success of Enlargement*, was an important contribution during the 2000 European Councils chaired by the Portuguese and French Presidencies. However, the agenda of the negotiations as well as the tone were determined by the member-state Presidents (Portugal and Spain in 2000). On the other hand, the Commission did not play any role in the preparation of the draft mandate for the post-Constitutional Treaty IGC during the 2007 German Presidency.

In other cases, the rotating Presidency had to defer to the Commission's leadership as was the case with the enlargement dossier during the 2001 Swedish Presidency. The conventional wisdom is that smaller states are more amicable to the Commission than bigger ones. The

Swedish Presidency's practice of inter-institutional cooperation with the Commission and the Council Secretariat on an issue such as the environment is an instance of norm advocacy through dialogue (Ludlow 2001a; Ludlow 2007b; Maurer 2008; Björkdahl 2008).

Not all Presidencies have treated the Council Secretariat as an autonomous actor. Some Presidencies have prevented the Secretariat from exerting influence and leadership either through expertise or as a broker. The Portuguese and French Presidencies in 2000 marginalized the Council Secretariat. Only the Swedish Presidency in 2001 gave the Council Secretariat its due place. The Portuguese Presidency went so far as to exclude Deputy Secretary General Pierre de Boissieu from playing a role in the coordination of the Council Secretariat with the President. On the other hand, during the 2007 German Presidency, the Council Secretariat was an active coordinator at the political and ambassadorial level on the Berlin Declaration, drafter and adviser on the Lisbon Strategy, and a commendable team member and legal assistant on the Draft Treaty (Beach 2004; Christiansen and Vanhoonacker 2008; Ludlow 2007a; Ludlow 2007b; Becker 2008; Schmitz 2008).

Before the Lisbon reform, only the rotating Presidency had the capacity, authority, and legitimacy to secure the system's integration. While the Commission received powers in some areas to ensure continuity and was the most important intellectual leader of the pre-Lisbon era, the rotating Presidency had control over the Council machinery at all levels, including the European Council, and was therefore in the driver's seat. Some Presidencies cooperated with the Commission, but others marginalized or excluded it. The same goes for the Council Secretariat. Presidencies could afford to be self-centred to the extent that they commanded the resources of a state administration. However, in particular instances, this marginalization was counterproductive. Between 2000 and 2004, the Lisbon Strategy suffered from the

inability or unwillingness of the Portuguese Presidency and its successors to integrate the Commission by offering it a leadership role in the process. Moreover, fuller involvement of the Commission and the Council Secretariat in agenda-setting and negotiation could have led to a better institutional settlement throughout the Portuguese and French Presidencies all the way to the Nice summit. The German Presidency, on the other hand, was quite effective even without the intensive involvement of the Commission. However, it operated in an integrated system, since it received assistance from both the member-states that had ratified the Constitution Treaty as well as the Council Secretariat (Ludlow 2007b, p. 13).

### **Efficiency: The Permanent Presidency versus its predecessor**

In the processes of goal attainment, a harmony of roles has been complemented by the provision of intellectual leadership, an attribute of the Commission, which the rotating Presidency took over, with varying degrees of success, several times. The harmony of roles helps efficiency by improving such things as focus, time management, and, responsiveness. With the Permanent President, the set of goals is narrow and streamlined, priorities are clearer, and the roles that reflect sub-processes leading to goal-attainment are all aligned to the objectives of Article 15 of the Lisbon reform of the Treaty on the Functioning of the European Union (driving forward, continuity, and consensus). Intellectual leadership helps efficiency to the extent that it is an occasion for the President to shape the goals.

Fragmentation and role conflict were inherent in the rotating Presidency's structure. In certain instances, they impaired efficient policy-making and the policy process through a regime that allowed the authority and preferences of the chair or government to interfere with the process. However, this line of argument does not refute the prevalence of common

European interests and a predisposition toward neutrality that animates the majority of the Presidencies and which became manifest through the Trio Presidency program.

In terms of valued resources, the Office of the Permanent President is less powerful than the rotating Presidency. It has a thinner budget and fewer experts than a member-state administration. However, the President has another resource, which its rotating predecessor lacked. That resource is time. When time coalesces with other resources marshalled through his position and pedigree (e.g. process expertise and legitimacy resources), the PP becomes a unique force rivaling and even superseding its predecessor. Time as a factor, trust as a virtue, and impartiality contribute to the PP's improved performance, especially as a consensus-builder and intellectual leader, in compliance with the continuity requirement. Time constraints also impaired the policymaking process during the pre-Lisbon era by accelerating its pace so much that there was not enough time left for proper policy development.

This chapter has treated Metcalfe's socialization resources as a phenomenon linked to a key component of Parsons' sociological study of efficiency: integration. Indeed, efficiency is not only about goal-attainment or the wise use of resources, but also about fostering inter-institutional cooperation and systemic integration. In terms of integration, the Permanent President acts on the behalf of the European Council and must implement the instructions and recommendations of the European Council, the EU's most important institution. More often than not, these instructions commit the EU system as a whole to act coherently in what is a severe crisis situation, and therefore call for inter-institutional cooperation.

The cooperation of the Permanent President (and his office) with the Commission is more systematic, extensive, and multifaceted than it was during the rotating Presidency. There is an improved procedure for the current rotating Presidency of the Council of the EU with respect

to its work with the President of the European Council. A model acknowledging the primacy of the Permanent President (the functional model of the post- Lisbon rotating Presidency) is becoming a rule of thumb instead of an option. There is also ongoing interaction between the Permanent President and the ECB President or the chair of the Eurogroup, in light of the present extraordinary circumstances in the Euro area. Through this networking and despite the small size of his office, the PP sets up twice as many European summits as his predecessor, steers unprecedented policymaking fora (the TFEG), and coordinates new constellations of decision-making (the Frankfurt group) that in turn further facilitate, amplify, and institutionalize these relations.

There was no contract between the European Council and the rotating Presidency, because equality of representation, grounded on expectations and good faith, was the overarching value. The pre-Lisbon rotating Presidency in charge of the European Council overlapped with the administration of the member-state. It was a self-help, well-resourced, self-sufficient system, located and operating in the national capital, and which communicated with the permanent EU institutions in Brussels. In terms of integrative capacity, the rotating Presidency had a mixed record. A number of Presidencies (especially the bigger ones) chose to ignore or bypass the Commission and its work. The marginalization of the Commission and the Council Secretariat characterizes even more pronouncedly the institutional questions in the early 2000s. The most inefficient Presidencies were those that insulated themselves from the supranational policy environment (the Portuguese and French Presidencies in 2000) and those that could not pass the test of legitimacy conceived in terms of impartiality and disinterest. These Presidencies failed to craft long-term viable solutions, thus leading to the revision of particular courses. Efficient Presidencies (the 2001 Belgian and Swedish, and the

2007 German Presidencies), on the other hand, have sought cooperation, especially in fields where the Commission of the European Union has a niche.

In conclusion, all phases of the organizational/policy process as far as it concerns the activity of the Permanent President exalt the values that the drafters of the Lisbon reform considered paramount: continuity, cohesion and consensus. The Permanent President secures all three better than any other institutional arrangements of the last decade (the Trio Presidency being the most prominent instance).

## **CHAPTER 4: ACCOUNTABILITY**

The aim of this chapter is to investigate the accountability of the Permanent President, specifically to whom and for what the office is accountable.

Accountability is complex, and its students may easily stretch its conceptual boundaries. I embrace it in all its complexity. There is a principal-agent relationship between the official and the institution that has appointed the former. There is a relationship between the legislature and the executive, a situation in which the executive must enjoy the confidence of the legislature in order to stay in power. Elections and transparency to the public are also forms of accountability. Moreover, accountability is conceptualized primarily as a retrospective activity (following the decision) regulated through legislation. However, this chapter encompasses a few instances where accountability arrangements precede the decision-making act.

A vital component of this chapter is the comparison of the Permanent President with the rotating Presidency that was manager and chair of the European Council from its beginnings until 2010. I will complete a journey through the history of the four Presidencies (the 2000 French Presidency, the 2001 Swedish and Belgian Presidencies, and the 2007 German Presidency). In the process, I look at the relationship of both Presidencies with the principals (the members of the European Council), the European and national Parliaments, the citizens, and the press. As I conceptualize accountability in terms of six dimensions, the chapter is structured along six claims related to these dimensions. Each of the chapter's six parts deals with an aspect of accountability.

The first dimension of accountability concerns the relationship between the Permanent President as an agent and the European Council as a principal. Explaining the delegation of authority to the Permanent President by picking one of the conventional reasons listed in the principal-agent theory (identification of free riding, adjudication of disputes, neutral agenda-setting, credibility/impartiality of regulations) is not an easy feat. The creation of the Office of the Permanent President is the result not only of a search for a neutral agenda-setter, but also of a search for a neutral and permanent manager and broker, an area in which the rotating Presidencies fell short.

According to P-A theory, the principal exerts checks on the agent through a repertoire of administrative and oversight measures: ex ante (through the requirement for transparency and/or greater legislative precision against drift<sup>98</sup>) or ex-post (the commitology system of ‘police patrol’<sup>99</sup> or fire-alarm oversight),<sup>100</sup> judicial review, the sanctioning of agency shirking

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<sup>98</sup> Principals may author and approve legislation that prevents drift. Principal drift is a situation in which the autonomy of the agent in the areas assigned to him through delegation is considered of a higher priority and order than its accountability to the principal.

<sup>99</sup> Police Patrol oversight consists of agency-controlling activities initiated by the Congress or House of Representatives. The Congress or House of Representatives examines a sample of executive agency activities in order to detect and address any violation of legislative goals. Methods used for the purpose of Police Patrol are the reading of documents, commissioning scientific studies, conducting field observations and holding hearings to question officials and affected citizens (McCubbins and Schwartz 1984).

<sup>100</sup> Fire-alarm oversight consists of rules, procedures and informal practices that enable individual citizens and organized interest groups to examine administrative decisions, to charge executive agencies with violating congressional goals, and seek remedies against these violations. Citizens may obtain information or particular legislation may give the citizens a special status for the purpose of challenging the executive agencies (McCubbins and Schwartz 1984).

through budget retrenchment, the power to reappoint or remove the agent, and the revision of an agent's mandate through treaty change (McCubbins and Schwartz 1984; Pollack 1997; Kassim and Menon 2003).

The Permanent President is accountable vertically to his principals. He is not formally required to have an account-giving session with Council members, but every two and a half years his candidacy or other candidacies are submitted to a vote by the principals. He is required by Treaty to report to the European Parliament on the outcome of the European Council, but the MEPs are not his principals. Our first claim is that with the emergence of the Permanent President, there is a better principal-agent relationship.

The second dimension concerns **parliamentary accountability at the EU level**, that is, the relationship between the European Parliament and the Presidents of the European Council (both before and after the Lisbon Treaty). Authors like Christopher Lord (1998) emphasize a number of problems associated with continuous parliamentary accountability in the EU's multilevel polity. First, there is no clear division of power across levels of government, and, therefore there is a tendency of each level of government to evade responsibility. Secondly, the deliberation and decision-making process at the EU occurs in obscure policy networks that are not accountable to the public (this argument can also be found in Olsen 2013).

My argument through the empirical analysis of the activity of the EP relations to the Permanent President is that the post-Lisbon era has reduced the impact of these problems. The EU has created a PP office that deals with a circumscribed set of issues and is present at the intersection of the policy communities. It has empowered the EU legislature, a body that is a well-informed and assertive actor with a democratizing mission. Moreover, the length of the President's mandate and his regular attendance at EP sessions allow him to engage

with the EP more systematically than did his rotating predecessor. However, in spite of this improvement, when analyzing the content of the PP-EP interaction, we observe that the Permanent President, like his rotating predecessor, is a reluctant account-giver.

The third dimension concerns parliamentary accountability at the national level, particularly, the relationship between the national governments holding the Presidency and the national parliaments. The de-parliamentarization thesis (Judge 1995) states that the accretion of power at the EU level is not being balanced by an increased control of the executive by domestic parliaments. Lord (1998, pp. 98-99) argues that on EU topics, there has been a shift of power from the parliaments to the governments. This shift has led to the de-democratization of national politics. By focusing on the Presidencies of four governments, this chapter is part of those comparative studies (e.g. Norton 1996; O'Brennan and Raunio 2007b; Tans et al. 2007; Kiiver 2006; Maurer and Wessels 2001; Barrett 2008) that disagree with the de-parliamentarization thesis. Indeed, this research shows that national parliaments have already established procedures and built institutions for the purpose of constraining the executive or compelling it to provide information on political processes at the EU level. The Presidency period was an opportunity for the national parliaments to exercise the instruments available to them for the purpose of reconfiguring the government's stance.

With the Permanent Presidency having replaced the rotating Presidency at the European Council, national parliaments have lost the opportunity to influence the European Council through its Presidency. The emergence of a European President of the European Council has reinvigorated the de-parliamentarization thesis.

The fourth dimension concerns the ability of the judiciary organs at European and national levels to review the activity of the government holding the Presidency of the Council. The

national judiciaries are effective overseers of government finances, and some of them may shape their governments' perspective on the most salient issues pertaining to the European integration process and European democracy. When it comes to the Permanent President, the European Courts are silent. This silence reinforces Lord's argument (1998) about the CJEU's reluctance to tackle questions of democracy and transparency.

The fifth dimension concerns transparency. Our claim is that with the establishment of the Permanent Presidency, there has been only a slight improvement in transparency and even that only to the extent that there is regularity and stability due to the Europeanization of the office. Yet, from a more substantial perspective, the provision of transparency suffers from the same difficulties as it did before the Lisbon reform. The rules of transparency about the Council do not explicitly address the position of the Permanent President in the context of the Council.

The sixth dimension and claim concern electoral accountability. On this subject, Lord (1998) argues that the electoral process is powerless to change policies at the EU level. This chapter argues along similar lines that any changes in the EU's policies and the Presidency have been quite marginal in the elections following the Presidency and that, beyond this point, any show of Euroscepticism or discontent has only translated into a vote for protest parties.<sup>101</sup> In the post-Lisbon era, the removal of the President of the European Council from the electoral process has further contributed to the democratic deficit.

These six claims can be brought together in one argument. Indeed, in this chapter, I argue that while sites of accountability at the national level have lost their importance, other sites of accountability (albeit located at upper levels of governance) have gained prominence. Yet

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<sup>101</sup> Le Pen's Front National in France is a typical example of a protest party.

these new sites hardly offset the withdrawal of sites of strong accountability (e.g. national parliaments, courts, and, to a lesser extent, national elections).

### **The principal-agent relationship**

The President of the European Council is an agent to the principals (the Council's members), which means that his office has been created with the intent of solving collective action problems. In the case of the European Council and the Council of the EU, these problems involve representation, decision-making, and third party negotiations. Before the coming into force of the Lisbon Treaty, the Presidency of the Council of Ministers (simultaneously in charge of the European Council) was entrusted to the governments of the member-states. In the previous chapter, I argued that the member-state Presidency as an institutional configuration inevitably led to a conflict of roles, which at times hindered efficiency. In this section, I look at the implications of the nature of the Presidency (member-state vs. European) for the agency relations between the latter and the members of the European Council.

When it comes to the European Union, most of the literature on the principal's control over the agent is about the member-states' overseeing of the Commission (see Pollack 1995)<sup>102</sup> in the form of anticipatory (ex ante) instruments (an entrenched requirement for transparency, anti-drift legislation precision) or after-performance (ex post) instruments (e.g. police patrol comitology, judicial review or fire-alarm oversight, the sanctioning of agency shirking through budget retrenchment or the power of appointment, or the agent's mandate revision through treaty change).

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<sup>102</sup> Pollack's contribution has its origins in a vast body of work on the principal-agent relation (Young 1991; Nicolaidis 2000; Kiewet and McCubbins 1991).

The literature has not treated the Presidency of the Council of the EU (formerly the Council of Ministers) from the perspective of Principal-Agent Theory. While the member-state Presidency's roles and duties were clearly defined through a combination of Treaty provisions and practice, there was no instrument available to the members of the European Council for reviewing and/or sanctioning the former. Alternative brokerage<sup>103</sup> (by the Commission or another member-state) was a remedy against bad agency. The short term of the incumbency (only half a year) compensated for the principals' inability to elect the agent (which, under the new regime, is chosen by a majority of the members of the European Council).

But what is the behaviour of the Permanent President as an agent to the principals, and how does it compare with that of the rotating Presidents?

By the end of each summit, the heads of state and government in the European Council invite the Permanent President to carry out particular tasks (for instance, the heading of a Task Force). The main elements of the Permanent President's work are contained in the summit conclusions, and the rest consists of practices such as phone calls and, to a lesser extent, meetings between the President and the member-state chiefs. In spite of the participation and cooperation of the rotating Presidency, through the General Affairs Council and the Commission in preparing the summits, the PP remains, at the EU level, the immediate agent and preferred interlocutor for national leaders in between the summits.

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<sup>103</sup> Alternative brokerage is a situation in which another actor other than the sitting President of the Council takes the initiative of leading the process of reaching an agreement. In other words, the Commission or another member takes on the role of a broker, a role that must be accomplished by the sitting President. Alternative brokerage is a solution in those situations when the sitting President may have a strong interests or bias in favor of a political outcome and the need for a neutral broker is met when another actor steps in.

The financial crisis (and the Euro crisis) have produced an unprecedented dynamic among the members/principals in the European Council, namely the excessive empowerment of a particular principal and an associated group of principals at the expense of the others. With a monetary union created under German terms and an economy unscathed by the debt crisis, the German Chancellor has had an upper hand in charting the road map for decisions. Throughout 2010, for instance, the German government and, in particular, Chancellor Merkel were instrumental in promoting the idea of a crisis resolution framework embedded in the Treaties. The 2010 Task Force on the European Governance internalized the German priorities, namely, the measures towards a crisis resolution framework and Treaty-entrenched budgetary discipline. More than three years later, the German Chancellor defined the Single Resolution Mechanism in the Conclusions of the June 2013 European Council (Ludlow 2010a, 2010b, 2010c, 2011, 2013).

What simultaneously facilitates and curtails German power is the presence of a traditional French-German axis that the crisis has reinvigorated, first, under centre-right President Nicholas Sarkozy but since May 2012 under the Socialist François Hollande. The French Presidents have often pressured the German Chancellor to accommodate and become more responsive to the Southern European countries' demands. On the other hand, groups of countries have come forward with new strategies challenging the austerity-centered monetary stability promoted by the German government. The Permanent President's agenda and policy output have adjusted to these dynamics. We speak of German power in this section because it has implications for the P-A relationship at the European Council. The strengthening of one of the principals and his willingness to supply leadership restrains the agent's autonomy. Hence,

the Permanent President's ability to provide leadership competes with the agenda and initiative of the mightiest principal.

Principal-agent theory, in this context, lays out a number of inputs from the agent that enable the principals to navigate through uncharted waters. The President as an agent may exert structural leadership by translating his/her own material resources into bargaining leverage, entrepreneurial leadership by employing his/her negotiating skills to fashion beneficial agreements for the principal(s), or intellectual leadership by generating systems of thought that may shape the principals' perspectives. Van Rompuy concentrated on the second and the third levels (entrepreneurial and intellectual). While these two levels may have a life of their own throughout the policy-making track, they have also played a role at the decision-making stage.

What makes the case of the European Council President's agency (including the case of the Task Force) stand apart from national parliamentary delegation to bureaucratic agencies is a type of supervised autonomy that is quite uncommon when compared to the independence or quasi-independence of the national agencies, although in some respects, it likens the office of the Permanent President Office to the Commission. That is, the agent's ability to exert intellectual leadership has to suit the preferences of the principals, and the two actors (principal and agent) operate in tandem, receptive to one another. In other words, there is a multiplicity of venues available to the principals for monitoring the President's actions. First, in the case of the Task Force, there was the Finance Ministers' participation in that Task Force, second, there was the constant all-encompassing dialogue with the German Chancellor and with the other members of the Council, and third, there was the discussion by the members of the European Council during the summit of any policy formulated in

between summits by Van Rompuy in cooperation with other supranational (EU) institutional figures. Finally, precise instructions are transmitted to the President by the European Council (see European Council Conclusions, 25-26 March 2010 and European Council Conclusions 28-29 June 2012).

When it comes to the rotating Presidency, all three forms of leadership (structural, entrepreneurial, and intellectual) were relevant to the political process. In particular, the larger states were in a position to exert all three. The downside of the rotating Presidency was the conflict of roles described in the previous chapters (national vs. European leader). The problem and expectation for the chair was that of keeping his duty as an agent with third parties separate from his perceptions and orientations as a principal. In this connection, the case of the German government during its 2007 Presidency of the Council in trade and neighborhood policies vis-a-vis the US, the World Trade Organization (WTO), and Russia is instructive. I am presenting the German case as a typical example of a government that worked with a commitment to act as a praiseworthy representative of the Union at the same time as it had its own foreign policy ambitions. Moreover, I have selected for analysis an instance of external representation because, in my opinion, it is more suitable for shedding light on the agency relations to the extent that the President is dealing with a third party and, in this context, must defend the organization's interests without hurting those of fellow members.

At an early stage (between September and December 2006), a particular issue (WTO Doha Round negotiations or relations with Russia) was assigned to line Ministries.<sup>104</sup>

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<sup>104</sup> The Doha negotiations were assigned to the Ministry of Economy. The EU-Russia summit was assigned to the Foreign Ministry and the Chancellery.

Subsequently, the officials of these Ministries either, as in the case of trade, met informally with the representatives of the other member-states, or, as in the case of the Russian/Neighborhood policy, interacted with the appropriate Council's working groups on Eastern Europe and East Asia-COEST (where topics were debated and fixed three months before the Summit), the Coreper, and GAERC, where the Russian strategy was coordinated among the EU member-states, the Commission, and the High Representative for Foreign and Security Policy (Lindner 2008).

During the discharge of its duties as an external representative, in the case of the Doha Round of the WTO negotiations, the German Presidency had to be sensitive to the French opposition to the liberalization of agriculture, even though the German government regarded free trade as an advantage, to the point that one of the German Presidency's priorities was a Transatlantic Free Trade Area with the U.S. In the Doha Round, though, the Presidency shared its role as a negotiator with the Commission. On the Russian dossier, things were more complicated and the Presidency was much more of a protagonist than during the trade negotiations. A new partnership and cooperation agreement (PAC) was to be signed with Russia, and the Samara Summit (2007) served as a stepping stone. An agreement with Russia had to address two issues: energy supply and restrictions on immigration to the EU. Poland had vetoed the PAC in response to the Russian embargo on Polish meat. In addition, the Baltic countries had opposed the construction of the Nord Stream Pipeline on environmental grounds. The Nord Stream Pipeline was a joint venture of German and Russian companies under the umbrella of North European Gas Pipeline Company. The German Presidency succeeded in convincing Russia to remove the embargo, while it took good care not to encourage the development of the pipeline project (Lindner 2008; Mildner

2008). The German case, does not, however, rebut the general claim that a game in which the agent is also one of the principals is a problematic P-A situation. P-A theory takes the Principals' fears very seriously and does not assume that a self-interested agent is animated by altruism and care (Florina and Shepsle 1989; Nicolaidis 2000). To remedy a P-A situation in which the roles are fused, the Treaty of Lisbon separated them, while articulating the obligations of the agent and the instruments of the principals.

With respect to procedure,<sup>105</sup> the agent-principal relationship has improved with the emergence of the Permanent President, to the extent that the members of the European Council have the power to appoint or re-appoint/dismiss him, but with the proviso that the mandate has lengthened from six months to two and a half years. Process-wise,<sup>106</sup> the most important change is that the office of the President has transferred from the national capital of the state holding the Presidency to Brussels, and there are no concurrent or sequential processes which take place both in the European capital and the national capital of the country holding the Presidency. Moreover, in the present situation, a core group of principals has enormous leverage over policy-making. This means that there is a tighter control on agency as the policy process is now, from the very start, a joint effort of the Permanent President, the member-states, and the supranational institutions. This kind of supervised autonomy eliminates the prospect of devising and putting to use those anticipatory(ex ante) or after-performance (ex post) instruments that P-A theory posits.

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<sup>105</sup> By procedures, I mean the rules that regulate the office (e.g. the removal or appointment of the President).

<sup>106</sup> By process, I mean the process through which policies are made.

## **The Permanent President and the EP. The Permanent President as account-giver**

I have created a list of criteria by adapting a "a stable constellation of characteristics" that Marianne Van De Steeg (2007) establishes as a methodological analytical tool to scrutinize accountability in the relationship between the European Parliament and the Presidency of the European Council between 1991 and 2002.

1. Presence in the plenary;
2. Explanation of the position of himself and the Council and reference to the role of the others, but unfocused on the issues raised by the plenary;
3. General response to criticism in the form of denial of both criticism and problem definition as well as justification of its approach;
4. General response to criticism in the form of acceptance of criticism and/ or acknowledgment of wrongdoing and/or addressing an issue from a previous hearing in the next;
5. Response to the appeal or criticism of a particular MEP; and,
6. Raising an issue or a number of issues unsolicited by the plenary

The six stages (which will hereafter be referred as the account-giver constellation) encapsulate, in incremental fashion, the development of the process of accountability. That is, an ideal account-giver would perform consistently in all the six stages. The first stage (presence in the plenary) is a pre-condition for the process, which means that the latter cannot unfold without a meeting between account-seekers and the account-giver. With the second stage, the process (explanation of the position) takes shape, but it is deficient to the extent that it is primarily centred on the account-giver. In stage two, the account-giver's narrative is about his position in the making of policies and decisions, but does not confront questions

from the plenary. Gradually from stages three to five, the account-seeker's role comes more into prominence, with the account-giver finally deferring to him (stage five) rather than simply accepting the critiques of the plenary as a collective body (stage four). Stage four also involves a long-term continuous interaction between the account-seeker and account-giver, and a greater sensitivity of the latter to the former's exigences and proposals. In stage six, the account-giver overcomes the reach of assertiveness from the plenary by taking on issues that the latter has not raised.

The most important change in the accountability/reporting stage to the European Parliament brought about by the Lisbon Treaty is a division of tasks between the two stages of reporting, the first stage involving the preparation of the European Council and the second stage concerning its outcome. While the preparatory hearings continue to be covered by the rotating Presidency, Van Rompuy represented the European Council only in the EP hearings following the European Council summits.

Formally, the Permanent President refuses to define himself as an account-giver with respect to the EP. Rather, he sees himself as a negotiator or facilitator of agreements among the members of the European Council, a demanding process that most often requires the unanimity of the principals (interview Office of the Permanent President, 25 September 2012). Already in his first hearing, Van Rompuy was quick to point out that he was not accountable to the European Parliament in the way the Commission and its President are. Moreover, at least in the first year of his mandate, he was very cautious in his relationship to the EP, refusing to go beyond the Treaty stipulations. In this respect, opening up the decision-making process at the European Council to the European Parliament has been piecemeal. With the passing of time, the Permanent President came to realize that he could

not easily brush aside the European Parliament. He<sup>107</sup> had to acknowledge the EP's role as co-legislator on acts that further articulated the decisions, deliberations, and guidelines coming from the European Council. As such, the activity of the European Parliament is either an extension of or complementary to what happens at the European Council (European Parliament Plenary 2010a, 2011b, 2012b, 2012c, 2013 and Corbett 2012 interview).

The account-giving behaviour of the President of the European Council towards the European Parliament can be located at the third stage of our accountability's six stages. In his concluding statement, the Permanent President sought to address only what he in his view considered the plenary's most important remarks, replying to remarks, questions, calls, and demands from the plenary with vague and general statements. Moreover, in particular instances, when he introduced a topic in his initiating speech in passing, and the plenary echoed a call or demand for immediate action, he failed to return to the issue contained in the call or demand.<sup>108</sup> At times, Van Rompuy dodged serious questions or concerns and omitted details on the specific content of policies, the internal dynamics of the decision-making

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<sup>107</sup> For instance, in the July 2013 hearing, the President mentioned the importance of the growth-oriented two-pack for the fiscal union. Secondly, outside the legislative process, the European Parliament remains an assertive and well-articulated policy-maker on issues of economic governance. In fact, in the second half of 2012, Van Rompuy invited the European Parliament to contribute to the Report of the Four and, by October 2012, a fruitful round of consultations had been concluded.

<sup>108</sup> For instance, in the hearing of the 23rd of October 2012 (on the European Council of the 18th and 19th of October) when Van Rompuy, in his introductory statement, spoke of growth and employment anticipating (in a short paragraph) the discussion of an investment budget to stimulate the latter, the MEP-s followed him by pressing on the necessity of genuine public policies and industrial strategies. In his conclusive statement, Van Rompuy did not offer any feedback on these iterations

process, and the preferences of the member-states.<sup>109</sup> One of these instances was the creation of the European Stability Mechanism, the permanent crisis resolution mechanism for the euro area countries, in the first half of 2012 (European Parliament Plenary 2012a and 2012c).

The President's attitude towards criticism hardly showed any advance towards stage four and five of accounting. In the face of criticism, the Permanent President evaluated his activity with reference to a ground zero (total inaction), and, from that angle, he celebrated the pace and timing of the decisions. His statements sometimes contained a reinterpretation of MEPs' criticism in the light of particular policies or strategies so as to stay at arm's length from a more daring approach proposed by the plenary.<sup>110</sup> In particular instances, he questioned the ideological appropriateness of a policy recommendation or pinpointed a contradiction in the statements of the account-seekers<sup>111</sup> (European Parliament Plenary 2011b, 2011c, 2012a).

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<sup>109</sup> In his final statement of the 13th of March 2012 hearing (a report on the conclusions of European Council of the 1-st and 2-nd of March) Van Rompuy did not provide an answer to an Irish MEP's question on whether the member-states who subscribed to the ESM accepted, at the same time, a commitment to permanent austerity. Without referring to the question/concern and without even hinting at the ESM, the President, in his conclusive statement, dwelt on the virtues of smart spending during a "period of inevitable fiscal consolidation."

<sup>110</sup> Interesting in this regard is his interpretation of the Eurobonds in the debate on the Economic Governance held on November 16, 2011. When the MEP-s urge a more energetic approach (in spite of the doubts from the German government), Van Rompuy reminds them of the priorities by pointing out that "as a way of pooling debt", Eurobonds could not be achieved "without budgetary discipline."

<sup>111</sup> When, in the March 2012 hearing, a Socialist MEP advocated a Marshall Plan for growth in Europe (and Greece), Van Rompuy declared (retorted) in his final statement that the days of recovery through public expenditure were over and that a new "more subtle and sophisticated approach"(based on the single market) was needed. In the concluding statement of the 23rd of October, 2011, the President caught in the MEP's

There was no acceptance of wrongdoing by the President, either with respect to the body that he chaired or to himself. In the only case when he conceded that anti-crisis measures may have come too late, there was also a concurrent shift of responsibility to the nation-state level with an emphasis on what the governments should have done or should do in the future (European Parliament Plenary 2011b). With respect to the fifth stage of accountability, there is no finding of an explicit and focused reply of the Permanent President to an MEP's question. Van Rompuy extracted from the MEPs' questions (or calls) the issues, phenomena, and events, which he then pulled together in a final statement that provided further information, analyzed economic occurrences, and made judgments about the policy process (European Parliament Plenary 2010a, 2010b, 2011a, 2011b, 2011c, 2012a, 2012b, 2012c, 2013).

However, there was a benefit to continuous interaction between the Permanent President and the Parliament in that it allowed the former to touch on a number of issues that he might not have considered in previous hearings. For example, the idea of cooperation with the European Parliament became more pronounced in the later hearings compared to the first post-Lisbon hearings. Another issue that came more and more into prominence was the social dimension of economic governance (e.g., combatting poverty) on which the European parliamentarians were perspicacious early on, from the first hearings under the Post-Lisbon regime (European Parliament Plenary 2010a, 2011b, 2012b, 2012c).

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statements a conflict of orientations towards the market (those vilifying vs. keeping up with them). This observation served as a premise for a bizarre quip "political decision-making will always be behind the markets," which should be interpreted in the light of Van Rompuy's pro-European and also pro-market perspective on EU politics and economics.

The Permanent President's responsiveness was particularly deficient on questions and remarks on the democratic credentials of a procedure or policy. The only element of the democratic process that the President acknowledged was the cooperation and role of the European Parliament. On other elements, such as demands for national referenda on matters of economic governance or the role of national parliaments, he was silent. Remarks or questions about his ability as a manager (his consistency, his organization skills, his leadership muscle) were rare, and were never answered head-on. In only a few instances did the Permanent President speak of his position, in particular, his role as a consensus-builder, with an eye to defending himself and fending off critiques from the plenary. And only in one instance did he move to stage six (response to an issue unsolicited by the plenary), when, during one of the hearings, he noticed that no MEPs had mentioned the European Semester (European Parliament Plenary 2010a).

In conclusion, the Permanent President's accountability to the European Parliament is at stage three of the accountability process with elements of stage four. It consists primarily of responsiveness to criticism that does not lead to self-criticism and frame reflection (stage three), but which gradually becomes more open to contributions from the account-seeker.

### **Assertiveness of the European Parliament**

The Lisbon Treaty has empowered the European Parliament in many directions. It has extended co-decision and entrenched it as the "ordinary legislative procedure."<sup>112</sup> The EP

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<sup>112</sup> The ordinary legislative procedure gives the same weight to the European Parliament and the Council of the European Union on a wide range of areas such as economic governance, immigration, energy, transport, the environment, and consumer protection. The vast majority of European laws are adopted jointly by the European Parliament and the Council. There are two other procedures, consultation and consent. The consultation

elects a President of the Commission recommended by the European Council, co-decides (with the Council) all aspects of the EU budget, enjoys a right to recommend to the Commission the initiation of legislative acts, and monitors the Commission's committee-mediated implementation powers (Art. 289 TFEU; Art. 17.7 TEU; Art. 314 TFEU; Art. 225 TFEU; Art. 202 EC Treaty; Art. 291 TFEU).<sup>113</sup> Moreover, before the coming into force of the Lisbon Treaty, Article 4 of the Treaty on European Union obliged the European Council to report to the EP after each of its meetings. Article 26 of the 2004 Council's Rules of Procedures authorized the Presidency to represent the Council before the European Parliament. After the coming into force of the Lisbon Treaty, a new set of procedural rules pertaining only to the European Council was adopted. Article 5 transfers the task of representation to the Permanent President who, according to subparagraph 2 "shall present a report to the European Parliament after each of the meetings of the European Council." The 2004 Rules of procedure, in contrast, had not articulated an obligation to report to the European Parliament (Official Journal of the European Union 2004 and 2009).

I have created another set of criteria to evaluate the extent to which the Parliament is assertive towards the President of the European Council. I have borrowed these criteria from Van De Steeg's analysis (2007), but adapted them through a summary of different attitudes into larger categories, each of them describing a particular orientation. These attitudes are

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procedure allows The European Parliament to approve or reject a legislative proposal, or propose amendments to it, but the Council is not legally obliged to take account of Parliament's opinion. The consent procedure requires the Council to receive the assent of the European Parliament before a decision is taken with respect to association agreements and agreements governing accession to the European Union (<http://www.europarl.europa.eu/aboutparliament/en/20150201PVL00004/Legislative-powers>).

<sup>113</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012M/TXT&from=EN>.

ranked in order of their degree of assertiveness. The degree of assertiveness refers to the MEPs' willingness and ability to force the account-giving member of the executive to provide information and deliberate with the plenary. Hereafter, these criteria are referred to as the account-seeker's accountability constellation.

The first accountability criterion involves the MEPs' presence. The more MEPs are present in the plenary and the more interest there is in the issue under discussion, the greater the likelihood of the MEPs' encouraging the President to become responsive. The second accountability criterion involves the effective use of time. On the one hand, there is a tendency on the part of the MEPs to neglect their function as account-seekers towards the European Council President, either by directing the process towards another institutional figure, by refusing to listen to him, or by triggering a discussion about other themes. On the other hand, there is a plenary that exerts its functions fully by listening carefully and questioning the President on his actions. A third criterion is the clarity and complexity of the account-seeking process. Clarity entails focus and parsimony in what the MEPs demand from the President. The complexity of the process involves, on the one hand, the set of actions and predispositions for which the President is held to account and, on the other, the array of mechanisms that the MEPs employ to hold him to account (judgment on the decisions, demands<sup>114</sup> and calls,<sup>115</sup> judgment on the President's report, judgment on the decision-making process, judgment on the decision-maker's capacities, or judgment on the Parliament as an

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<sup>114</sup> A demand is a specific request directed at the account-giver.

<sup>115</sup> A call is a plea or an appeal to the account-giver to adopt a particular line of action or pursue a particular policy. A call contains a sense of urgency.

account-seeker). Finally, the fourth criterion is the European Parliament's ability to pass a resolution. A resolution is a critical instrument of influence on the executive.

While the Permanent President has sought to obviate accountability by redefining his role and the dynamics of reporting, the European Parliament has been quite assertive and focused in the account-seeking process. Certainly, the emergence of the Permanent President has coincided with the prominence of the Euro-crisis and the centrality of the European Council as a problem-solver. In this context, the EP's hearings with the PP focus on just a few key themes (almost all of them related to the economic crisis in the Eurozone) and hence the dynamics of account-seeking are located at stages four and five of the account-seeker's accountability constellation<sup>116</sup>.

The MEPs have the spirit and competence to deliver insightful critiques on the European Council's decisions, actions, and decision-making procedures. During Van Rompuy's tenure, the plenary effectively tackled most of the themes contained in his introductory speech. This criticism took the form of remarks and questions about policy choices, the decision-making process, and the content and implications of the decisions. There was concern and interest in the plenary over an array of general themes such as austerity, the growth potential of the single market, and the regulation of the finance and banking sectors, as well as a willingness to scrutinize concrete decisions such as the creation of an ESM. Remarks also touched on the characteristics and appropriateness of certain moments in the decision-making process. In fact, the Members of the European Parliament regularly asked the President to dwell on the

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<sup>116</sup> Stage four involves a general response to criticism in the form of acceptance of criticism and/ or acknowledgment of wrongdoing and/or addressing an issue from a previous hearing in the next, while stage five involves a response to the appeal or criticism of a particular MEP.

details of that process. They critically evaluated the activity of those policy-making fora chaired by the PP, either by questioning the rise of intergovernmentalism (European Parliament Plenary, 2011a), panning the European Council's tendency to exercise legislative functions (European Parliament Plenary, 2012b), or expressing reservations about their efficiency (European Parliament Plenary, 2010b and European Parliament Plenary, 2011c).

Furthermore, MEPs underscored the importance of the involvement of the European Parliament, especially on questions of economic governance,<sup>117</sup> a domain dominated by the European and national executives (European Parliament Plenary, 2011b and European Parliament Plenary, 2012b). Parliamentary demands included forward-looking policy proposals such as the creation of a Eurobond-based bailout fund. Direct criticism of Van Rompuy was rare. In fact, MEPs complained about French/German domineering, the preeminence of the European Council, or about certain of the directions of the latter, but on the Permanent President they either remained neutral or saw its presence, given the extraordinary circumstances, as a positive development (European Parliament Plenary 2010a, 2010b, 2011a, 2011b, 2011c, 2012a, 2012b, 2012c, 2013; interview Duff, November 12, 2012, Verhofstadt and Cohn Bendit 2012, pages 51 and 112).

In my analysis of the final hearings of the four national Presidents of the European Council, I found the same focus and willingness on the part of the plenary to address most of the issues reported by the President of the European Council in his introductory statement and even solicit new ones. The exchange between the account-seekers (the MEPs) and account-giver (the Presidents of the European Council) comprised remarks and questions on the content of decisions as well as remarks and questions (even if rhetorical) on the dynamics of

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<sup>117</sup> A prominent example is the banking union.

the decision-making process (including the involvement of the European Parliament in policy-making or transparency toward and the involvement of the public). Remarks slightly outnumbered account-seeking questions and calls.

To what extent has the EP been able to pass Resolutions? The plenary proposed and passed five motions in the aftermath of the Permanent President's reports on European Council between 2010 and 2013.<sup>118</sup> These resolutions are on a variety of topics such as the Europe 2020 initiative, national governments' potential for stimulating growth, the primacy of EU Law vis-a-vis intergovernmental agreements, and the Parliament's involvement in decision-making. While they have centred on the crisis, they have also been concerned with the European Parliament's role in this context (European Parliament Document 2010, 2011, 2012a, 2012b, 2013). Needless to say, the numbers are important in passing a resolution. Successful motions have generally been those supported by a sizable number of groups. Motions supported by the Socialists, the People's Party, the Liberals and another group (four in total) are likely to be adopted. Single group motions (e.g. from the Confederal Group of the European United Left/Nordic Green Left, GUE/NGL, Union for Europe of the Nations, UEN or the Europe of Freedom and Democracy EFD) have been systematically rejected (European Parliament Voting Record 2010, 2011, 2012a, 2012b and 2013). Outside the plenary, MEPs have asked questions, written letters to the Permanent President, or met with him personally (interview Hoinaru, 9th of April and 14th of May 2013; interview Duff, November 12, 2012). The written questions embraced all three of what Bovens (2007) defines as types of conduct on which the account-seeker exacts accountability from the account-giver:

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<sup>118</sup> The 11th of February 2010, 8-9 December 2011, 3-th of January 2012, 28-29 June 2012, and the Multiannual Financial Framework in 2013.

financial (involving propriety in the use of public funds), procedural (involving the propriety of the process) and product (the propriety of an output or the content of a decision). According to Andrew Duff, a veteran MEP, with the establishment of a Permanent President in Brussels, the MEPs' access to this office has improved substantially when compared to its capital-based predecessor under the previous system (interview Duff; European Parliament Questions 2009, 2010, 2012, 2013a and b).

This review of the Permanent President as an account-giver and of the European Parliament as an account-seeker shows that while the account-giver is quite reluctant and generally limits himself to what he is obliged to report, the account-giver is assertive, well-informed about the site of decision-making, clear and rigorous about what it wants to know, and attentive to the principles and standards of decision-making. The European Parliament contributes to the democratization of the EU by exposing, through its plenary deliberations, the internal dynamics of the policy communities to the public. Yet, at the same time, by pleading for its involvement in particular segments of policymaking and decision-making, the EP seeks to open up these networks and make them even more inclusive.

### **The rotating Presidency and the European Parliament**

Before 2010, the head of the state or government holding the Presidency of the Council of Ministers was in effect the European Council's President. At the same time, the Presidency of the Council was a collective effort of the member-state governance machinery.

While the Prime Minister or President would concentrate on his role as organizer and broker within the European Council, the administration of the member-state government would carry out preparations for the whole structure of the Council (including the European

Council). It is the Presidency that is responsible for representing the Council (and the European Council) to other institutions. This premise must always be borne in mind when one is evaluating the behaviour of the heads of state and government towards the European legislature. The assumption that reporting to the Parliament was an obligation of the Presidency (and not of the President alone) informed the attitudes of all the heads of state and government. For instance, Chancellor Angela Merkel (President of the European Council during the first half of 2007) appeared before the European Parliament twice, to present the German Presidency's program in January 2007 and at the end of her Presidency to report on the June Council and the achievements of the German Presidency. However, it was not she as President of the European Council who reported on the outcome of the Spring Council (8-9 March 2007), but Foreign Minister Frank Walter Steinmeier. In the second half of 2000, French President Chirac also appeared before the EP plenary only twice, to outline the program in July and later to report on the Nice European Council and the French Presidency. In between, the Minister in Charge for the European Affairs, Pierre Moscovici, was lieutenant for Chirac in the interaction with the Parliament (this included the reporting duties on the European Council summits). Indeed, it was Moscovici who reported to the European Parliament on the Informal European Council in Biarritz (held in October 2000). In contrast, appearances at the EP sessions by the Swedish and Belgian Prime Ministers during 2001 were regular and predictable. The Prime Ministers presented the Presidencies' programs and made reports on the outcome of the ordinary<sup>119</sup> Councils. Their Foreign Ministers (Anna Lindh and

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<sup>119</sup> Foreign Minister Louis Michel was the main interlocutor of the Belgian Presidency with the European Parliament in the aftermath of the Extraordinary European Council of the 21-st of September (following the events of September 11).

Louis Michel) reported on the preparatory work for the upcoming European Councils. (European Parliament Plenary 2000a, 2001a, 2001b, 2001c, 2001d, 2001e, 2001g, 2001h, 2001i, 2007a and 2007b). French President Chirac and Belgian Prime Minister Verhofstadt attended only the first half of their final Presidency hearings, leaving it to other representatives of the Presidency to take the plenary's questions in the second half (European Parliament Plenary (2000b and 2001j)).

In terms of the quality of the reporting process, the rotating Presidency hardly moved beyond stage number three in our accountability constellation (general response to criticism in the form of denial of both criticism and problem definition as well as justification of its approach). At times, it did not even go that far. Chancellor Merkel, for instance, touched on only two issues raised by the plenary in response to her introductory speech, competition and double majority voting in the Council, omitting from her concluding statement most of the criticism coming from the plenary.<sup>120</sup> In fact, she did not mention what was arguably the most important theme of the German Presidency, the Treaty Reform (European Parliament Plenary 2007c and 2007d).

President Chirac, seven years earlier,<sup>121</sup> addressed most of the questions and criticisms from leaders of the political groups in a short summary of general statements, with an

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<sup>120</sup> She failed to address recurrent critiques about the involvement of the citizens (especially through referendum democracy), the relationship of the Treaty reform process to the Constitution Treaty, the content and status of the Charter, the inclusion of the Copenhagen criteria in the prospective Treaty, the orientation of the European Council policy vis-a-vis single opting-out member-states.

<sup>121</sup> The morning debates of the 12-th December, 2000 consisted of the group leaders' statements and Chirac's preamble and peroration. The rest of the MEPs took the floor in the afternoon follow-up in which Moscovici (not Chirac) represented the Presidency.

additional focus on key points emphasized by each of them. On the issues to which he chose to respond, Chirac redefined criticism through his own perspective. The main thrust of his conclusion was to justify and praise EC decision-makers against harsh criticism<sup>122</sup> (European Parliament Plenary 2000b). At times, however, Chirac's account switched from stage three (general response to criticism in the form of acceptance) to stage four (general response to criticism in the form of acceptance of wrongdoing or shortcoming).<sup>123</sup>

Prime Ministers Persson's and Verhofstadt's reports to the European Parliament also embody the characteristics of stage three (general response to criticism in the form of denial of both criticism and problem definition as well as justification of its approach), with occasional elements of stage five (response to the appeal and criticism of a particular MEP). They provide succinct conclusive statements on just a few<sup>124</sup> of the vast range of issues that the MEPs raised during the plenary. There is an emphasis on success and problem redefinition, and their answers were generally vague and evasive (European Parliament Plenaries, 2001f and 2001j). Moreover, all four leaders failed to address critiques regarding

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<sup>122</sup> The MEPs complained about rampant inefficiency and the onset of a conflict atmosphere.

<sup>123</sup> On the development of qualified majority voting, the Convention method and the incorporation of the Charter into the Treaty.

<sup>124</sup> Prime Minister Persson touched on only three topics: the achievements and difficulties of the Presidency with the enlargement dossier, the transport regulation, and, unrelated to these achievements, the extradition of Milosevic to the International Criminal Court in Hague. Prime Minister Verhofstadt addressed mainly the criticism and remarks about constitutional questions (the connection of the Nice Treaty with the Laeken Declaration, the number of MEPs, national parliamentarians and women in the Presidium, as well as his commitment to the effectiveness of the Convention).

methods and procedures for reaching decisions in the European Council, especially when criticism was directed at the Presidency itself.

During the four member-state Presidencies, the European Parliament passed a number of resolutions.<sup>125</sup> Those resolutions focused primarily on constitutional issues, but also encompassed the economy, foreign affairs, enlargement, and terrorism (European Parliament Document 2000, 2001a, 2001b, 2001c, 2001d). All motions addressed the content of the decisions and the procedures of the decision-making process through criticism (but also praise), calls and demands. Yet, they hardly targeted the President-in-office, or his capacity or approach (interview Beres, 18th of Mar 2013).

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<sup>125</sup> The major groups (PPE, PSE, ELDR) with Verts/ALE passed a resolution on the Nice European Council reprimanding the members of the European Council for serving their short-term interests, emphasising the shortcomings of some of the final determinations, raising the thresholds for the qualified-majority and proposing a new method (the Convention) to supplant the IGC. In the aftermath of the last plenary with Prime Minister Persson, the same groups passed another resolution on themes such as the necessity of a all-inclusive Convention as method of Constitutional reform, the lack of concrete action on sustainable development, multilateralism and peace-building in transatlantic, regional and international relations. About the Stockholm European Council, the European Parliament managed to pass two motions of resolutions, one on the financial markets and another on foreign affairs matters, while nine resolutions on the Lisbon Strategy issues and two on foreign affairs were rejected. During the Belgium Presidency, the plenary passed two joint motions of resolution. The first on the Extraordinary European Council meeting on 21 September 2001 in Brussels focused on the terrorist attacks in New York and its implications for EU policymaking. The second concerned the European Council informal meeting in Ghent (with a focus on foreign affairs, the euro's economic prospects, constitutional reform, enlargement and terrorism) (European Parliament Document 2000, 2001a, 2001b, 2001c, 2001d).

## **Accountability at the Committee level**

In the law-making process, the Committees<sup>126</sup> of the European Parliament play a pivotal role. They often invite representatives from other institutions to exchange views over the themes covered by the Committee itself. The Committee level is an improvement on the Plenary in two ways. Both its restricted membership and its expertise on issues create an auspicious setting for exchange and account-giving on the part of the invitee. In looking at the relationship between the Committees and the President of the European Council, I have conducted a review of the activity of those Committees most closely associated with themes deliberated at the European Council (the Committee for Monetary and Economic Affairs-ECON, the Committee for Employment and Social Affairs-EMPL, the Committee of Foreign Affairs, Human Rights, Common Security and Defense Policy-AFET, the Committee of the Constitutional Affairs-AFCO, and the Committee of Legal Affairs-JURI).

The EP committees are important institutions in EU's multilevel governance. They organize (in cooperation with their national counterparts) public hearings and conferences on relevant topics. Representatives from political institutions within and outside the European Union as well as experts participate in these hearings. The European Parliamentary week has become a routine practice in the interaction between EP committees and their national counterparts.

President Van Rompuy did not attend the Committees' sessions. His only presence in Committee-initiated dialogues occurred during the three Interparliamentary Weeks on the

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<sup>126</sup> The catalogue of the activities of the Committees is extensive. They include view-exchanges, and hearings with institutional representatives of the Commission (Commissioners) and the Presidency of the Council of the EU (national ministers), heads of agencies. In cooperation with other committees of the EP, they invite representatives of international institutions and experts to discuss particular projects or developments. The Committees conduct hearings with Commissioner-designates.

European Semester for Economic Policy Coordination for the years 2011, 2012 and 2013 organized by the Committee on Economic and Monetary Affairs. The dynamics of his participation are noteworthy. Van Rompuy's speeches were followed by either a question and answer period (2011) or an exchange of views (2012 and 2013). In 2011, the Permanent President occupied an entire session of one hour (with 45 minutes devoted to questions and answers by the European and national parliamentarians). In subsequent years, the Permanent President had to share a longer session (albeit not in the form of a Q&A period) with the President of the Commission and, in 2013, the representative of the rotating Irish Presidency (ECON Document 2011, 2012, 2013). The establishment of this practice, in spite of its annual variations, is a positive development.

Yet, at the same time, this new practice remains limited both in frequency (once a year) and field (Economic and Monetary Affairs). The Interparliamentary week represents an instance of openness and exchange that mirrors the interaction of the Permanent President to the EP plenary. It constitutes what Olsen defines as "interlocking communities of justification and criticism," a site in which members of executive-driven policy communities meet the representatives of a legislative forum to interact and debate. With the Interparliamentary Week, this process encompasses the highest representatives of two important institutions, the Presidents of the Commission and the European Council.

In the pre-Lisbon era, the rotating Presidents of the European Council never attended the EP Committee sessions. Committees were visited by the Ministers (or the State Secretaries) responsible for the particular area covered by the Committee in question. Ministers also presented the Presidency program on a particular theme before the relevant committee (AFCO Document 2000a 2000b 2000c 2000d 2001a 2001b 2001c 2001d; AFET Document 2000a 2000b 2000c 2000d 2001a 2001b 2001c 2001d 2001e; ECON Document 2001a, 2001b).

**Interim conclusion: Changes resulting from the Lisbon Treaty**

The Lisbon Treaty has established the European Council as an institutional entity, created the office of its Permanent President (separate from the Presidency of the Council of the EU), and established an obligation for the latter to report on the European Council Summits before the Parliament. The European Parliament cannot force the European Council President out of office as it has a right to do through a motion of censure against the European Commission. Rather than an executive head (or leader), he is a speaker/ambassador for the European Council and does not recognize the EP as a principal. The pre-Lisbon rules spoke about the Presidency (not the President as a personality representing the institution), and the European Council was part of the institutional concept commonly referred to as the "Council." The President of the European Council before Lisbon appeared twice or more before the Parliament during the six-month Presidency. The Permanent President, on the other hand, has to report after any European Council summit and cannot delegate his tasks to a Minister as the President or Prime Minister under the previous regime did.

The European Council Presidents (both before and after Lisbon) have been reluctant account-givers. They report primarily on the product of decision-making rather than on both

product and process (see Bovens 2007). Both the Permanent and the rotating Presidents' behaviour vis-a-vis the legislature can be located mainly at stage three of the account-giver's constellation. They take criticism on some of the issues, but, rather than accepting it, tend to justify their line of action or particular policy choice. However, the emergence of the new regime (with a European President) overlaps with the preponderance of one topic: Economic Governance in the context of the Euro crisis. The Permanent President's reports are all about Economic Governance. Moreover, the separation of the Presidencies of the European Council from the Council of the EU has further reduced the range of issues on which the President reports.

Due to these developments, there is better coverage in terms of product accountability. In addition, as we saw in the last chapter, burden-sharing across Presidencies also improves efficiency. Both before and after the coming into force of the Lisbon Treaty, the Parliament has been quite assertive as an account-seeker. Its remarks and questions relate to all three types of conduct (product, procedure, and financial). Both before and after Lisbon, it passed resolutions on the content of policies and the actions or inaction of the decision-maker (the European Council) . Before Lisbon, resolutions covered an array of areas assigned to either the European Council and/or the legislative Councils.

Since Lisbon, resolutions have been narrower in scope, centripetal in objectives<sup>127</sup> and sharply focused on economic problem-solving and policy-making. With the Lisbon Treaty, the practice of Interparliamentary Week represents an opportunity for the European and national Parliamentarians to come into contact with the President. It is a forum in which deliberation and debate combine with elements of information-giving and oversight.

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<sup>127</sup> They deal primarily with economic governance and all other subjects revolve around this subject matter.

Christopher Lord (1998) has emphasized a number of problems associated with continuous parliamentary accountability in the EU. According to him, there is a tendency at each level of government (European or national) to shift blame or provide alibis. At the same time, there is a persistence of obscure policy communities that produce policies and make decisions. Two factors in the post-Lisbon era weaken the impact of these problems: improved product accountability<sup>128</sup> and a well-informed, policy-driven legislature that attempts to enlarge and publicize the governance networks, while creating “communities of justification” through the committee system.

### **The rotating Presidency of the Council and the National Parliaments (2000-2007)**

The creation of the Office of the Permanent President has stripped the member-state governments of the opportunity to control and manage the European Council through its Presidency. This means that the management of the Council is no longer subject to parliamentary control at the national level and that the post-Lisbon President of the European Council is no longer a participant in national parliamentary life. Yet, to understand the impact of the retreat of national parliaments, we must look at their effectiveness as account-seekers when their national governments were in charge of the European Council.

There is a wealth of empirical studies on the parliamentary-government relations on issues of European integration (e.g. Benz 2004; Auel 2007; Hegeland 2007; Larue 2011; Schüttemeyer 2009; Damgaard and Jensen 2005; Winzen 2010 and 2013). These studies

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<sup>128</sup> What improved product accountability means is that the President of the European Council reports to the plenary on a focused set of issues. These are the most salient and critical issues discussed in the course of the European Council summit and these are also the most important issues affecting the citizens of the EU.

focus on an array of phenomena, ranging from the relationship between coalition and opposition parties and the government (Winzen 2013), procedural aspects of the parliamentary-executive interaction on topics concerning EU integration (Damgaard and Jensen 2005; Sprungk 2007), and the development of parliamentary oversight (Raunio 2005; Saalfeld 2005) all the way to more particular phenomena associated with the empowerment of international and supranational institutions (Schüttemeyer 2009). European integration has strengthened the position and authority of the government. As areas of policy-making have been transferred to the supranational level, this transfer has simultaneously diluted the parliaments' ability to act as a factor in the determination of policies. In response, the parliaments have developed two instruments of oversight: informational and constraining. While informational oversight instruments are built around the government's constitutional obligation to inform the legislature, constraining oversight instruments represent a more rigorous form of control and influence aimed at recasting the government's position by incorporating into it the legislature's opinion.

In the next paragraphs I provide not just a description of parliament-executive relations in the four member-states during their respective Presidencies of the Council of Ministers, but a consideration of the instruments of oversight, their legal basis, and their impact.

In Germany, the government is accountable to the Bundestag (and responsive to the Bundesrat). The turning point in the installation of the current system of checks was the Maastricht Treaty, the initiative for which came from the Bundesrat, culminating in the establishment of a Joint Commission on Constitutional Reform. On recommendation from the Commission, two articles (23 and 45) were added to the Basic Law (Grundgesetz). Article 23 articulated two rights for the Bundestag, a right to be informed on legislation passed at the

European level and a right to consider the Parliament's opinion<sup>129</sup> before a Council decision (what is commonly recognized as a "parliamentary reserve" or instrument of constraining oversight) (Sprungk 2007 and relevant Articles). Article 45 stipulated a requirement for setting up a regular Parliamentary committee for the purpose of exercising the rights granted under article 23<sup>130</sup> (Sprungk 2007 and relevant Articles).

The Chancellor (or the Ministers) appears before the plenary each Wednesday for a 35-minute question period<sup>131</sup> or, in other instances, to provide information (Unterrichtung durch die Bundesregierung), at the request of one or more members of the Parliamentary Groups petitioning for the discussion of a written report, or via a recommended decision and report procedure<sup>132</sup> from a Committee<sup>133</sup> on behalf of some of its members. Committees' requests

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<sup>129</sup> This also entails the power to pass a resolution.

<sup>130</sup> These articles have been further specified in subordinate legal provisions such as the "Act on the Cooperation of the federal government and Bundestag in the European Union", Section 93 and 93(a) of the Bundestag Standing Orders and the Interministerial Agreement between the Federal Ministries on the Information of the Bundestag.

<sup>131</sup> Befragung der Bundesregierung

<sup>132</sup> Beschlussempfehlung und Bericht.

<sup>133</sup> A Committee's recommended decision and report procedure involves a series of requests initiated by its members (from three to seven belonging to the same or different parties). These requests take the form of a petition (Antrag) or a motion of resolution (Entschließungsantrag). A petition is a demand on the government to report, while a motion of resolution delivers an opinion on the policy line or bill of the government. The application for a motion of resolution (Entschließungsantrag) must be signed by a 5% of the deputies. Both petitions and motions are subject to vote in the plenary and if approved they bind the government to abide by them. Indeed, the petitions and motions of resolution are introduced to the vote as a recommended decision (Beschlussempfehlung). A Committee may recommend to the plenary that a petition and/or motion for a resolution by the members of one or more parties be rejected or approved.

take the form of a Petition or a Motion of Resolution. A Petition is both an informational and constraining instrument of oversight; Motions of Resolution are always the latter. The dividing line between government and opposition is always relevant to motion of resolution cases. Petitions are usually filed by both government and opposition parties, while motions of resolution are filed exclusively by parties opposing the government. A petition may receive the votes of the government parties, but also of some opposition parties. On the other hand, a motion of resolution coming from an opposition party is almost always defeated.

Both the plenary and the Committees were involved in the account-seeking process during the 2007 Presidency<sup>134</sup> (Mitteilung 2006a, 2006b, 2007a, 2007b, 2007c, 2007d; Öffentliche Sitzung 2006) . However, the most important sittings dealing with the Presidency's program were those with the Chancellor in the plenary (including the Bundestag sitting of the 16th of February 2007). Merkel's three hearings on the German Presidency before the Bundestag

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<sup>134</sup> The Committee on the European Affairs (Ausschuss für die Angelegenheiten der Europäischen Union) designated time slots in five sessions between November 2006 and July 2007 for the Presidency. The earliest (on November 08, 2006) and the latest sessions (on July 2007). They tackled, respectively, the introduction of the priorities, and the achievements (Bilanz) of the Presidency. Two other sessions (on the 21-st of March 2007 and on the 20-th of June 2007) were about the government's report on and anticipation of the European Councils (respectively, of the 8/9 of March and the 21 /22 of June, 2007). In the March 21-st sitting, Foreign Minister Frank-Walter Steinmeier represented the government. A fifth information session with the participation of Minister of Education and Research Annette Schavan focused on the German Presidency's priorities in those fields, with particular focus on the Bologna process and the creation of a European Technology Institute. Chancellor Merkel herself participated in a session of the European Affairs Committee on September, 27, 2006. The hearing entitled " Conversation with the Chancellor" discussed the upcoming German Presidency alongside other issues (Mitteilung 2006a, 2006b, 2007a, 2007b, 2007c, 2007d, Öffentliche Sitzung 2006) .

took place between March 2007 and June 2007<sup>135</sup> (Sitzung 2007a, 2007b, 2007c). In the next paragraphs, I will focus on the first hearing, since I consider it instructive for the purpose of drawing conclusions on the state of parliamentary-executive relations.

The March 2007 hearing followed the customary pattern of an introductory speech by the Chancellor, followed by the MPs' statements and ending with a vote on the petitions and the motions of resolution. The Chancellor made no concluding statement. Her introductory speech dealt with the themes<sup>136</sup> of the German Presidency and the state of affairs in Germany and the European Union without addressing the opposition parties' criticism or reflecting on their perspectives, as expressed in the Committee's submissions. Three petitions (one from the government parties CDU/CSU and SPD, the second from the FDP, and the third from the

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<sup>135</sup> The first hearing was a request through the recommended decision and report procedure. The second hearing was a request of the CDU/CSU and SPD Parliamentary Groups (the two groups supporting the government), but with four petition (two from the Greens, one from the FDP, and one from the Linke with a recommended decision from the European Affairs Committee for rejection by the plenary) and two motions of resolution from the Linke against the government. After a vote in the plenary, all Linke's submissions were rejected, while the petitions from the other parties were transferred to the EU Committee Agenda. Moreover, a third hearing on the 24th of May 2007 about the 6-8 of June G-8 Economic Conference with the Chancellor included three petitions (one from the CDU/CSU/SPD, a second from the FDP and a third request by the Greens with a recommended decision from the Foreign Affairs Committee for rejection) on EU's development politics/cooperation and the revival of the nuclear disarmament process (The Greens). The voting on the three petitions exemplifies the dynamics of the Bundestag decision-making in which, unless the petition has the government parties behind it, it should be a cause to rally inter-partisan solidarity. Indeed, the first two petitions concerning development were approved, while the Green's petition rejected (Sitzung 2007a, 2007b, 2007c) .

<sup>136</sup> These themes were environmental politics, the Berlin Declaration, the politics of energy, research and technology, the internal market in electricity and gas.

Greens) and one motion of resolution (from Die Linke) were submitted for a vote in plenary by the Committee for the European Affairs with a recommendation that all but the government parties' petition be rejected, and, indeed, this was the outcome.<sup>137</sup> With the defeat of the opposition parties' petitions, the German government failed to take stock of a number of important recommendations<sup>138</sup> concerning the Presidency that could have improved the Presidency's approach to some of its key issues (Antrag 2006a; Antrag 2006b; Antrag 2006c; Entschließungsantrag 2006).

In sum, German law and parliamentary practices privilege constraining instruments of oversight, as was the case during the 2007 German Presidency. The Bundestag's orientation towards the government is that of binding it to a particular set of suggestions coming from the plenary. Obviously, in this game the winners are always either the government parties or a

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<sup>137</sup> The Greens and the FDP abstained, while the Linke voted against the CDU/CSU and SPD petition. At the same time, the Linke joined the CDU/CSU and SPD to reject the FDP petition as the Greens abstained (Sitzung 2007a, Antrag 2006a, Antrag 2006b, Antrag 2006c, Entschließungsantrag 2006).

<sup>138</sup> For instance, the Greens' petition and the Linke's motion had argued in favour of the involvement of the public in a debate about the future of Europe and, more in particular, the redemption of the Constitutional project including a referendum (Linke). Both the Greens and the Linke had more ambitious goals when it came to the 2020 objectives for reducing greenhouse emissions (30% for the Greens, 30-40% for the Linke as opposed to the 20% of the government). The Green and the Linke had emphasized in their submissions the integration of youth through education and employment as an important dimension of the social state. Moreover, the Linke had further extended the idea of a welfare society to the workers (including part-time and retirees). The Greens had stressed the potential of finance in the rural economy as an engine for generating employment. Both the Linke and FDP included important proposals on integration in Justice and Home Affairs (a European criminal defense for the Linke and a European Prosecutor for the FDP) and both parties stressed the importance of privacy and personal data protection (Antrag 2006a, Antrag 2006b, Antrag 2006c, Entschließungsantrag 2006).

very large majority comprising both government and opposition parties. Thus, the effectiveness of the constraining instruments of oversight depends on the relationship of a party vis-a-vis the sitting government and the government parties.

In France, laws also privilege constraining instruments of oversight. Indeed, Article 88-4<sup>139</sup> of the French Constitution obliges the government to submit to the National Assembly and Senate any legislative proposals generated at the European level. That same article entitles (empowers) the House to pass resolutions on any project and document coming from the EU and provides for the institutionalisation in each of the two chambers of a Commission in charge of the European Affairs. The 1994 Acte Pandrau and Articles 151-1 and 151-4 of the National Assembly's Standing Orders expand upon Article 88-4. For instance, the Act stipulates that the government must also forewarn the Parliament of any stage of the negotiation. Along similar lines, a 1994 Ministerial Circular created a scrutiny reserve that compels the government to claim a one-month postponement of a Council's decisions and meeting subject to a statement of opinion by the parliamentary chambers. Yet these constraining instruments are weaker than the comparable German ones. Indeed, the French government does not have an obligation to take into account the Parliament's position, but it still has an obligation to provide information on the actions following the passing of a resolution (Sprungk 2007).

In spite of the Constitutional provisions and ensuing legislation, during the 2000 Presidency, the practice of parliamentary accountability favoured informational oversight instruments over constraining ones. We can observe this tendency in all the three phases of

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<sup>139</sup> Introduced into the Constitution in 1992 (and extended in 1999) in the context of the ratification of the Treaties of Maastricht and Amsterdam.

the governments' interaction with the Parliament:<sup>140</sup> the Pre-presidency, the Presidency, and the post-Presidency.

Just before the start of the French Presidency term, there was a declaration on the orientation of the French Presidency before the National Assembly on the 9th of May, 2000 by Prime Minister Lionel Jospin, followed by a debate on the program. The debate ended with concluding statements by Pierre Moscovici, Minister for European Affairs, and Foreign Minister Hubert Vedrine. A similar hearing took place in the French Senate three weeks later, with Foreign Minister Vedrine representing the government. In addition, Pierre Moscovici had an initial hearing with the Delegation for the European Union on the 10th of February, 2000 to explain the French Presidency's positions on institutional reform at the EU level, in particular its positions on the extension of qualified majority and the Commission's configuration (Compte Rendu de l'Assemblée Nationale de La République Française 2000a, 2000b; Compte Rendu du Sénat de La République Française 2000a, 2000b; Document de la Délégation pour L'Union Européenne 2000a and 2000b; Document de l'Assemblée Nationale 2001).

During the French Presidency, from June through December of 2000, Ministers and the Prime Minister regularly received questions from the Members of the National Assembly.<sup>141</sup>

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<sup>140</sup> There are two fora of accountability in the French Parliamentary system, the plenaries of the National Assembly and Senate and the Committee/Delegations levels. At both levels, there is exchange between the members of government and those of the National Assembly, but the difference across levels in terms of exchange concerns the degree. During the debates at the plenary level, long speeches from the members of parliament precede a short clarifying statement from the apposite Minister or the Prime Minister. In the Committees, dialogue prevails. A handful of members (four or five) pose questions to the Ministers and he/she provides an answer for each of them.

At the committee level, Moscovici discussed the first months of the Presidency and preparations for and the outcome of the Nice summit (Compte Rendu de l'Assemblée Nationale de La République Française 2000c, p. 7086; 2000d, p. 7111; 2000e, p. 7340; 2000f, pp. 7879-7800; 2000g, p. 7955; Document de la Délégation pour L'Union Européenne 2000c, 2000d, and 2000e; Document de l'Assemblée Nationale 2001).

Procedurally, post-Presidency accountability did not resemble the pre-Presidency reporting regime. It was not the Prime Ministers or the two Cabinet Ministers (Foreign Affairs and European Affairs) who addressed the plenary. Instead, the President of the Delegation of the National Assembly for the European Union submitted a report to the National Assembly. The report's focus was on the achievements and progress on the themes of the Presidency, and it included a mild dose of fault-finding. But note that this was fault-finding<sup>142</sup> with respect to the process of decision-making among the Fifteen, not a charge against the Presidency itself (Document de l'Assemblée Nationale 2000).

In Belgium, debates and exchanges in the plenary or committees were and are important vehicles for information oversight. Accountability arrangements in the Belgian Parliament during the Presidency period consisted of frequent interventions from the members of

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<sup>141</sup> Two question-periods of the plenary (on October 18 and December 20) with members of the government concentrated exclusively on European issues (the Biarritz Summit, the Euro and the independence of the European Central Bank, the Treaty of Nice, Social Europe). In other instances, members of the Parliament (even in virtue of their positions in a Committee or Delegation) directed questions at the Prime Minister, Minister of the European Affairs or other representatives of the Presidency.

<sup>142</sup> The object of critique embraced a number of issues such as the short-sightedness of the institutional questions tabled for negotiations, inattention to the Charter, the overwhelming emphasis on the weighing of the vote in the Council and the absence of an outcome on an institutional structure for the European Defense.

Parliament with questions directed at Prime Minister Verhofstadt or the Ministers (e.g. Foreign Minister Louis Michel) on themes related to the Presidency's program as well as to the office's methods and conduct.<sup>143</sup> Unlike their German or French counterparts, the Belgian MPs engaged the PM or the Ministers in a dialogue<sup>144</sup> over the quality and completeness of their answers. These dynamics also characterized activity at the Committee level.<sup>145</sup> Between May and December 2001, Verhofstadt attended eight joint public sittings at the Committee level. The principal objective of these sittings was either a debate on the agenda of the upcoming European Council summit, a report on the summit's outcomes, or an exchange on special topics like measures against terrorism<sup>146</sup> (Compte Rendu de la Chambre des Représentants De Belgique 2001a, p. 9; 2001b, p. 2; 2001c, pp. 28 and 43; 2001d, p. 5; 2001e, p. 5; 2001f, p. 30; 2001g, p. 13; 2001h; Comité d'avis fédéral chargé des questions européennes du Sénat de Belgique 2001a 2001b, 2001c, 2001d, 2001e, 2001f, 2001g, 2001h, 2001i, 2001j, 2001k, 2001l, 2001m, 2001n; Commission des Affaires sociales 2001;

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<sup>143</sup> Environment politics and Kyoto, the British quotas on asylum seekers, the dissatisfaction of the member-states with the Belgian Presidency management style, police action during the Laeken summit.

<sup>144</sup> By dialogue I mean the occurrence of the following sequence (1) the stating of the question by an MP, (2) the answer by the Minister or the Prime Minister and (3) reply from the MP. Only in the Belgian Parliament, we can observe this pattern. In the Bundestag, there is exchange between the Ministers or Parliamentary Secretaries (less frequently with the Chancellor), but these exchanges take the form of questions followed by answers without the third element, a reply from the MP evaluating the Minister's answer. The same goes for the National Assembly in France.

<sup>145</sup> Three Committees were more active than the others, the Senate's European Affairs Advisory Committee, the Senate's Commission for External Relations and Defense, and the Chamber of Representatives' External Relations Commission.

<sup>146</sup> The Belgian Presidency coincided with the events of September 11, 2001.

Commission de la Justice 2001; Commission des Relations extérieures et Défense & Intérieur et Affaires administratives du Sénat de Belgique 2001, Sénat de Belgique 2001).

Like the German Parliament but unlike the French one, the Belgian Parliament did not hesitate to use constraining instruments of oversight. Prominent in this respect was the resolution addressed to the European Council at Laeken and approved in the plenary of the 6th of December, 2001 with recommendations on the method and agenda for Constitutional reform. The Resolution on the Laeken Declaration was voted by a sizeable majority, confirming the rule that successful resolutions enjoy broad consensus across groups, and that smaller groups are unlikely to succeed if they fail to garner consensus<sup>147</sup> (Compte Rendu de la Chambre des Représentants De Belgique 2001c, pp. 28 and 43 and 2001f, p. 30).

In Sweden, the Riksdag is a powerful actor both as an information-gatherer and as an account-seeker, at plenary and committee levels. In fact, The Riksdag combines both informational and constraining instruments of oversight. State authorities (including the central government) are obliged to supply information to the committees any time the latter demand it. Committees pass binding resolutions and scrutinize the compatibility of EU law with the principle of subsidiarity. In one of the days after each European Council, the Prime Minister appears before the plenary to report on the outcome (Hegeland 2011, pp. 141 and pp. 149-150 and 158; Larue 2011, pp. 166-167; Nielsen 2011, pp. 201-202).

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<sup>147</sup> For instance, two resolution propositions submitted by Guido Tastenhoy of the Vlaams Block (the first of a number of restrictive measures associated to the accession of the Central Eastern European(CEE) candidate states and the second on the organisation of a referendum on the eventual enlargement of the European Union) were defeated by a margin of 124 votes against 16. In France, instead, neither the Delegation nor the plenary passed a resolution, thus, stopping short at information-gathering and informal pressure.

The combination of informational and constraining instruments characterized the Riksdag's orientation towards its government through the first half of 2001. The central segment of government-parliamentary relations during the 2001 Presidency were the Committees (the EU Committee,<sup>148</sup> the Committee on Foreign Affairs,<sup>149</sup> and others<sup>150</sup>). According to Hegeland and Johansson (2001), there was a pre-determined strategy, during the Presidency, that consultation rather than the chairman's position would shape the national position. However, the Constitutional Committee's activity demonstrates that its members did not refrain from exerting influence on the government as the incumbent President. Indeed, during Sweden's six-month term, the Constitutional Committee proposed a Parliamentary Resolution on the Government Communication about public access to the EU Constitution-

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<sup>148</sup> While each Committee has its own niche in the province of European integration, it is the Committee on the EU Affairs, whose deliberations encompass all issues covered in the law-making sectors of the Council of the EU. Since 1995, the Committee receives and discusses draft Council decisions, resolutions and agenda as well as government issue/position memoranda. Among the Committees of the Riksdag, the one on the EU Affair is by far the most influential. Rarely, the Committee rejects the position of the government, yet, it may steer the government to adjust its position. The Ministers give additional information at the meeting in the Committee and give account to the Committee before (each Friday) and after any meeting of the apposite Council. On the other hand, the Prime Minister engages with the Committee before any European Council meeting.

<sup>149</sup> The Foreign Affairs Committee was the first to assert its influence already as early as 1999 by requiring the government to engage in consultation with the Committee on the positions and intended actions of the Presidency.

<sup>150</sup> The Constitutional Committee scrutinizes the legal compatibility of the actions of the government as a member of the Council (both on the initiative of the Committee and of the Members of the Parliament. For instance, of the 370 matters that the Committee dealt with between 1994 and 2004, 14% were EU matters and it criticised the government explicitly in 9% of the EU matters (equal to that of other issues).

making process, in which it encouraged the government to pursue with resolve the line of action it had already adopted. Moreover, the EU Committee also played an activist role via a formal requirement on the government to report on Ministerial Council meetings. It entered into an exchange with the Ministers for the purpose of obtaining information on the government's actions and recommended potential policy venues on EU issues and problems<sup>151</sup> (Hegeland and Johansson 2001; Skrivelse 2001/02, p. 110; Konstitutionsutskottet betänkande 2001/02; Riksdag' s EU Committee Stenographic Records 2001a). The extent to which these recommendations constrained and informed the Presidency's stance is unknown. Still, it is significant that both Committees sought to have their say in EU policymaking rather than passively absorbing the information coming from the government.

### **The Permanent President and COSAC**

As the hub bringing together national parliamentary committees on European integration COSAC (the Conference of the Parliamentary Committees of the European Union Affairs) has potential as an accountability forum. It has already been an unofficial accountability forum for the rotating Presidency of the Council and the Commission. Ministers of the rotating Presidency, the Commission, and its President frequently address the Conference and discuss the state of the European Union with national MPs. The Permanent President has addressed the Conference only once (during the Belgian Presidency in the second half of 2010) and engaged in a debate with the participating parliamentarians (interview Kurien).

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<sup>151</sup>These topics were the reform of the CAP, the BSE(Bovine Spongiform Encephalopathy) issue and animal control, the Economic and Monetary Union, employment and social policy, public access to the European Parliament.

The infrequency of the forum inhibits the Conference's growth into an effective accountability forum.

### **Interim conclusion: national parliaments**

One of the important features of the pre-Lisbon regime was the national parliaments' involvement in the accountability process. Indeed, national parliaments were the principals in that regime. Over the period of that regime, different countries tended to make use of different types of accountability instrument. Winzen (2012) finds that in Belgium, Germany, and Sweden, the informational instruments tend to be stronger than constraining ones. In France, on the other hand, constraining instruments have become more robust than informational ones. During their Presidencies, the German, Belgian, and Swedish Parliaments combined both informational and constraining instruments, which means that they not only encouraged their governments to be more open about their priorities and perspectives, but also sought to shape those priorities and perspectives. In France, on the other hand, informational instruments in the executive-parliamentary exchange predominated, both in plenary and in the committees.

Members of the executive addressed their home Parliaments (the plenaries and Committees) in two distinct moments: first, before the beginning of the half-year mandate and in the days preceding European Council summits; second, after European Council summits and/or a Ministerial Council meeting as well as in the days immediately following the end of the half-year mandate. An overly narrow consideration of the concept of accountability would restrict a researcher to considering only the latter dimension. Instead, this dissertation treats the first dimension as integral to the concept and definition of

accountability, since the act of account-giving must expose to the citizens' directly-elected representatives not only the decisional outcomes, but also the policies and mechanisms through which policies are formulated and decisions taken.

The government (Minister and lower-ranked officials) represented the Presidency of the Council before national Parliaments. The attendance record of the President of the European Council is mixed. Prime Ministers/ Presidents of the European Council such as Guy Verhoftstadt or Angela Merkel were more willing to attend the hearings of their home parliaments (and their committees) than those of the European Parliament. In other cases, such as with President Chirac, the Constitutional architecture of the French Republic prevented him from addressing the plenaries of the National Assembly or the Senate.

Regardless of the instruments' strength, member-state Parliaments were important fora for deliberations about EU affairs. One might expect that, at such a level, defense of the national interest would have an upper hand in the political process. Instead, in all four countries, the Members of the Parliament cared about and were involved in European policies. Christopher Lord (1998, pp. 97-98) identifies a problem in the EU that concerns "the pattern of Euro-governance by permanent inter-state negotiation" (the intergovernmental model). This pattern privileges secrecy rather than transparency, while eroding national parliaments' law-making monopoly. The four cases show that the Presidential term was a unique opportunity for these legislatures to stem the pace of that erosion, either by conveying their insights for the government to consider or by receiving or processing the information coming from the government.

In the introductory section of this chapter, we introduced the de-parliamentarization thesis (Judge 1995). This thesis posited that the accretion of power at the EU level was not being

balanced by an increased control of the executive by domestic parliaments. Our findings on parliament-government relations during the four pre-Lisbon Presidencies call the de-parliamentarization thesis into question. The de-parliamentarization thesis (Judge 1995) states that the accretion of power at the EU level is not being balanced by an increased control of the executive by domestic parliaments. This dissertation's argument about the national parliaments during their governments' Presidencies of the Council is that the former sought to be active participants in EU politics rather than permitting or taking for granted a situation in which they would be de-factorized or marginalized. The systematic use of informational and constraining oversight mechanisms empowered the national legislatures and kept the executive in check. This is the opposite of what the de-parliamentarization thesis suggests. Yet, much as in the case of the European Parliament, majoritarianism has intervened to determine the degree of influence. Only the party or parties that hold the majority of seats in the chamber may pass resolutions or impose motions.

With the creation of the Permanent Presidency of the European Council and the weakening of the rotating Presidency, the national parliaments have lost an opportunity to exert influence on the European Council's agenda. Hence, the emergence of the Permanent President has reinvigorated the de-parliamentarization thesis. The interaction of the Permanent President with national parliamentarians, through arrangements such as the Interparliamentary Week or COSAC, is sporadic and ceremonial, nowhere near comparable to parliamentary-executive relations at the nation-state level.

## **Accountability before the courts**

Before beginning this section, I want to clarify certain terms. Judicial accountability entails all forms of responsiveness to judiciary or quasi-judiciary bodies empowered to hold the Presidency to account. Judicial accountability intersects with Bovens' accountabilities (content, procedural, and financial) to the extent that judicial and quasi-judicial institutions hold considerable leverage when it comes to evaluating the propriety of the process, revisiting the basis for and diagnosing the implications of the decisions, while clarifying and uncovering the executive's financial operations.

To what extent are the Permanent President or the member-state Presidents accountable to the Judiciary or the Parliamentary organs in charge of auditing government expenditures? Other than the European Council, no other institution has the power to adjudicate and remove the Permanent President in cases of poor performance or misconduct. This stands in stark contrast to institutions such as the European Commission (and each of its members) and the Ombudsman, who may be censured or sacked either from the European Parliament (the Commission and the Ombudsman), the Council (a Commissioner and the Ombudsman) and/or the Court of Justice of the EU (a Commissioner and an Ombudsman). The European Court of Auditors reviews the European institutions' accounts and expenditures, the effectiveness of policies and/or policy initiatives, and the efficient use of EU funds. In the reports of the European Court of Auditors, nothing is mentioned of the President of the European Union. While the Court of Auditors' reports outline the administrative and other expenses of all institutions,<sup>152</sup> the Court itself has an extensive involvement with the

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<sup>152</sup> The Council, the Commission, the Court of Justice, the Court of Auditors, the Economic and Social Committee, the Committee of the Regions and the European Ombudsman.

Commission and a regular rendezvous with the Parliament. It deals with the Commission, since the latter is both the manager of the EU budget and programs and an internal auditor of its own programs and Directorate-Generals. It is the Commission's own management and audit that the Court of Auditors has the task of reviewing. This review, then, constitutes the basis for a discharge procedure through which the European Parliament ascertains whether the European Commission has satisfactorily carried out its responsibilities in implementing the budget (EU Court of Auditors 2014, 2013, 2012, 2011).

Our inquiry shows that the European Court of Auditors has not specifically addressed the expenditures of the Office of the Permanent President, its size, dynamics, and appropriateness, the PP's remuneration, or other disbursements. Its annual reports contain no statement about these items. Nor is there any statement from the Court of Auditors pinpointing its own responsibilities vis-a-vis the Permanent President in the framework of the Council. Neither has any institution asked the Court of Justice of the EU (CJEU) for an Opinion on the Permanent President of the European Council in the light of the Lisbon Treaty developments. The only institution that has solicited a clarification over PP-related spending is the European Parliament, through its members' questions. In the following paragraphs of this section, we will take a look at the role of the national judiciaries in the review of their governments' Presidencies. The national judiciaries' activity with reference to their governments is more intensive than that of the judiciary at the European level. The lengthy narrative below not only describes the state of judicial accountability at the national level, but may also provide a model of reference for the developing EU democracy (EU Court of Auditors 2014, 2011, 2012, 2013; European Parliament Questions 2009, 2010, 2012, 2013a and b).

Financial accountability during the member-state Presidencies of the Council (and as of this writing) was/is in the hands of specialized courts that control the operation of the government. All four countries that held the Presidency have a Court of Auditors (Court Des Comptes in the Republic of France and Kingdom of Belgium, Bundesrechnungshof in the Federal Republic of Germany, and, before 2003, the Riksdagens Revisorer and Riksrevisionsverket in the Kingdom of Sweden). The tasks common to all these institutions include financial analysis (examination of accounts and revenues), regularity and compliance monitoring (the degree to which the law has been observed in the course of the financial operations), performance audits focused on institutional efficiency, and advising.

In Sweden, both the Riksdagens Revisorer and the Riksrevisionsverket were dependent on, respectively, the parliament and the government. In Germany and France, the Bundesrechnungshof and the Court Des Comptes are independent bodies staffed by magistrates.<sup>153</sup> In Belgium, the Court of Accounts mirrors that of France (Dokument des

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<sup>153</sup> In Germany, the President and Vice-President of the Bundesrechnungshof are elected, for a limited tenure, through a secret ballot by the two houses of the Parliament on a proposal by the federal government and appointed by the Federal President. All the other Members of the Court are appointed by the Federal President on a recommendation from the President of the Court. The Bundestag and Bundesrat Presidents may remove only the President and/or the Vice-President of the Court on the final decision of a disciplinary proceeding brought by the Federal Services Court. Article 114(2) of the German Basic Law posits an obligation for the Court of Auditors to report to both Houses of the Parliament on its audit of the annual account of receipts and payments submitted to the Bundestag and Bundesrat by the Federal Ministry of Finance. Both Houses proceed, then, to issue a grant of discharge for the federal government. Article 47-2 of the Constitution of the Fifth French Republic is less outspoken about the traits of the relationship between the Court the Parliament. It states that the Court of Auditors assists the Parliament in "the control of the actions of the government" and that it assists the "Parliament and the government in monitoring the implementation of Finance Acts and the application of the

Bundesrechnungshof 2005; Document of the Bundesrechnungshof 2014a and 2014b; Cour Des Comptes France Document 2014; Cour Des Comptes Belgique 2014; The Swedish National Audit Office Document 2003; International Journal Of Government Auditing 2013).<sup>154</sup>

In the next paragraphs, I will take a look at the activity of these institutions during the Presidencies of their governments on issues related to the management of the Presidency.

In France, the Court of the Auditors (Cour Des Comptes), after auditing the financial and budgetary procedures related to the organization of Council meetings by the Presidency, concluded that the public and the state authorities could not easily envisage the cost of the Presidency, while it emphasized the discrepancy between the budgetary discretion of the Minister of Foreign Affairs and the administration's deficiencies in event management. The Court recommended a more accurate inter-ministerial budget estimate (Cour Des Comptes 2009). The Belgian Court of Auditors (Cour Des Comptes) acted both as an outsider to the Presidency (the controller of the accounts) as well as an insider (as part of the Presidential

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Social Security Financing Acts as well as in evaluating public policies". Article 47-2 also foresees a contribution of Court's public reports "to the information of the citizens". With respect to enforcement, the two institutions also differ. In Germany, the Court cannot coerce the audited institutions to comply with its decisions, while it reports to both chambers of the legislature and the federal government. In France, the magistrates issue two types of judgments " judgments of the Court of Accounts" and "judgments of the Budgetary and Financial Discipline Court", the latter against personally and financially responsible sworn-in accountants and managers.

<sup>154</sup> The only difference between France and Belgium is the recruitment process of the members (magistrates). In France, they are hired upon graduation from ENA through a Presidential Decree and they cannot be removed. In Belgium, it is the Parliament that appoints them for a limited term.

administration). As a controller (outsider),<sup>155</sup> the Court of Auditors audited the decisions of the Belgian Council of Ministers on new expenditures and other expenditures incurred over the budgetary credits when the government engaged in Presidency-related activities (e.g. the introduction of the Euro, the Missing Trader Fraud, or the BSE Test). As an insider, it assisted the Presidency on the behalf of the European Union in the debates of the fifth Committee of the UN General Assembly on budgetary questions (Cour des Comptes Belgique 2002a and 2002b). In Sweden, the control of the government's financial operations (including those carried out during the period of the Presidency) was divided between two institutions, the Riksdagens<sup>156</sup> Revisorer (Parliamentary Auditors) and Riksrevisionsverket (National Audit Offices). For instance, in his 2001 report to the Parliament, the Riksdagens Revisorer dealt with the issue of the sponsorship of Presidency's events by nine private companies contracted through the Foreign Minister's office. The Parliamentary Auditors assessed the situation in the light of a case review from the National Board for Public Procurement (Nämnden för offentlig upphandling NOU, 2001) emphasizing the government's missing information about

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<sup>155</sup> As a controller, the Court questioned the figures, grounds, and appropriateness of the government's demands for additional credits as well as the content of those decisions that embodied these demands. Much like its French counterpart, it prescribed alternative procedures (to those that the government had employed) to ensure that the lending (or supplementary lending) for the Presidency activities complied with the requirements of the ordinary budgetary political process (i.e. approval by the Chamber of the Deputies, submission of an adjustment procedure).

<sup>156</sup> Moreover, the Finance Committee of the Riksdag discussed a number of documents in an early 2001 meeting. These documents included a report on the EU activities and an account of the activities of the Swedish Presidency of the EU (along with a presentation of a Memorandum on these activities) along with a number of motions that different MP-s tabled on the general exercise of the Presidency (Utskottens-dokument, Finansutskottets sammanträde 2002).

the different types of sponsorship and its neglect of and non-compliance with the Public Procurement Act. (Förslag till riksdagen 2001 p 31-32; NOU Dokument 2001).

In Germany, the Bundesrechnungshof monitors the government's financial activities. The Court's report did not tackle the operations of the Chancellorship and Ministries in the context of the German EU Presidency. Yet the analysis of the government's accounts, holdings, revenues, budgetary, and off-budgetary activities for the year 2007 was meticulous and perspicacious (Dokument des Bundesrechnungshof 2007; Document of the Bundesrechnungshof 2007).

On the other hand, the Federal Constitutional Court (Bundesverfassungsgericht) has the capacity to reconfigure the executive's stance on a number of issues.<sup>157</sup> The Constitutional Court dealt with the EU Constitutional reform in a 2006 response to a complaint by CSU Bundestag member Peter Gauweiler on the unconstitutionality of the Bundestag/Bundesrat second and third reading of the European Constitutional Treaty ratification process. The Court's decision was a ruling of non-decision in that it iterated that at that time-juncture<sup>158</sup> a verdict from the upper judiciary was not a priority, at least not until all member-states had

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<sup>157</sup> It is the German Constitutional Court that, following the entry into force the Maastricht Treaty, ruled in favour of the preservation and enhancement of the Bundestag's weight as a decision-maker for the decisions regarding German membership in the European Union. The fear of a number of personalities (in the political and legal sphere) about the delegitimizing impact of Maastricht prompted a challenge (by the FDP politician Martin Brunner) in the Constitutional Court and a judgment spelling out unequivocally the extent of the federal parliament's intervention in EU business (especially with respect to the third stage of the economic and monetary union) (Saarland University Jurisprudence Archives 2014).

<sup>158</sup> Following the failure of the referendums in France and the Netherlands and awaiting a roadmap for a modified Treaty.

ratified the Treaty establishing a Constitution for Europe (TCE). Moreover, the Court's judgment did not conceal its reluctance to become an actor in the European constitutional process (Stern 2006; Paterson 2008).

The decision represented a major setback for the German government, which favoured the intactness of the European Constitutional Treaty and had a clear plan and ambition for reviving the project during its Presidency in the first half of the 2007. But the German government did not let the Court's judgment affect its Presidency. On the Constitutional issue, the Presidency chose to act as an effective negotiator, while seeking to rally a coalition of enthusiasts for a new Treaty approximating its predecessor<sup>159</sup> (Paterson 2008).

### **Interim conclusion: Courts**

The Audit Courts played a significant role during the member-state Presidencies. They scrutinized the expenditures of the government in general and, to different degrees, they did the same with respect to the government's budget activity as President of the Council of Ministers. This is critically important in terms of the capacity of specialized judicial and non-judicial institutions to shed light on the appropriateness of the government's actions and inactions, a reality that Bovens (2007) defines as financial accountability. The relationship of these institutions to their respective Parliaments varies. However, with the exception of Sweden before 2003, they are independent branches of the judiciary, which function as important linkage nodes in a network of actors<sup>160</sup> that guarantees the transparency and integrity of public management. Their professionalism, objectivity, and autonomy are

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<sup>159</sup> The European Constitution Treaty.

<sup>160</sup> The national parliaments being the most important of these actors.

impeccable. With the emergence of the Permanent Presidency, all of this has been lost. The law regulating the European Court of Auditors does not mention the Permanent President's Office and its obligations vis-a-vis the Court. The most recent Court documents tell us nothing about the operations of the Permanent President's Office and set out no guidelines for auditing these operations. This dearth becomes more severe in the light of the mounting pressure from Members of the European Parliament on the President of the European Council to disclose and explicate the Office's expenditure, and his salary and benefits (European Parliament Question 2009, 2010, 2012, 2013a, 2013b).

Constitutional Courts, on the other hand, are likely to have clout when there is a tradition of authoritative judicial ruling that affects the government's preferences (as in the case of Germany and France). The Court of Justice of the EU has yet to exert its authority vis-a-vis the Council Presidency in cases initiated on grounds of a failure to act (the only type of action directed against an EU institution, the European Commission, the Council of the EU, or the European Parliament). In the category of cases brought against the Council, the Presidency is nowhere in sight; this applies to the European Council Presidency as well. Generally, the argument is (Lord 1998, p. 97) that the EU judiciary experience indicates almost no concern with transparency and other democracy-related phenomena, especially when they touch on the very highest levels of decision-making. This dissertation's comparison of the EU judiciary to the national courts further strengthens Lord's argument.

## **Transparency and electoral accountability**

### Institutional transparency

The great achievement of the 2001 Swedish Council Presidency was its launching of Regulation No 1049/2001 on public access to the European Parliament, Council, and Commission documents. Echoing the principles of Article 255(2) of the EC Treaty, the Regulation stipulates a right of access for all natural and legal citizens of the EU to all documents produced from and received by the European Parliament, Council, and the European Commission. The documents (EU or national) not covered by the Regulation were those whose disclosure would "undermine the protection of public interest." Additional safeguard considerations include the "privacy and integrity of an individual," "court proceeding and legal advice," and the protection of "the purpose of inspections, investigations, and audits." Of particular interest in this respect were provisions on the protection of "an institution's decision-making process," regarding the non-disclosure of an institution's internal consultations and deliberations. However, the confidentiality of an institution's decision-making process and consultations can still be challenged. As a matter of fact, Article 4(3) of Regulation No 1049/2001 stipulates that an overriding public interest may lead to disclosure (Official Journal of the European Communities 2001).

After the coming into force of the Lisbon Treaty, the Commission proposed further amendments to Regulation 1049/2001 to adapt it to the new transparency principles contained in Article 15(3) of the consolidated version of the Treaty on the Functioning of the European Union. This Regulation embraced all EU bodies, offices, and agencies with statutory rules on access. It applied to the administrative tasks of the Court of Justice, the European Central Bank, and the European Investment Bank. Moreover, the Lisbon Treaty has established new

obligations. Article 10.3 of the TEU articulates a requirement for EU institutions to take decisions as openly and as closely as possible to the citizen. Along similar lines, Article 15.1 of the TFEU stipulates that the Union's institutions, bodies, offices, and agencies must "conduct their work as openly as possible." Article 11.1 of the TEU urges the EU institutions to "give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action." And Article 11.2 of the TEU posits that the institutions must "maintain an open and transparent and regular dialogue with representative associations and civil society." In this context, the European Council must comply with these obligations by publishing its minutes and documents. It must also publish its agendas well in advance of meetings (Corbett 2011). However, the regulation on transparency, (Article 15 of the Treaty on the Functioning of the European Union), whether before and after the Lisbon amendments, does not specify a role for the Presidency of the Council and the European Council President with respect to the transparency procedures (Council Document 2008; European Commission Document 2011). In practice, the Directorate General for Communication and Transparency of the General Secretariat of the Council may release documents concerning the PP and/or pertaining to the fora supervised by the PP. The official title of these releases is "document of the Council, "which means that, for purposes of transparency, the European Council Presidency is treated as a component of a larger concept described in the EU rules and regulations as the "Council."

The most important source of information for the public is the online and paper publications dealing with the President's discharge of duties<sup>161</sup> and with his activities outside the scope of his official duties. This information is available online in all the official

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<sup>161</sup> Including the information on the decisions of the European Council.

languages of the European Union. In the next paragraphs, I will describe the extent to which, in creating sources of information, the Office of the European Council President makes use of the most recent mass communication technologies and trends. I will also look at their implications for the transparency requirements (Official Journal of the European Communities 2001 Article 3; Council Document 2008; European Commission Document 2011).

The section of the European Council website dedicated to the Permanent President's activities, apart from outlining the office's institutional legal basis and listing its staff, includes a Press Releases rubric, whose postings consist of the correspondence of the former with the members of the Council, statements on meetings with member-state and foreign dignitaries, and declarations and speeches<sup>162</sup>(including its introductory statements at the opening of European Council summits). These events are the only instances of communication with the European publics in which the President offers an account of his activity. The nature of the publics addressed by the President in these communications is not representative of the socioeconomic variety of the EU peoples. Indeed, the President's audience includes only<sup>163</sup> business leaders, academics, elite representatives of interest groups/civil society organizations, and university students (European Council Website 2014a).

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<sup>162</sup> All speeches and addresses before political institutions (such as the European Parliament), think tanks and Universities, at various gatherings, Congresses, and thematic Conferences, are grouped under one rubric (Speeches).

<sup>163</sup> Moreover, when browsing the activities' agenda of the Permanent President, business associations, chambers of commerce, think tanks and universities taken together outnumber all other types of civil society organizations.

Two other rubrics cover smaller fields of operations (Eurozone Governance<sup>164</sup> and International Summits<sup>165</sup>) in which the President is a protagonist. At the end of every year, the Permanent President's Office issues a brochure entitled "The Permanent President in... (followed by the year)." The brochure offers an account of the policy-making process at the European Council level by dwelling on the content of the policies and decisions rather than on the policy process. There has been one such brochure every year since the first volume published at the end of 2010 (European Council Website 2014b, 2014c, 2014d, 2014e and 2014f).

The Permanent President's venture with transparency also extends to the interactive social media (Facebook, Twitter) and video libraries like YouTube, all of them contained in a section of his website entitled "Ask Me." This interactive forum is a phenomenon that sets the Permanent President apart from his pre-Lisbon predecessors. Anyone may ask questions, either by video or text. There is a Video Library in the "Ask Me" section containing the Permanent President's answers. A "Frequently Asked Questions"(FAQ) sub-section contains videos with the answers to questions recurring more frequently (such as what happens in the European Council? What is the EU for?). The sequence of a video (two and a half minutes on average) consists of an interviewer (likely a Council staff member) posing a question to the President on behalf of a person (e.g., Jonah, Elias, etc.), which the President then addresses. The questions typically concern the dynamics of the decision-making process in particular

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<sup>164</sup> The rubric on Eurozone Governance consists of President's own Reports and Issue Papers in the area, but also descriptions of policy instruments and European Council agreements on the Euro.

<sup>165</sup> The information in the rubric on International Summits is on out-of-EU Summits and EU Summits with third countries and is a source of good learning about the position of the Permanent President in the field of foreign policy.

areas, the state of the European economy in the context of global competition, or the President's beliefs and working style. However, it is quite difficult to evaluate the state of responsiveness when analysing this venue for accountability. The criterion used by the President's Office to select a question for response is its popularity among web-users based on the number of thumb-ups it receives (European Council Website 2014g).

The only still-existing website from the pre-Lisbon era is that of the German Presidency of the Council.<sup>166</sup> Although the Swedish and Belgian Presidencies had an official online address, the information contained within their sites has disappeared. What is typical of the pre-Lisbon Presidency sites is their language restrictiveness, which means that rather than providing the information in all the EU's official languages, they supplied it in only three languages: the official language of the country holding the Presidency, French, and English, thus making the sites inaccessible to Union citizens who did not know those languages.

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<sup>166</sup> The information contained in the website (at least in the 2007 German Presidency, the only one found) may be categorized in four groups, (1) summit documents and press releases (including the European Council meetings), (2) documents and press releases from the meeting of the Councils, (3) the Presidency program, and (4) special events, activities and initiatives with the European Council or the Council of Ministers. The documents dealing with the activity of the Council (and European Council) outline and interpret the content of decisions, while the process is summarized without detail (i.e. without hinting at the debates and peculiar member-state preferences). Moreover, a number of special events, initiatives or programs generating from the interaction between the government holding the Presidency and their citizens were available in detail only in the official language of the Presidency incumbent with a short explanation in English and/or French (German Presidency Website 2007).

### Transparency through the press

Another source of transparency for the Presidency that is outside the jurisdiction of Regulation No. 1049/2001 is the press (both European and national). European news portals like *Euroactiv*, *Euroobserver*, or the *European Voice* (now *Politico Europe*) are primarily concerned with covering the European Union. The President of the European Council and/or the rotating Presidencies thus have a central place in their reports or analyses. However, these outlets' audience is restricted to fluent English, French, or German speakers interested in the EU. The press at the national level is more accessible to a larger public, which is why, in the next paragraphs, we investigate the coverage of the Permanent President and of the pre-Lisbon rotating Presidencies in these outlets.

To the extent that the EU is present in the press, so is the President of the European Council. For newsmakers and opinion-makers across Europe, Herman Van Rompuy was part of the EU's institutional configuration. In three newspapers that I reviewed (*Le Monde*, *Die Zeit*, *La Repubblica*), all three being important news sources in their home countries, the frequency with which Van Rompuy appeared varied, typically ranging from one to four times a month, but sometimes three or four times on a particular day. He would receive particularly heavy coverage during European Council summits, during his visits to the newspaper's country, or when EU foreign and defense policy issues were at stake. In the overwhelming majority of the cases, the Permanent President is not the main actor, and the media cites his name and actions among those of other institutional figures. In fact, the German Chancellor and French President generally overshadow him (*Le Monde* 2013a, 2013b, 2013c, 2013d, 2013e, 2013f, 2013g, 2013h, 2014; *La Repubblica* 2012, 2013g, 2013h, 2013i, 2013j; *Die Zeit* 2013a, 2013b, 2013c, 2013d, 2013e, 2013f).

Similarly, the press did not ignore the member-state Presidencies of the Council. A newspaper review on the 2007 German Presidency for the purpose of this dissertation and another one compiled by Bjuruf (2001) on the 2001 Swedish Presidency show that newspapers report in depth the stream of events that lead to decisions. Moreover, interest in and attention to the Presidency's deeds and plans are not limited to the newspapers of the member-state holding the Presidency. For instance, *Le Monde* or Belgium's *Le Soir* gave as much publicity to the German Presidency of 2007 as *Die Zeit*, *Die Welt*, or the *Frankfurter Allgemeine Zeitung*. The Constitution Treaty (including the Berlin Declaration) and the Climate-Energy dossier were prominent cross-border<sup>167</sup> titles (*Frankfurter Allgemeine Zeitung* 2007a, 2007b, 2007c; *Le Monde* 2007a, 2007b, 2007c, 2007d, 2007e, 2007f, 2007g; *Le Soir* 2007a, 2007b, 2007c, 2007d, 2007e, 2007f, 2007g, 2007h; *Die Zeit* 2007a, 2007b, 2007c, 2007d, 2007e, 2007f, 2007g, 2007h; *Die Welt* 2007a, 2007b, 2007c, 2007d, 2007e, 2007f, 2007g, 2007h, 2007i).

During the 2001 Swedish Presidency, Swedish newspapers (*Dagens Nyheter* and *Svenska Dagbladet*) touched on the most important issues, such as enlargement, transparency, and foreign relations, from the perspective of the Swedish state as an EU member either by praising the government (in foreign relations) or criticizing it for not having done more (with respect to transparency). On the other hand, foreign newspapers (e.g. *Le Monde*, *Le Figaro*, or the *Frankfurter Allgemeine Zeitung*) wrote on the areas of the Presidency's action<sup>168</sup> with

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<sup>167</sup> Outside these commonalities, the non-German newspapers brought to attention the bilateral relations between the German Presidency and the head of state or government (Chirac, Verhofstadt) and the Foreign Relations elements of the Presidency agenda (relations with Russia). The German newspapers, on the other hand, dealt also with internal organizational issues and the government's prerogatives in the framework of the Presidency.

<sup>168</sup> Transparency, enlargement, environment, employment.

little or no focus on the Swedish Presidency. It was only in discussions of the transparency regulations that the emphasis on the Swedish Presidency became more pronounced. Generally, in the opinion of both the Swedish and non-Swedish press, that Presidency was an outstanding manager (Bjuruf 2001).

#### Interim conclusion: Transparency

Transparency legislation is an indispensable instrument in upholding citizens' right to information about EU institutions' policymaking and decision-making processes. The Lisbon Treaty has imposed a transparency obligation on the European Council. The Council is bound by the provisions of Regulation 1049/2001 and the Lisbon reform amendments. The Permanent President, even if not mentioned explicitly, is seen in the eyes of the law as one of the Council's subdivisions. Yet this assumption, which is incorrect in the first place, has the potential to undermine the spirit of the law itself, since the lack of a specific transparency provision for the President of the European Council may give rise in the future to recalcitrant or selective attitudes with respect to the application of Regulation 1049/2001. As of this writing, online information from the President's Office is detailed on the content but cautious about disclosing the subtleties of the decision-making process. Its use of the most sophisticated interactive technologies is praiseworthy. Moreover, being part of the EU institutional complex, the Permanent President has to communicate with the public in all the EU's official languages, which makes for better access. Yet, there are still loopholes in the legislation that allow EU communications officials considerable discretion in choosing which questions get answered. Of particular note here is the method used to select questions for the "Ask Me" rubric. Still, with respect to transparency, communication, and reach, the

Permanent President's Office represents an improvement over those of the rotating Presidencies.

The rotating Presidencies before Lisbon utilized the interactive technologies to a far lesser extent and communicated with the public in only a few languages. On the other hand, the Permanent President's face-to-face interactions are limited to a few elite constituencies. In sum, the virtual or face-to-face fora of social accountability<sup>169</sup> have become permanent and diversified. However, with regard to quality, they are deficient, intransparent (the virtual fora), or biased (the face-to-face fora).

The press has also made the Presidency (both before and after Lisbon) visible through the coverage of specific events and issues. Moreover, the primacy of national politics is also important for the selection of those facets of the President's activity that the press will expose. Finally, the focus before 2010 was on the Presidency rather than on the President.

### Electoral accountability

Since the coming into force of the Lisbon Treaty, the European Council's Permanent President has not concurrently been the head of state or government of the country holding the Presidency. Therefore, he is not accountable to a national public via election. Nevertheless, this does not mean that he is absent from national electoral discourse. In a review of three newspapers (*La Repubblica*, the English edition of *Ekathimerini* and *El Pais*<sup>170</sup>), I found that with regard to accountability, party leaders, including current or previous

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<sup>169</sup>Those that enable the linkage between the Permanent President and the ordinary citizens or civil society representatives.

<sup>170</sup> I chose these newspapers because the countries in which they are published are those (along with Ireland) most gravely hit by the crisis, and, hence, the European institutions are quite influential in steering home politics.

Prime Ministers running for election or re-election, saw Van Rompuy as a representative of governance at the EU level. Through meetings with him, participation in European Council summits, or statements about him, national party leaders have sought to convey a positive message about themselves to their electorates, either by demonstrating the degree of credibility they enjoy with the European institutions, showing their seriousness in standing up for their countries' best interest (Italian Prime Minister Mario Monti and Greek Prime Minister Antonios Samaras), or establishing their status as the sole defenders of national sovereignty against the incursion of EU power figures "unknown" to the national electorate (Berlusconi). In the next chapter, I will look further into the interaction between national politicians and the European institutions, with particular emphasis on the Permanent President of the European Council (*Ekathimerini* 2012a, 2012b, 2012c, 2012d, 2012e, 2012f, 2012g, 2012h, 2012e; *El Pais* 2011a, 2011b; *La Repubblica* 2013a, 2013b, 2013c, 2013d, 2013e, 2013f).

If electoral accountability has lost its significance with a European President, it will be interesting to learn whether it had some salience before the Lisbon Treaty. To answer this question, we need to know to what extent governance at the EU level (at the time of the Presidency) affected the party-electorate relationship in the election campaign following the half-year Presidency. The next paragraphs take up the post-Presidency electoral processes in the four countries (France, Sweden, Belgium, and Germany), examine the programs of the government parties with a view to tracing in them the experience of the Presidency, and inquire whether the latter motivated electoral choice. In two (France and Germany) of the four case studies, the two largest political parties were involved in the management of the Presidency. In France, the cohabitation of a centre-right President (leader of the RPR) with a centre-left government translated into a cooperative management of the Presidency. In

Germany, the half-year Presidency was managed by the Grand Coalition government between the Christian Democrats and the Social Democrats.

In France, the Presidential elections occurred just under one and a half years past the end of the French Presidency of the EU.<sup>171</sup> The management of the French Presidency was of no consequence to the French voter in 2002. While the Prime Minister's party (Le Parti Socialiste Français) underscored the government's success on the employment front (this having been a theme of the Presidency), it failed to reiterate the solutions highlighted in the Presidency's program.<sup>172</sup> On the other hand, the platform of the incumbent President Jacques

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<sup>171</sup> The program of the French Presidency of the European Union had developed around three axes, growth and employment, a Europe closer to the citizens, and a more effective and powerful European Union. On Growth and Employment, the French government put its emphasis on the potential of information technologies for such purpose. A Europe closer to the citizens encompassed a range of policies from healthcare and environment to security and defense. A more effective and powerful EU entailed institutional reform and the entrenchment of the Charter of Rights and Freedoms. It was only during the European Council of Nice that the French government fell short of its expectations and promises as manager of the work of the Council (Documentation Française 2008).

<sup>172</sup> On its main socio-economic theme (the European Social model), the 2000 French Presidency program contained a similar approach to what the French Socialist government had acted on at the national level with the 1997 election platform "La France qui change". However, the idea of working time reduction (the 35-hour-week), a prominent feature of the 1997 program, did not appear in the employment chapter of the Presidency. The French Presidency iterated the exchange of "good practice" without privileging the particular method that it had advocated at home (the 35 hour week). In synch with its 1997 electoral program, it focused on themes like business/employee adaptability, investment in human resources, lifelong learning and local employment (on which the Presidency organized a Conference). Moreover, in harmony with the program and campaign, it gave prominence to the interaction between economic/employment and social policies (protection of individuals, inequalities reduction and social inclusion). Indeed, the focus, at the national level, on youth-targeting

Chirac<sup>173</sup> only scantily alluded to the fight against social exclusion (Archive RFI 2002a and 2002b; Rassemblement Pour La Republique Document 2002; French Socialist Party Document 2002) . With respect to electoral accountability, by keeping the Presidency and its themes out of their platforms, the French political parties intentionally or unintentionally sheltered them from public debate and criticism.

On the other hand, Europe as a standalone item was the last item in the list of Chirac's achievements (e.g. bringing France to the heart of the European project, the decision leading to the creation of the Euro). For Chirac, Europe was little more than a site in which he prided himself for having flown high the French flag. Europe occupied a marginal position even in the Socialist platform for the Presidential and legislative elections of the year 2002, and only insofar as the decisions taken at that level contributed to domestic employment and growth or to the preservation of the social state. Neither Chirac nor Jospin (PSF) listed the Presidency of the year 2000 as a valuable accomplishment. The outcome of the vote, illustrated by the rise of the Europhobic Jean Marie Le Pen as a second-round candidate, Chirac's comparatively poor result, and Jospin's ousting from the second round, signalled a general feeling of discontent with the EU (Archive RFI 2002a and 2002b; Rassemblement Pour La Republique Document 2002; French Socialist Party Document 2002) .

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employment policies or on securing the autonomy for the aged people resurfaced at the European level (Eurobond, 2000; French Socialist Party Documents 1997a, and 1997b).

<sup>173</sup> Chirac was Presidential candidate for the Rassemblement pour la Republique, the party representing the official opposition to the governing Socialists.

In Germany, the federal elections occurred in September 2009, more than two years after the German Presidency of the Council<sup>174</sup> in the first half of 2007. The Presidency had been characterized by a slightly pro-market bias, a bias that the Grand Coalition parties had come to embrace throughout the decade leading to the 2007 Presidency (CDU/CSU<sup>175</sup> Document 2005, pp. 9-23; SPD<sup>176</sup> Document 2005, pp. 17-23; Ochel, 2005). However, in 2009, the situation had changed. With an emerging financial crisis, the topic of the German Presidency of the Council had either morphed into larger questions (like that of energy, for instance) or retreated further down the list, like Transatlantic-US/German- relations. On the other hand, some of the ideologically-driven issues (e.g. competitiveness, liberalisation, bureaucracy abatement) that had underpinned the Presidency's themes had either become peripheral or disappeared altogether. The CDU/CSU "Wir Haben Die Kraft" (We Have the Power) platform

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<sup>174</sup> The programme of the German Presidency embodied continuity (Constitutional reform, The Doha Round Negotiations, the Lisbon Strategy, the EU-Russia relations) and originality (the unusual marriage of climate and energy policies, transatlantic relations, the Middle Eastern Peace Process). What supplied the logic of the management in these areas was a Weltanschauung that had permeated the mainstream German politics (both centre-left and centre-right parties) for almost a decade. The introductory account of Chancellor Merkel before the Bundestag (1st of March, 2007) is an illustration of this point. Merkel's path to social cohesion was job-creation, and the path to job-creation was growth, productivity, competitiveness, smaller government and the liberalization of the world trade. Just to provide a concrete example, the German ECOFIN chair had proposed the harmonising of the direct taxes as a step towards a common tax basis.

<sup>175</sup> This acronym stands for Christlich Demokratische Union Deutschlands und Christlich-Soziale Union in Bayern, translated in English as the Christian Democratic Union of Germany and Christian Social Union of Bavaria.

<sup>176</sup> This acronym stands for Sozialdemokratische Partei Deutschlands, translated in English as the Social Democratic Party of Germany.

took a more social, solidarity-driven tone as it sought to map a way out of the crisis. The platform devoted a special section to the necessity of new European and national measures and rules directed at the financial markets and the world economy. On past policies, the program listed as government achievements the balanced budget, the reduction in unemployment, family-friendly policies, and advances in research and education. Much as in Chirac's 2002 Presidential platform, Europe, as an arena of decision-making, constituted an achievement only insofar as the government had been able to assert its national interests at that level (CDU/CSU Document 2009 pp. 5, 8-13 and 27).

The German Social Democratic Party (SPD) platform (Sozial und Demokratisch. Anpacken Für Deutschland) was even more explicit in inviting a critical reflection on the root causes of the crisis (the people not profits at the centre, an economy for the people not vice-versa). This reflection permeated every part of the centre-left's economic program. However, except for energy, the remainder of the SPD's platform dealt with the other issues of the EU Presidency program<sup>177</sup> either by pushing them to the periphery or by considering them through a novel approach (e.g. the proposal for a reordering of the architecture of global finance) (German Social Democratic Party Document 2009, pp. 5, 82, and 89).

Generally, the German citizens chose to punish their government neither for the economic situation nor for its performance at the European level. The voters who had been affected by the crisis tended to vote for the parties outside the Grand Coalition, especially the Left Party. Conversely, those who had done well tended to vote for the government parties. Moreover, the image of Merkel as a strong leader and crisis manager contributed to the CDU/CSU's win over the SPD (Rohrschneider, Schmitt-Beck and Jung 2012). For its part,

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<sup>177</sup> These issues were competitiveness, world trade liberalization, and transatlantic relations.

most of the policy areas, concerns and events that the 2001 Belgian Presidency of the Council of Ministers had to grapple with were European (e.g., the constitutionalization of the EU, enlargement, the Euro, postal service liberalization) or international (e.g., terrorism, the 9/11 attacks, conflict prevention in Africa's Great Lakes). The issues raised during the elections of May 2003 had nothing to do with the ideas, topics, and deliberations of the Presidency. Employment, security, and taxes were front and centre in the campaign. The government that had managed the European Union in the second half of 2001 was a heterogeneous alliance of Liberals, Socialists, and Ecologists who were ideologically quite distant from one another. The party programs in the wake of the 2003 federal elections echoed this diversity. For instance, the Liberals (Verhofstadt's Flemish *Vlaamse Liberalen en Democraten* and its French counterpart) and the francophone *Mouvement Reformateur* campaigned on a platform of lower taxation, a market-friendly environment for job-creation, the importance of encouraging individual enterprise, and the fight against criminality. Meanwhile, the francophone Socialist Party (PS) and the *Ecolo* converged to the left against the rising tide of neoliberalism, emphasizing the preservation of the role of the state through cooperation between public institutions and the economic and social actors. Overall, the European Union occupied only a peripheral place in all the parties' programs. Yet the 2003 *Vlaamse Liberalen en Democraten* (VLD) platform explicitly indicated the Laeken Declaration as a landmark achievement of the Presidency period (Van Assche 2003; *Flemish Liberal and Democrats Document 2003*; Delwit and Van Haute 2003; Delwit 2012).

On policies pursued during the Belgian Presidency, secessionist parties like the *Vlaams Block*, much as they had done during the Presidency, harped on the stringent conditions that Belgium should have proposed to be attached to the enlargement process. Christian

Democrats, Socialists, and Greens pointed to the underdevelopment of the EU's social policy and feared the emergence of a "liberal Europe" where public services would disappear through privatization. Yet the Socialists and Greens had been members of the coalition government that had joined, during the 2001 Presidency, those member-states favouring postal service liberalization. Parties, moreover, disagreed on the Common Agricultural Policy (CAP), some of them (e.g. Christian Democrats and francophone parties) supporting protection for farmers while others (Safe Blue) favoured the scrapping of subsidies. Ethnic and Eurosceptic parties like the Vlaams Block and the New Flemish Alliance advocated the splitting of the Belgian vote in EU institutions along linguistic-community lines (Van Assche 2003).

On May 18, 2003, a majority of Belgians voted for the Socialist family (Wallonia's PS and Flanders' Spirit), while giving the Liberals a share of seats that could not outnumber those of the Socialist family. However, the improving performance of the Eurosceptic Vlaams Block<sup>178</sup> and Ecolo's inability to meet the seat allocation threshold implied a degree of dissatisfaction with the government parties (Van Assche 2003).

The 1998-2002 Swedish government that held the Presidency during the first half of 2001 was a coalition of three parties: the Social Democratic Party of Sweden (SAP), the Green Party, and the Left Party. Historically, all three were Eurosceptic. The Social Democratic Party opposed a federal Europe, and only the party elite had warmed up to the idea of integration. The Green and Left parties preferred a Swedish withdrawal from the EU. Likewise, a majority of the Swedish citizenry opposed the country's membership in the

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<sup>178</sup> A party that the mainstream Liberals, Christian Democrats, and Socialists have tried to keep out of the government.

European Union. The hostility towards the Union was strongest among the least well-off, and the Swedish Presidency of the European Union was an opportunity for the centre-left government parties to convince rank-and-file Eurosceptics that Europe could be appreciated as a new window for their traditional objectives rather than a threat to them (Aylott 2002a).

With two powerful Eurosceptic allies--just a few months before the Presidency, the Left had mounted a campaign against the Euro--the largest government party, the Social Democrats, had to be very careful about its choice of Presidency priorities. In the end, the Swedish Presidency had to settle on the three Es (Enlargement, Employment, and Environment). Employment, which was at the core of the three parties' platforms, was an issue that the Swedish Presidency sought to promote and develop at the EU level. Environment was also a centrepiece of the centre-left and left political platforms. Enlargement was an issue of little political salience in the relationship between the three parties, since all favoured the Central Eastern European (CEE) states' incorporation into the Union. On other issues of high political salience for inter-coalition relations like the Economic and Monetary Union, the Presidency remained passive. Last but not least, by restarting legislative activity on the EU's transparency rules (after a year of stalemate since the 1999 Finnish Presidency), the Swedish government sought to promote at the EU level the standards of its domestic public sphere (Aylott 2002b).

In the 2002 election manifesto of the Social Democratic Party,<sup>179</sup> the European Union (let alone the Presidency) was not mentioned at all. The EU (but not the Presidency) was only given one section in the party program adopted at its November 2001 congress, which looked

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<sup>179</sup> When outlining its record in government, the Swedish Social Democrats' emphasis was on a strong economy, high growth, low unemployment, and Persson's leadership.

at the European Union as a level of governance for reaching programmatic objectives (Sweden's Social Democratic Party Document 2001, pp. 32-33; Sweden's Social Democratic Party Document 2002). On September 15 2002, the Swedish people confirmed the Social Democratic/Green/Left government for another four-year term. A Swedish Television poll revealed that the number one priority informing voters' decisions had been the school system and education, while immigration ranked twelfth and the Economic and Monetary Union (actually opposed by a majority of Swedes) was fifteenth on the list (Aylott and Nicholas 2002a). Obviously, the interval between the Presidency term and the elections may serve to diminish the impact of the Presidency's issues and events. Whatever a government had or had not accomplished in its capacity as Council President may either not have registered or may have faded in voters' minds by the next election cycle. What usually stays relevant for public opinion are general orientations towards the EU--single issues tend to lose their salience.

#### A concluding statement on electoral accountability

The Permanent President is not electorally accountable to the citizens of Europe, while the party leaders of the rotating Presidency were electorally accountable only to the citizens of the state holding the Presidency. Yet electoral accountability at the national level suffered to the extent that the Presidency's topics and programs were either marginal campaign issues or had disappeared.

In national electoral campaigns, the Permanent President embodies the European Union and becomes relevant only insofar as party leaders incorporate the EU and him as President of the European Council in their electoral strategies. He also becomes visible or relevant to the

extent that the press gives publicity to the interaction between national leaders running in elections and the EU's representatives. On the other hand, the EU (in general) and the half-year Presidency of the Council of Ministers either had a lower profile or were simply not included in those parts of the program dealing with the record of the government (and leader) seeking re-election. Overall, the mechanism of electoral accountability not only inhibits the public from changing European policy through vote (Lord 1998, p. 93), but may even prevent it from penalizing a government over its performance at the EU level as President or member of the Council. Because the EU is far from the surface and the spotlight is on domestic issues, national elections generally confirm the mainstream parties, which indiscriminately and unequivocally support EU policies. In other cases, mainstream parties may refrain from promoting a course of action if the national publics of their country are skeptical or opposed to it (e.g., the Swedes on the EMU). At times, the public may reward protest parties, but the latter never produce a strong government of alternative EU policies. Moreover, even in countries like Belgium, where there is discussion on EU policies during the campaign, we cannot trace a discourse linking these policies to the government's performance as President of the Council.

## **Conclusion**

How has accountability changed over time, particularly since Lisbon? What has improved in terms of accountability? What has been lost?

Undoubtedly, in terms of Treaty-entrenched procedures, there is an improved principal-agent relationship. The Council's leaders can now elect, re-elect, or remove the Permanent President. This was not the case with the rotating President. In terms of political process, the

agent-principal relationship has also experienced improvement. The principals (members of the Council) and other national representatives are more in control of the policy-formulation stage, a control facilitated by the elimination of the European Council Presidency's "double-sitting" (in Brussels and in one of the European capitals, as was the case under the old regime). In terms of the efficiency-accountability relationship, the office of the Permanent President does away with the conflict of roles, which improves both efficiency and accountability.

The relationship of the President of the European Council to the European Parliament shows improvement (albeit not substantial) when compared to the *modus operandi* before the Lisbon reform of the Treaties. There is an explicit requirement that the Permanent President report to the European Parliament, something that the pre-Lisbon Rules of Procedures had not required. The 2009 Rules of Procedure also describe the Permanent President as an officeholder for the European Council, not as part of a Presidency structure. Hence the President cannot delegate his reporting duties to a lieutenant, such as the foreign minister of the national government, and must personally attend the sessions after each European Council summit. Moreover, there is a focus on one topic (Economic Governance), which enables the account-seeker to do a more complete job of holding the Permanent President to account. Generally, the division of tasks between the two Presidencies has helped both efficiency and accountability, especially, the power and the capacity of the European Parliament as an account-seeker. Yet the quality of the account-giving process (that is, the approach of the account-giver vis-à-vis the statements of the account-seekers) has

stalled at stage three,<sup>180</sup> in which praise spurns criticism and justification trumps reflection. The fact that the relationship between the President of the European Council and the European Parliament is not an executive-legislature relationship and that the former does not consider the European Parliament as one of his principals prevents the latter's account-giving from being more acquiescent to the EP.

At the Committee level, there is no tradition of account-giving by the European Council President. Even with respect to the European Semester and Economic dialogue or the Monetary dialogue (areas of central concern for the European Council), the main institutional interlocutors with the EP's Economic and Monetary Affairs Committee are the Commission, the chairs of the legislative Councils, and the Presidents of the Eurogroup and the European Central Bank. The practice of the Interparliamentary Week is a positive development to the extent that it brings together the PP and the representatives of the national parliaments in an arrangement that resembles a deliberative forum.

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<sup>180</sup> It is useful at this point to remind the reader of the six stages of accountability articulated by Van De Steeg (2007), which we outlined earlier in this chapter. Stage one involves the account-giver's presence in the plenary. Stage two involves the account-giver's articulations and explanations concerning his position and other institutions' roles without focusing on the issues raised by the plenary. Stage three consists in a general response by the account-giver to criticism in the form of denial of both criticism and problem definition as well as justification of his or her approach. Stage four involves a general response by the account-giver to criticism in the form of acceptance of criticism and/ or acknowledgment of wrongdoing and/or addressing an issue from a previous hearing in the next. Stage five involves a response to the appeal or criticism of a particular MEP. Stage six involves the account-giver's treatment of an issue or a number of issues unsolicited by the plenary.

Since the separation of the Presidencies,<sup>181</sup> member-state parliaments have been unable to oversee the President of the European Council. The only option left to national parliaments is that of holding to account their government representatives in the European Council, and even then only to the extent that constitutional architecture and parliamentary practice permit it. The argument of this chapter is that, in spite of some trends inhibiting the process (the domination of majoritarianism, the lack of a genuine question/ answer exchange), the Presidencies' exposure to their home parliaments was an exercise in democracy and an additional layer of governance in which European interests occupied a preeminent place. With a European President chairing the European Council, national parliaments can no longer monitor the Prime Minister or the government in that segment of policy-making. This strengthens the de-parliamentarization thesis.

Like the Interparliamentary Weeks, COSAC connects the supranational President and national parliamentarians. Yet neither the Interparliamentary Week nor COSAC is a reliable accountability arrangement; neither can compensate for the national parliaments' withdrawal from the area concerning the European Council's agenda-setting and decision-making. In this respect, the Lisbon reform has led to tension between efficiency and accountability. On the one hand, there is better cooperation at the supranational level between the President of the European Council and those institutions whose primary mission is efficiency, namely the Commission, the ECB, and the Eurogroup Presidency. On the other hand, the European Council Presidency is no longer accountable to national parliaments.

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<sup>181</sup> A rotating member-state Presidency chairs the Council of the EU and a European Permanent President chairs the European Council.

Historically, the national judiciaries were strong actors in the account-seeking process, compelling their governments to be more efficient and, at the same time, more transparent and democratic. This is not the case for the European judiciary. For instance, there is an efficiency-accountability dilemma in the relationship between the Permanent President and the European Court of Accounts. The Treaty has created a supranational Presidency with its own resources. However, the Court of Accounts has not made any statement or written any report pertaining to the manner in which the PP's Office manages its budget.

Since 2001, transparency rules have bound the Council to make accessible to citizens all legislation-related documentation except for documents containing internal consultations and deliberations. However, the regulation is silent about European Council President's duties in this regard. As for institutional practice, the information and interactive technologies represent important vehicles for communicating with the public. The more languages they use to convey their message, the more accessible they are to the larger public. The Permanent Presidency exceeds its rotating predecessor in the diversity (and reach) of communication tools.

New forms of accountability are becoming prominent, in deference to the market and direct communication to the citizens through the media. Deference to the market endangers the democratic process, while social accountability through the media enhances it. Still, the forms of direct communication to the citizenry involving the Permanent President hardly meet the criteria of inclusiveness and transparency, criteria that are so essential to the democratic process.

Finally, the Permanent President is not elected by the citizenry but appointed by the members of the European Council through a Qualified Majority vote. Hence, he does not

return to the citizens for re-election. The removal of the PP from the electoral process bolsters the democratic deficit at the EU level. On the other hand, the rotating Presidency was (and is) a government elected by the citizens which returns to them for re-election, even if the Presidency period of a Prime Minister or government had no effect on his re-election or defeat.

## **CHAPTER 5: DELIBERATION**

### **Introduction**

The fifth chapter will deal with deliberation (as it has been defined in the first chapter and as it will be defined in the methodology section of this chapter). Deliberation is vital to the democratic process, because it not only produces excellent decision outcomes and guarantees the parity of the participants in decision-making (reciprocity and mutual responsiveness), but also encourages participants in the decision-making process to abandon selfishness and strive for the overall benefit of the project or polity they have joined.

The European Council President is a chairman, the person who manages the Council's agenda, the EU personality who interacts most frequently with the members of the European Council, and the moderator of European Council meetings. In this last capacity, the Permanent President elaborates the procedures necessary for the completion of the European Council's work. In this context, forms of deliberation that lead to consensus are superior to other alternatives such as majority vote or bargaining.

### **Main arguments of chapter**

Formally, the chair's duties as forum moderator have not changed substantially, except for the Permanent President's supplementary responsibilities in the supervision of fora outside the European Council and his absence from the legislative Councils. Likewise, the methods for stimulating dialogue have not changed.

With the Permanent President, a degree of centralization and restrictiveness of the processes involving deliberation has taken place. Three factors explain this pattern: (1) the

decisions of the European Council; (2) separation of the rotating Presidency of the Council of the EU from the Presidency of the European Council; and (3) the EU's exceptional situation (the Euro crisis).

What also distinguishes the Permanent President from the rotating Presidency is his focus on methods and fora and a lack of reference to frameworks. There is limited transparency in the fora supervised by the Permanent President. These fora are not visible or accessible to citizens, nor are there transcripts of their sessions.

### **Chapter outline**

In the next section, entitled “Methodology,” deliberation is conceptualized through the theoretical work of a number of authors. Particular attention is paid to the forms, methods, and frameworks, which will serve as analytical tools in the empirical sections (Sections 2-5).

Sections 2 (The Permanent President as Chair of the European Council) and 3 (The Permanent President beyond the European Council) look at two facets of the President, the first relating to his regular Treaty-entrenched tasks and the second, to a set of extraordinary roles that he has been assigned to since 2010. The purpose of these sections is to explore the extent to which these fora have a deliberative capacity and the extent to which the Permanent President, in the exercise of his duties, promotes deliberation.

Section 4 (The Rotating Presidencies and Deliberation) goes back to the Pre-Lisbon era and looks at the conduct of the Rotating Presidencies. Electoral politics is also discussed in this dissertation (see previous chapter), but it is treated as separate from the Presidency, and therefore is not included in the analysis of the deliberative character of the processes leading to the Presidency.

Section 5 will bring together the findings of the sections two, three and four in a concluding statement. In this section, we compare and contrast the Permanent President and the rotating Presidencies by referring to the principles and forms of deliberation.

### **Methodology**

Deliberation means reasoning among equals. The parties are required to state their reasons for advancing their proposals and claims in permanent fora for the purpose of coordinating their action by way of agreement and resolving the political questions. Deliberative association is pluralistic. Parties have diverse preferences, perspectives, and ideals and recognize each others' deliberative capacities. The requirement to present reasons will lead to a commitment to a resolution of the political questions grounded on deliberation, which, in turn, may persuade the deliberative actors to act sincerely when presenting their preferences. The requirement for deliberation may even shape the actors' preferences once they become aware of their inability to offer persuasive reasons, acceptable to others, that serve the common good. Actors accept deliberation as source of legitimacy, and they agree on the preconditions for deliberation and model the institutions of collective decision-making on the ideal deliberative procedure. The outcome of the process—decisions--binds them by virtue of the procedural safeguards of deliberation. Ideally, the outcome of the process should be a rationally-motivated consensus, since the actors' primary purpose is communicative action, that is, an interaction that seeks to make sense of a situation and bring about the actors' frame coordination.<sup>182</sup> In the absence of such consensus, majority vote is the last resort. Internally,

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<sup>182</sup> An individual's or a statesman's frame is a preference system. In this system, preferences are rank-ordered and the individual's or statesman's number one preference informs his position in the negotiation or in the forum's

the process aims at the formation and transformation of the actors' preferences, and since the idea of the public good underpins the debate, selfish arguments should become irrelevant to the point that, ultimately, actors will discard them. To the extent that preference formation and transformation are the product of deliberation, they cannot be determined by external circumstances, and no force other than that of the good argument counts. The concept of deliberation outlined above is premised on what sociologist Jürgen Habermas defines as Communicative Action (CA). CA aims at achieving agreement premised on a common understanding about the definition of a situation and the norms applying to it. Dialogue is crucial for reaching this agreement and, as we saw in the first chapter of this dissertation, Communicative Action provides a guide to the participants in dialogue on how they must employ the language, deal with their validity claims and relate to one another. (Habermas 1981, pp. 85-86 and 273-337; Habermas 1987, pp. 43-113; Cohen 1989 and 1996; Deitelhoff and Müller 2005, p. 168).

Deliberation stands in contrast to bargaining, a mode of interaction that undergirds the Social Choice Theory (Habermas uses the concept of strategic action). Agents in Social

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deliberations. Frame Coordination is an agreement between individuals with different frames and it is achieved through an argument-based discussion. In the process of coordination, the participants in the argument-based discussion build understanding and empathy and come to accept each others' frame or, through persuasion, adopt the other's frame or, otherwise, establish a common frame (for further clarification see Druckman 2011).

<sup>182</sup> Preferences are considered complete when an agent is able to consider an alternative to be at least as good as the other for any possible pair of choices that are presented to him, preferences are considered ordinal when an agent prefers an alternative to another without being able to measure the intensity of that preference, preferences are considered transitive when it assumed that when an agent prefers alternative one to alternative two and alternative two to alternative three, he will, then, automatically, prefer alternative one to alternative three.

Choice Theory have preferences that are complete, ordinal, and transitive.<sup>183</sup> The agents are equal and autonomous,<sup>184</sup> decisive in their preferences and reluctant to change them. The outcome of the exchange between agents is the aggregation of the preferences. Each of the agents pursues an end that informs his decisions on the alternative courses of action and his behaviour towards other agents. The most common behavior in strategic action is the exertion of influence, either by deception, promises, or threats. In this chapter, however, we do not evaluate the extent to which bargaining and deliberation overshadow each other, but rather look at the predisposition and ability of the Presidents (rotating and Permanent) to promote deliberation (Elster 1986; Habermas 1987, p. 196; Miller 1992; Deitelhoff and Müller 2005, p. 168).

It is important at this point to bring up Habermas' distinction between "work" and "interaction" (Habermas 1970, pp. 91-93). This distinction is nothing more than the distinction between purposive-rational action and communicative action. It is the distinction between the concepts of "work" and "interaction" that determines whether some issues are more amenable to deliberation than others. By work or purposive-rational action, Habermas means instrumental action governed by technical rules. These technical rules are based on empirical knowledge expressed in the form of true and correct propositions. By interaction, he means communicative action governed by consensual norms that define actors' reciprocal

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<sup>184</sup> In both a deliberative as well as in a bargain-driven setting, agents/actors are equal and autonomous.

expectations about behaviour. The validity of social norms is grounded in the “intersubjectivity of the mutual understanding of intentions and secured by a general recognition of obligations.” The function of communicative action is the maintenance of the institutions’ conformity to the norms, a conformity buttressed by reciprocal enforcement. The function of purposive-rational action is problem-solving (goal-attainment defined as a means-end relationship). In criticizing the use of technology as a medium for dominating nature, Habermas chastises contemporary elites for attempting to reduce practical questions about the good life to technical problems for experts. It is here that a distinction may be drawn between issues concerning the resolution of an economic crisis, on the one hand, and constitutional issues, on the other. The writing of a Constitution and/or a Charter of Rights involves principles and values of a high order, such as the catalogue of citizens’ rights, the definition of the polity in terms of its approach to the common good, and justice and state-society relations. On the other hand, crisis issues and implications are treated as technical problems addressed through problem-solving action. Yet, while deliberation conceived as communicative action is more prominent in constitutional issues, it is not far from the surface when dealing with an economic crisis. In fact, consensual norms and expectations are still fundamental to the discussion of economic issues. Moreover, crisis-related policymaking is also about the maintenance and improvement of existing institutions, as well as observing and enforcing norms. The seminal work of Christian Joerges and Jürgen Neyer (1997) on the Comitology system convincingly validates the deliberation potential of an institutional arrangement whose primary mission is regulatory, expertise-driven problem-solving.

Based on the criteria of participation and purpose, there are three forms of forum-formation:<sup>185</sup> deliberative supranationalism, directly-deliberative polyarchy, and the Convention. Deliberative supranationalism involves the discussion of candidate policies in expert committees, with scientific evidence and the quality of arguments guiding the functioning of the forum. Citizens may influence these fora through their representatives, but stakeholders are not included. The purpose of deliberative supranationalism is efficiency (De la Porte and Nanz 2004; Cohen and Sabel 2009).

Directly-deliberative polyarchy, on the other hand, involves a principle of non-delegation, that is, the unhindered direct participation in decision-making of those interested in and affected by the policies (e.g. ground-level actors in particular regimes and peak organizations or local agents in sub-national geographic units). What direct deliberation implies is that political and administrative centres are often unfit to address difficult situation, and therefore opportunities should be explored at other levels of governance. What the concept of polyarchy incarnates is a principle of decentralization, in which lower-level units are granted powers, while still remaining accountable to the public (Gerstenberg and Sabel 2002). Lastly, there is the Convention model, an inter-institutional forum located at the EU level and whose purpose is the discussion of constitutional issues as norms.

For the purposes of this analysis, I have devised three categories concerning deliberation: deliberation methods, deliberation fora, and deliberation frameworks. Deliberation methods are techniques or procedures put in place by particular actors with a view to embedding the

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<sup>185</sup> We speak of forum-formation to indicate the level of governance where these fora are set up, keeping in mind that in spite of the use of word deliberative, deliberation does not always prevail in the unfolding of these fora or these fora may be inaccessible.

process of dialogue between two or more actors. I include in this category confessionals, bilaterals and multilaterals, questions, and paper discussions. Deliberation fora are regular/institutionalized or ad hoc meetings of people representing institutions and/or themselves. The fora's primary purpose is an examination of problems through deliberation. I include in this category summits, wise men gatherings, seminars, intraparty discussions, inter-institutional Conventions, and other subnational/local fora. Deliberation frameworks are normative platforms that allow the use of a large spectrum of deliberative methods in accordance with the values, beliefs, and norms that these frameworks foster. I include in this category Norm Advocacy and the OMC (the Open Method of Coordination).

To conclude this section, I should say a few words about identifying deliberation or the lack of it in the President's public discourses and activities. It is quite difficult to detect deliberation, let alone assess whether we are dealing with authentic persuasion or instrumental adjustment. A researcher must either observe negotiations himself or have available their verbatim transcripts. The Council-related fora lack publicity<sup>186</sup> or have limited publicity. However, comparing and contrasting documents, especially those submitted before the forum, allows us to understand with what kind of mindset the actors entered the forum, whether ready to bargain armed with fixed preferences, or whether predisposed to rhetorical action or willing to argue on a background of shared norms<sup>187</sup>(Deitelhoff and Müller 2005). Hence, the

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<sup>186</sup> Publicity, in this context, means transparency and openness to the public. This transparency and openness can be achieved either through the institution's own investment in exposing itself and its work to the citizens or through other media disseminating information about the institution's activity and operation.

<sup>187</sup>Drawing on Thomas Risse's (1999, 2000) work, Nicole Deitelhoff and Harald Müller (2005) distinguished three types of communication. *Bargaining*, the classical mode of strategic action, based on fixed preferences and

final text of a policy-making body will be scrutinized against different proposals from the participants.

### **The Permanent President as Chair of the European Council**

There were two levels of communications in which Van Rompuy was a prominent role-player, one involving the members of the European Council, and another involving the leaders of the other supranational institutions and the various elements that come under the umbrella of the Council. As chair of the European Council meetings, President Van Rompuy's tasks were those of organizing the gatherings and brokering agreements in the face of enduring disagreements among the heads of state and governments, and even at times between the latter and supranational institutions (Interview Richard Corbett 2012). The expression "enduring disagreement" is important, since any process aiming at deliberation is unlikely to succeed at transforming preferences as long as such disagreements persist. Indeed, what the Permanent President did, in cases where preference transformation was impossible, was to establish parameters around which agreements were reached. A prominent example in this connection was Germany's insistence on fiscal discipline pitted against a number of other member-states (including mainly but not entirely those in Southern Europe), who made a plea for growth and employment. By incorporating many of the ideas contained in *The Plan for*

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threats and promises of reward as movers for coordinating actions. *Rhetorical action* as a hybrid mode combining fixed and egocentric preferences with value-based arguments on the assumption that the *audience* addressed is accessible to the power of arguments; and *Arguing* as the mode of communication of the TCA which assumes principally open preferences.

*Growth in Europe*<sup>188</sup> into the March 2012 European Council Conclusions, Van Rompuy advanced new principles of economic governance, thus creating a new space for policy development. (*Euractiv* 2012a and 2012b; *The Economist* 2012).

There was, however, an advantage for Van Rompuy that helped him create a favourable deliberative environment. He was a caretaker for the work of the European Council in between its meetings, and therefore was put in charge of the preparatory work, the coordination of various policy-making mechanisms, and, most important, face-to-face communication with the leaders. Two interesting venues through which Van Rompuy created an auspicious environment for deliberation were the Conclusions and Issue Papers. The Conclusions constitute the basis for discussions, and the discussions and debates among leaders ultimately shape the Conclusions. Issue Papers, on the other hand, stimulate debate. These papers draw their topics from a variety of documents such as the Commission's Annual Growth Survey and/or IMF and World Bank Reports. They run a gamut of themes ranging from structural reforms to growth and employment. In between summits, the Permanent President, through bilateral and multilateral meetings, sounded out ideas with national leaders in the hope of identifying solutions, or, alternatively, explicated concrete policies or a

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<sup>188</sup> The Plan for Growth in Europe was a document signed by twelve prime ministers on the 20th of February 2012. The driving force behind it was British Prime Minister David Cameron. It purported to voice an alternative to the austerity paradigm advocated by Merkel and Sarkozy by putting emphasis on growth and the role of the single market. The twelve leaders aimed at incorporating their ideas into the draft Conclusion of the summit, but their proposals were submitted when the Draft Conclusions were already written. This situation pitted against one another the representatives of the Commission, on the one hand, and Cameron himself, on the other. Before the beginning of the summit, Van Rompuy took the decision of revising the Conclusions to incorporate many of the ideas of the Twelve's letter (Ludlow 2012).

particular approach to policy in the aftermath of tense and difficult European Council sessions. Indeed, at times, Van Rompuy took the initiative when there was disagreement between the policy initiators and the other European Council members, as for example with the German-proposed Competitiveness Pact in early 2011 (see Ludlow 2010a, 2010b, 2010c, 2011a, 2011b, 2011c).

There was another level of interaction for Van Rompuy, that with the leaders of various European institutions (e.g. the President of the Commission, the President of the European Central Bank, and the President of the Eurogroup). The communication among them is predominantly deliberative. Obviously, institutional viewpoints and interests differ, and, in particular instances, an institution may choose to exert its independence in spite of its membership in a given arrangement.<sup>189</sup> However, in general, the experience of the four years since 2010 (and, more specifically, that of the Task Force on the European Governance and the Report of the Four) demonstrates that the four players mentioned in the first sentence of this paragraph chose deliberative cooperation and communicative action over bargaining (see Ludlow 2010b, 2010c, 2011a).

Within this level of interaction, settings like the Economic and Financial Committee (EFC), the Euro Working Group, and the Directorate General for Economic and Financial Affairs (DG ECFIN) in the European Commission, the Legal Division of the Council Secretariat or the now- defunct Verwey ESF Task Force (were and) are important segments in charge of answering delicate questions and/or the preparation of details.<sup>190</sup> Their policy

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<sup>189</sup> This was the case of the Commission at some point during the ending months of the Task Force.

<sup>190</sup> Crisis mechanism, Treaty Change, features of the mechanism.

output served as a foundation for the discussions in the European Council (see Ludlow 2010a, 2010b, 2010c, 2011a, 2011b, 2011c ).

Finally, a factor that also affects the quality of deliberation is the creation of leadership directorates such as the Frankfurt Group. The Frankfurt Group is a new development in the crisis era. Chaired by Herman Van Rompuy, it consisted of the German Chancellor, French President, the Commission President, the ECB President, the Eurogroup President, and the IMF Managing Director. The Frankfurt group's mission is to set up meetings of the European Council, determine mandates for various ad hoc Task Forces or negotiators, and to identify and recommend to single heads of states and governments anti-crisis measures they should adopt. The Frankfurt Group's participants are not co-equals; the German Chancellor and French President have the upper hand. The Frankfurt group thus arrogates competences that otherwise would be the domain of the European Council, or it deliberates and then imposes policies that would otherwise be the object of a European Council summit (Ludlow 2011c).

The potential for deliberative democracy at the EU level is severely impaired by the existence and operation of the Frankfurt group. In its relationship with the European Council, the Frankfurt group violates two important tenets of deliberative democracy: the forum members' freedom from outside coercion and members' equal standing as participants in the forum. The Frankfurt Group not only affects the EU polity's democratic legitimacy by impinging on its formal institutions, but also conditions these institutions' internal dynamics and diminishes their capacity to deliberate.

## **Section conclusion**

It is always very difficult to achieve deliberation at the European Council, where politics and national preferences are salient. However, even in such a quagmire as this, President Van Rompuy still had room to stimulate debate. But dialogue and exchange, in this sphere of decision-making, cannot change preferences. At this point, the forum's highest mission is to find solutions to a particular situation (sometimes beyond the control of the participants to achieve, given their conflicting preferences). These solutions, when accepted by the members, have the potential to shape their preferences. Moreover, the emergence of a power constellation such as the Frankfurt Group openly defies the norms of a healthy deliberative environment.

In the next paragraphs, I will look at two instances in which the President of the European Council assumed a leadership role outside his regular duties as a manager and chair of the European Council as a body, the Task Force on the European Governance, and the preparation of the Report of the Four.

## **The Permanent President beyond the European Council**

### The Task Force on the European Governance

As mentioned earlier in this chapter, a thorough evaluation of the process of deliberation would require an analysis of the forum's transcripts. In their absence, this dissertation relies on final reports and various institutional blueprints. Comparing policy documents is not the ideal way to study deliberation. However, such a comparison can still help us reach conclusions about the nature of the process.

The final document (a report, in our case) contains a definition of the situation (e.g. the economic crisis and the solutions for countering it). A key element of deliberation as a phenomenon is that it allows forum participants to make sense of and come to a definition of the situation at hand. Blueprints or other policy proposals authored by the EU institutions or member-states contain the particular views of these actors before they enter the forum. What stands between the submissions of the blueprints and the publication of the final report is a discussion among the participants. We may claim that there is deliberation to the extent that the participants' views and definitions are transformed into a shared definition through the forum's work. Moreover, by incorporating ideas and reasons from actors outside the forum, the final text suggests to us the extent to which the forum was open and accessible. Equally, through a comparison of a blueprint with the final text, we identify the manner in which the forum dealt with proposals that were unacceptable to a majority of the participants and hence were not helpful in bringing about deliberation. This section and the next deal with the Task Force on European Governance and the Report of the Four Presidents. Our methodology for tracing deliberation is not limited only to the comparison of documents, but also garners information from press statements and newspaper articles.

The European Council, in the aftermath of its 25-26 March 2010 meeting, asked the Permanent President to set up a Task Force for the purpose of working out measures towards "the objective of an improved crisis resolution framework and better budgetary discipline." The Task Force's mission was to present "to the Council before the end of the year, the measures needed to reach the objective of an improved crisis resolution framework and better budgetary discipline, exploring all options to reinforce the legal framework"(European Council Conclusions, 25-26 March 2010).

The members of the Task Force on the European Governance led by Van Rompuy were the 27 Member State Representatives (mostly Finance Ministers), the Economic and Monetary Affairs Commissioner Olli Rehn, the ECB President Jean-Claude Trichet, and Eurogroup chair Jean Claude Juncker. Indeed, it was a convergence of two spheres: that of politics epitomized by the presence of national Ministers, and that of technical expertise represented by the supranational institutions (the ECB, the Monetary Affairs Commissioner, and the Eurogroup chair). The relationship between the Finance Ministers and Van Rompuy was never harmonious, and some of the meetings were tense. The reasons for such tension were first and foremost political. Being an exclusive group, the finance ministers saw Van Rompuy as an intruder<sup>191</sup> (Ludlow 2010c). The final product of the Task Force was a report.<sup>192</sup>

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<sup>191</sup> Still, the extent to which this atmosphere permeated deliberation cannot be evaluated if there are no transcripts of the meetings.

<sup>192</sup> Five themes were covered in the final version of the Task Force Report: fiscal discipline through a reinvigorated Stability and Growth Pact, the creation of a new economic surveillance mechanism to encompass a review of the state of macro imbalances and competitiveness, deeper economic policies coordination through the European Semester, a robust framework for crisis management and institution-building for effective economic governance. On fiscal discipline, the Task Force report envisaged the attachment of two arms to the Stability and Growth Pact, a preventative and a corrective. In the Preventive Arm of the SGP, member-states were required to embark on an adjustment path if they were faced with "a debt level exceeding 60% of GDP or with pronounced risks in terms of overall debt sustainability" (even if the deficit was below 3%). In the corrective arm of the SGP, a member-state's assessment under the Excessive Deficit Procedure (EDP) should have balanced the budget deficit through a decline in the debt-to-GDP ratio". In both the Preventive and Corrective arms, the Task Force recommended non-compliance sanctions ranging from interest-bearing deposit to fines. The new macroeconomic surveillance mechanism was to diagnose the risk of macroeconomic imbalances in the context of

Van Rompuy led discussions which were informed by the instructions coming from the European Council, and he himself reported to the European Council about the Task Force's work. Submissions from the participants constituted the basis for discussion. Preconditions for deliberation were, however, pressured by the outside environment, especially from those meetings, declarations, and agreements involving the German Chancellor and the French President.<sup>193</sup>

The Task Force acted on its mandate, first by agreeing on a set of principles (at the meeting of May 21) and then by focusing, in each of the four subsequent meetings, on clusters of

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the assessments of Member States' National Reform Programs (NRPs) and Stability and Convergence Programs. Much like under the new SGP, The Council had the power to place a member-state in "an Excessive Imbalance Position"(EIP) with a set of policy recommendations that, if not addressed, could have led to sanctions. The Commission and the ECB were given the task of monitoring (via surveillance missions) the implementation of the recommendations. Coordination through the European Semester aimed at ensuring fiscal discipline, macroeconomic stability and growth in line with the Europe 2020 Strategy (European Task Force on Economic Governance 2010, 3-7; 9-10). A crisis resolution framework would have the onerous function of "addressing financial distress and avoiding contagion", in line with the rationale of preventing "financial instability in the Euro area". The Report left open questions related to the features and operational means of this mechanism. Finally, the Task Force proposed institution-building at two levels, independent public bodies in the member-states to reinforce fiscal governance and, at the EU, a more pronounced and independent role for the Commission on matters of fiscal and macroeconomic surveillance (European Task Force on Economic Governance 2010, 11).

<sup>193</sup> This pressure came in the form of an agreement reached at Deauville between the French Prime Minister and the German Chancellor, during which the former accepted the idea of a crisis mechanism, while the latter promised to support the French position against the automaticity of the sanctions in the preventive and corrective arms of the stability and growth pact. Sarkozy's acceptance, according to Van Rompuy, was crucial in getting anyone in the Task Force (especially those more reluctant) to embrace the idea of a crisis mechanism (Ludlow 2010c, 10).

issues.<sup>194</sup> The last meeting dealt with all the issues that had been written into the Task Force Report. Annex Three of the Report listed the contributions<sup>195</sup> of various European institutions (the ECB and the European Commission) and member states to the forum. In between the Task Force meetings, its work was carried out by Sherpas<sup>196</sup> who met seven times between June and October (European Task Force on Economic Governance 2010, pp. 13-16).

In the next paragraphs, I compare two of the contributions (a joint German-French document from the respective Finance Ministers and a European Commission communication) to the final Task Force Report. The purpose of this comparison is not merely to discern the differences between each of the papers and the Task Force Report, but more importantly to understand, through a content analysis, how the Task Force roundtable debates chaired and moderated by Van Rompuy approached these materials in producing a final set of policy proposals.

The Communications from the Commission<sup>197</sup> offered more nuanced and complex propositions on topics.<sup>198</sup> For instance, in contradistinction to the Task Force Report, the first

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<sup>194</sup> The strengthening of the Stability Pact, competitiveness divergences and macroeconomic surveillance in the in June 7 and July 12 meetings, national fiscal frameworks and macroeconomic surveillance and sanctions on the September 6-th meeting, debt considerations and an EU level enforcement mechanism under budgetary surveillance on the September 27 meeting.

<sup>195</sup> Most of the Contributions date between May and July, the early phase of the Task Force work. Only three submissions (from Germany, Denmark and Cyprus) date between the end of August and the beginning of October.

<sup>196</sup> The sherpas consisted of lieutenants representing the national ministers.

<sup>197</sup> Independently of the Task Force, the Commission produced substantial papers on Economic Governance in May and June 2010, and was working on draft legislation. The Commission's September announcement on its

Communication of the Commission (European Commission 2010a) advocated the use of the EU budget, in particular the Cohesion Fund, as a vehicle for assuring compliance with the SGP's rules and as an incentive for structural and competitiveness-enhancing reforms. Although the Task Force Report contained no reference to the suspension of the funds, in the aftermath of the September 27 meeting, Van Rompuy (Brundsen 2010a) declared that the governments had agreed on the suspension of the funds (without clarifying which funds) and that the necessary steps to specify these sanctions should have been taken. One thing is certain, disagreements persisted. Five states (Spain, Austria, Portugal, Greece, and Slovenia) vehemently opposed this proposal on the grounds that its implementation would further damage their countries' already weak performance (Brundsen 2010a). Most likely, discussion inside the Task Force did not alter the five members' perspectives and sway them to accept the suspension of the benefits from the Cohesion Fund. The agreement of which Van Rompuy speaks was most probably that of a majority. Moreover, when it came to the macroeconomic imbalances mechanism covered by the First Commission Communication or the institutional build-up recommended by the Commission, the Task Force Report eliminated all the most ambitious elements.<sup>199</sup> The proposals coming from the Commission and the ECB, rather than uniting, divided the member-states. Six countries (France, the Netherlands, Austria, Sweden,

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intent to publish its draft legislative proposals on what the Task Force was working caused some trouble, but nonetheless, the Commission was a constructive contributor to the Task Force.

<sup>198</sup> The enforcement of the Stability and Growth Pact, the surveillance of economic developments (macro-imbalance and competitiveness), economic policy coordination under the "European Semester", a crisis management framework, with far more detailed insights than the Report.

<sup>199</sup> The preventive and corrective arms of the macroeconomic imbalance mechanism, the new responsibility for the Eurogroup, the independent fiscal agency, the trigger mechanism, the crisis management institution.

Denmark, and the UK) had resisted Rehn's proposal of having the Commission examine national budget outlines (the Task Force hinted at, but did not clearly set out Rehn's proposal)<sup>200</sup> (Brundsen 2010b). At the same time, the final text reflected the disagreements over the magnitude and characteristics of the crisis management mechanism. The Task Force Report acknowledged that the work on a crisis mechanism (in particular, a Treaty change) required a shift of forum to the European Council level (Report of the European Task Force on Economic Governance 2010, p. 12 ). The Franco-German paper of July 2010 (Bundesministerium der Finanzen 2010; Franco-German Paper 2010) was a five-page document that, while containing components for a consensus, did not shrink from controversy. It proposed the suspension of voting rights<sup>201</sup> for non-compliant Member States under the SGP. In the absence of a unanimous accord on the issue, the Task Force shifted the responsibility for discussing the suspension of voting rights to the European Council (Phillips 2010).

What do the forum's dynamics or the comparison of submissions tell us about the forum itself and the Permanent President's position in that setting? The Task Force was established with the aim of elaborating preventive measures, and there was a willingness on the part both of the chair and of its members to achieve the best outcome. However, to the extent that measures have implications, they tend to become vulnerable to interests and preferences. Strong national preferences served as constraints to the President's ability to turn, through insightful deliberation, proposals<sup>202</sup> into policies. Whatever was perceived as threatening

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<sup>200</sup> The Task Force Report articulated an explicit requirement that the member-states incorporate the Council/Commission recommendations before submitting the draft budgets to their national parliaments (see Article 45).

<sup>201</sup> On the suspension of voting rights, only Finland and Latvia signed up.

<sup>202</sup> These are proposals coming from the supranational institutions.

distributive politics (from the EU to the nation-states) or whatever involved relinquishing national power to the EU was not open for discussion, and, in spite of his skill, there was little the Permanent President could do except to patch together agreements on what was agreeable to a majority of the forum. In principle, the President had the responsibility to manage the forum effectively, but he had no power to override the forces within it. That is why he and the other forum members settled on shifting the most controversial issues to the ultimate judges, the members of the European Council. Still, beyond these disagreements, the room for deliberation was large enough to chart a new path in European Economic Governance.

#### The Report of the Four. Tracing the deliberative processes

The Group of the Four was set up by the June 2012 European Council. The European Council's President was invited to lay out a specific and time-bound road map towards the achievement of a genuine Economic and Monetary Union "in close collaboration with the President of the Commission, the President of the Eurogroup and the President of the ECB."<sup>203</sup> Much as had been the case with the Task Force, the President of the European

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<sup>203</sup> It is important to appreciate the language of the whole paragraph to better understand the role of the Group of the Four in context.

#### II. REPORT ON EMU

4. The report "Towards a Genuine Economic and Monetary Union" presented by the President of the European Council, in cooperation with the Presidents of the Commission, Eurogroup and ECB, sets out "four essential building blocks" for the future EMU: an integrated financial framework, an integrated budgetary framework, an integrated economic policy framework and strengthened democratic legitimacy and accountability.

Council and the other three Presidents had received the task of working out concrete proposals and measures to be tabled for discussion in the European Council and/or the legislative Councils. Also much like the Task Force, the Group of Four was created to function as an intellectual think tank or Sherpa for the European Council and had to respond to the latter.

The Report ("Towards a Genuine Economic and Monetary Union"<sup>204</sup>) would have brought further clarification to the questions weighing on the leaders (European Council Conclusions 28/29 of June 2012; Van Rompuy 2012). To trace the deliberative processes or lack thereof,

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Following an open exchange of views, where various opinions were expressed, the President of the European Council was invited to develop, in close collaboration with the President of the Commission, the President of the Eurogroup and the President of the ECB, a specific and time-bound road map for the achievement of a genuine Economic and Monetary Union, which will include concrete proposals on preserving the unity and integrity of the Single Market in financial services and which will take account of the Euro Area statement and, inter alia, of the intention of the Commission to bring forward proposals under Article 127.

They will examine what can be done within the current Treaties and which measures would require Treaty change. In order to ensure their ownership, Member States will be closely associated to the reflections and regularly consulted. There will also be consultations with the European Parliament. An interim report will be presented in October 2012 and a final report before the end of the year.

<sup>204</sup> The Report mapped out three stages for the renewal of the economic and monetary union. A first stage aimed at guaranteeing fiscal sustainability while decoupling bank and sovereigns. A second stage consisted in the establishment of a common banking resolution authority and a mechanism of coordination, convergence and enforcement of structural reforms. A third stage promised the creation of a shock-absorption function at the European level in the context of common budgetary and economic decision-making. The Report articulated with emphasis three developments, the features and rationale of a single resolution mechanism(stage 2), the guiding principles for the shock absorption function of an EMU fiscal capacity(stage 3), the key elements of EU/Member States contractual arrangements on structural reforms (stage 2).

this chapter will look at the three other institutions and their incumbents.<sup>205</sup> Through various proposals, document, declarations, speeches, and newspaper articles, these institutions had conveyed their priorities and concerns and offered recommendations which went into the writing of the Report. Two documents from the institutions participating in the Report of the Four require attention: the Commission's contribution entitled "A blueprint for a deep and genuine economic and monetary union. Launching a European Debate" and the Eurogroup's "Issue paper on Completing the Economic and Monetary Union." Both documents provided important inputs to the Report of the Four. Each moved beyond its particular institutional turf (Commission, Eurogroup) to consider the broader picture, thus proposing policy measures that unified the priorities of each of the four actors (European Commission 2012; Eurogroup Document 2012). For instance, along with the incorporation of its own legislative proposals (the Six Pack<sup>206</sup>), the Commission's Blueprint envisaged a first stage<sup>207</sup> in which a Single Supervisory Mechanism (SSM) associated with the European Central Bank<sup>208</sup> would be set up. At the same time, the European Stability Mechanism (ESM) would impose rigid conditionalities for the prospective beneficiaries of the ECB's Outright Monetary Transactions<sup>209</sup> (European Commission 2012; ECB Documents 2012f and 2012g). Both stage

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<sup>205</sup> These institutions and officeholders are the ECB, Commission and Eurogroup and their Presidents.

<sup>206</sup> The reform of the Stability and Growth Pact, the Creation of the Macroeconomic Imbalance Procedure and the entrenchment of minimum standards for national fiscal frameworks.

<sup>207</sup> Roughly corresponding to Stage two in the Report of the Four.

<sup>208</sup> Considered in the Blueprint as the chief supervisor of all the banks of the member-states joining the banking union.

<sup>209</sup> Outright transactions in secondary sovereign bond markets for the purpose of purchasing eurozone countries' short-term bonds in the secondary market, to bring down the market interest rates.

one (and in particular, the SSM and ESM) and stage two (the integrated financial framework) were mandatory undertakings for the purpose of facilitating the transmission of the Monetary Policy by the ECB against the fragmentation of the Euro-area financial system (ECB Documents 2012h). Moreover, stage three (the development of an EMU fiscal capacity contained in both the Report and the Commission's Blueprint) embodied the ECB's highest officers' claims on the indispensability of "appropriate fiscal policies" for the fulfillment of its mission (the maintenance of price stability). Equally, the Eurogroup Issue Paper (Eurogroup Document 2012), much like the Blueprint, sought to accommodate, through its invitation to discussion, the concerns of the main European institutions and of the Member states<sup>210</sup> (for more information on the ECB politics see ECB Documents 2012a, 2012b, 2012c, 2012d, 2012e).

In the introduction to this chapter, referring to the work of Nicole Deitelhoff and Harald Müller (2005), we acknowledged the difficulty of detecting persuasion or instrumental adjustment. In this cross-comparison, the evidence is so scarce that it is impossible to separate the one from the other. However, what we can state with certainty is that we are dealing with communicative rather than strategic action. What the cross-comparison shows is that the three institutions were familiar with each one's prerogatives and domains of operation before they entered the forum (the Group of the Four). They shared these prerogatives, referenced these domains, and converged on norms in the attempt to achieve an overall definition of the situation on which a strategy of governance should have been based. Hence, the four actors,

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<sup>210</sup> In fact, some themes like the implementation of the six-pack and two-pack, the issuance of sovereign debt, a stronger fiscal capacity at the EU level or common economic policies converged with the perspectives and urgencies of the European Commission, the European Parliament and the European Central Bank.

before getting together in the forum, were ready to argue constructively rather than blatantly, expose fixed, egocentric preferences, and fight through bargaining or rhetorical action to get their way. The concept of group entails persistent and frequent interaction. Indeed, the Group of Four was nothing more than the outgrowth of the bilateral and multilateral institutional relations (ECB- Permanent President, Commission-ECB, ECB-Eurogroup-Commission) that had intensified during the crisis. The Permanent President was at the epicentre of these relations to the extent that these institutional incumbents were quite often present during the European Council summits and to the extent that the Permanent President himself prepared the European Council as a forum, acted on its instructions, and represented it as an officeholder.

While the four Presidents (coordinated by the European Council President) formed a core team, other major actors were simply outsiders, insight providers rather than authors, invitees rather than participants. Van Rompuy (and the other members) did not accede to the EP's request to include its President as a group member and co-author, nor did the Group of the Four entertain a discussion over the EP's call for a return to the more inclusive Convention method in the case of a Treaty change. The Office of the Permanent President was used only as a site for consultation talks, first with an EP delegation, and, then, one-on-one, with EP rapporteurs, coordinators, and committee chairs (European Parliament Plenary 2012; European Parliament Document 2012). The Social Partners chose different venues to communicate with the Group of the Four Presidents. However, none of them was involved in the writing in the report, not even to the degree to which the EP and the member-states were involved through the PP's office. The European Trade Union Confederation (ETUC) submitted a draft opinion on the October interim report of "Towards a Genuine Economic and Monetary

Union," and on the same day of the publication of the December report, it issued a resolution on the conclusions of the October 2012 European Council regarding a European Banking Union. The other social partner, on the business/employee side (Business Europe), chose instead to correspond directly with the PP's Office.<sup>211</sup> While acknowledging the importance of accountability, transparency, and debate both with respect to the EP and the national parliaments,<sup>212</sup> the Report omitted some very strong proposals coming from the EP plenary,<sup>213</sup> and the Group of the Four made little effort to find ways of garnering input from the national parliaments. Moreover, the Group of the Four and his chair privileged the member-states' interests over the proposals of the EP or the Social Partners by taking a course that, in certain

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<sup>211</sup> The letter of Jürgen R. Thumann (President of the organization) to Van Rompuy (in response of the June version of the Four Presidents' Report) made recommendations on all the four pillars, the three integrated policy frameworks (financial, budgetary and economic) and a strengthened democratic legitimacy and accountability (Business Europe Document, 2012).

<sup>212</sup> The Report spoke of the accountability " of the European Central Bank as a single supervisor and of a future single resolution authority" to the European Parliaments. It laid stress on the formation of "strong mechanisms for information, reporting and transparency" available to national parliaments to check on the decisions of the supervisor and the resolution authority. It argued for the incentivization of the debates in the European and national Parliaments "on the recommendations adopted in the context of the European Semester."

<sup>213</sup> The Resolution of the European Parliament also contained a series of proposals that, although outlined in the Commission's blueprint, were not written into the Report of the Four. For instance, both documents deal with a Redemption Fund to roll-over a state's excessive debt (proposed by the German Council of Economic Experts), but the Genuine Economic and Monetary Union Report had no take on it. The EP's Report (and, then, the Resolution) advocated the development of a fiscal basis at the European level on a number of venues (the establishment of the CCCTB and a financial transaction tax). Comparatively, the Report of the Four Presidents articulated the concept of a shock-absorption EMU's fiscal capacity only in terms of an insurance-type system between Euro-area states (European Parliament Document, 2012; Van Rompuy, 2012, 5-6).

respects, maintained the status quo<sup>214</sup> (BusinessEurope Document,2012; European Parliament Document 2012; Van Rompuy 2012, pp. 5-6).

What the Report also avoided was a more thorough treatment of the social dimension and its importance for renewed economic governance, which was a prominent theme in the EP resolution (the Social Pact for Europe)<sup>215</sup> and even more so in the ETUC documents (the Social Compact)<sup>216</sup> (European Parliament Document 2012 and ETUC document, 2012a and b). The Report went the other way around. Although ostensibly sensitive to "renewed dialogue with the social partners" on the EMU, in practice it subordinated social initiatives to the imperatives of economic stability and the pursuit of competitiveness.

In sum, any influence or input either from the European Parliament or the social partners could not alter the perspectives of the four authors, and, hence, the final outcome--the Report itself. Indeed, the approach to economic governance had already been elaborated by each of the Group of Four participants. The Commission's Blueprint, the Eurogroup Paper, and the

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<sup>214</sup>In line with the preferences of the German government, the Report rejected the possibility of "resorting to the mutualisation of sovereign debt". The Employers Association proposed a joint debt instrument (the Eurobonds) in the context of an integrated budgetary framework, a proposal that the Report of the Four (and those writing it) did not consider at all (Business Europe Document, 2012 ; European Parliament Document, 2012; Van Rompuy, 2012, 5-6).

<sup>215</sup> The Social Pact for Europe included a set of employment and social benchmarks that encompassed, among others, problems like youth employment, living wages, affordable social housing, and the protocol of fundamental social and labour rights.

<sup>216</sup> What the ETUC championed through the Social Compact was the establishment of framework of European social norms to impede a (social) racing to the bottom, a European Social Governance based on four pillars, Fundamental Social Rights, social protection, social democracy and public service for sustainable prosperity (ETUC document, 2012b).

ECB had clear ideas about the way to go, the four Presidents were in good agreement, and the Report only brought together these strands of thought into one document. Nonetheless, from the various inputs coming from outsiders, they may have picked up hints and reworked them as they saw fit, sometimes even going so far as to handle conflicting ideas coming from different actors as complementary.<sup>217</sup>

### **Section conclusion**

Both the Task Force and Report of the Four constitute two very important deliberative settings. On economic governance, these are two of the most important arrangements in EU history.

No matter how normative, expert-driven, and problem-oriented the Task Force on Economic Governance may have been, at the end of the day, it could not escape the logic of interest-accommodation, since the national finance ministers represented governments with disagreeing perspectives and approaches. As the leader of the Task Force, Van Rompuy had no choice but to manage this situation. An informed onlooker could easily have discerned the overlapping of the two modes (problem-solving and interest-accommodating) when the Task Force's final report was confronted with the Commission's Communication or the French-German paper. On other themes, the TFEG behaved like a legislative Council by refusing to

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<sup>217</sup> There was a stark difference between the social partners (the ETUC, on the one hand, and the BE, on the other) about the labour market reforms even when both associations understood the importance of strategies targeting employment. The trade unions repudiated their rationale and cost, while businesses considered them a precondition for a return to growth and prosperity. The Report of the Four Presidents, instead, refrained from valuing labour market reforms as an end in itself by trying, first and foremost, to pitch them as an effective instrument in the fight against unemployment.

deliberate on or even discuss delicate issues, rather transferring those issues to the European Council.

The Report of the Four, in contrast, was more problem-oriented and expert-driven. It was comprehensively deliberative, characterized by communicative action, focused primarily within the restricted circle of the four actors. In fact, it outlined dynamics of governance that incorporated primarily the four participants' suggestions and priorities. Apparently, unlike the case with the Task Force, state interests were excluded from this inner core. On the other hand, the experience of the other institutions or actors (the European Parliament and the social actors) shows how difficult it was for them to influence the forum.

In principle, the Permanent President operates in a context of complete separation from nation-state politics and society. He is simply a Eurocrat, an agent to the European Council. The fora that the Permanent President chaired were formations of the European Council that responded to its need for guidance in the process of decision-making under conditions of uncertainty. They functioned like think tanks or policy units at the service of the European Council, and the Permanent President was the person in charge of employing the best expertise on behalf of the European Council to answer particular questions. Indeed, the very fact that the President of the European Council chaired these formations (the Task Force and the Group of the Four) and oversaw the provision of input into them illustrates the symbiotic relationship between the European Council and these formations and the latter's dependence on the former.

These fora's characteristics have been sketched in the European Council Conclusions. The Permanent President's discretion to make them more inclusive than the original configuration envisaged was limited. What happens in issues of economic governance (those that in the last

few years have been monopolized by a watchful European Council) is what Nancy Fraser (1990) has called the “privatization of economic issues,” their near-total removal from public debate and their relegation to the status of “technical problems for managers and planners” (Fraser, p. 73). Thus Van Rompuy chaired fora that became increasingly restrictive and reclusive, while remaining non-transparent and hence inaccessible to the public (especially the weak publics,<sup>218</sup>) but deferential to the most powerful and resourceful leaders.<sup>219</sup> Indeed, while there were pithy press statements on Van Rompuy’s part after each Task Force meeting, the meetings of the Group of the Four remained a black box. Still, in spite of the lack of publicity, communicative rather than strategic action prevailed within the Group of Four.

Consequently, the Permanent President cannot be a factor in the democratization of the EU as long as the fora he chairs do not embody a democratizing mission such as the involvement of the public(s) or the enlargement of membership participation), but are simply functional mechanisms at the service of and accountable to the European Council. Ultimately,

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<sup>218</sup> According to Nancy Fraser (1990, pp 75), weak publics are those publics whose deliberative practice consists in opinion-formation, but it is not concerned with the making of the decisions. The assumption is that an expansion of authority in the sphere of decision-making would threaten its autonomy. Strong Publics are those whose discourse encompasses both opinion-formation and decision-making (that is, deliberation whose end involves legally-binding decisions). Parliaments are strong publics, the sites that allow for the discursive authorization of state power.

<sup>219</sup> Even the Report of the Four President was interest-accommodating (or interest-sensitive) to the member-states, in particular, Germany. This leads us to the problem of outside pressure, either by way of agreements between the two most powerful and resourceful states (France and Germany) or through the creation of ad-hoc bodies such as the Frankfurt Group (whose members included the Four Presidents). They tend to become an additional hindrance on the autonomy and ability of the fora to come to a resolution that accepts and/or empowers the best arguments from within it.

openness and consultations are fruitless if an institution or actor (especially, if it represents a public, strong or weak) is excluded from the policy-making process.

### **The Rotating Presidencies and deliberation**

To what extent did the rotating Presidency encouraged deliberative processes in the resolution of issues concerning the European Council? In this section, we will look at three phenomena (and methods) that have characterized not only important historical junctures of Constitutional reform in instances during which the rotating Presidency took on a leadership role, but also the endeavour of single Presidencies to lead the way on specific issues where activity at the EU level was deemed inadequate. These methods, inspired by different rationales, have sought to stimulate dialogue in the writing of policies or laws, while, at the same time, bringing on board other actors at pertinent levels of governance. In the next paragraphs we deal with bilaterals and confessionals, norm advocacy, and the Open Method of Coordination.

#### Bilaterals and confessionals

Bilaterals and confessionals are often employed by a chair or chief negotiator for the purpose of settling disagreements among participants in an institutional setting. Bilaterals and confessionals probe the preferences of the parties in disagreement, and these preferences provide the starting point for forum development or policy development, as we will see below. The focus here will be on Constitutional reform in the EU in the 2000s and how two Presidencies at a distance of only six years practiced these methods to build up trust, convince skeptics of the new direction, and advance the needed reform.

Constitutional Reform is an act of law-making. A constitution is the supreme law of a polity. In discourse theory, law (and the constitution as law) has an important place because it is the medium through which communicative power is translated into administrative power. This means that the generation of the administrative system is tied to communicative action and must be generated through such action if it is to stay legitimate. Questions of the common good or justice are prominent in the making of a constitution more than in the case of any other issue. It is the combined strength of the presence of these questions, the importance of a constitution for the formation of a polity, and the salience of opinion-formation and will-formation in constitution-making, that make the process of drafting a constitution more deliberative than issues like crisis management (Habermas 1996, pp. 81 and 150). Indeed, the most prominent deliberative experiment at the EU level, the Constitutional Convention, was about constitutive and institutional issues. Yet, the constitutionalization of the EU is part and parcel of the integration process and the member-states strongly disagree over its magnitude and progression. As we will see in the next paragraphs, before questions are formulated and bodies like the Constitutional Convention are set up to deliberate on them, there is a preliminary process of preference management. To the extent that arrangements such as bilaterals and confessionals seek to probe preferences in order to avert a stalemate caused by disagreement, there is no deliberation.

On the issue of Constitutional reform, the Belgian government holding the Presidency in the second half of 2001 favoured a change of method by complementing the classical IGC with an Inter-institutional Convention (a change supported by Germany, the small members of the EU, the European Commission, and the European Parliament). To quell the opposition of the dissidents (France, Britain, and Spain) and to prevent the organisation of a hostile front,

the Belgian Prime Minister arranged for bilateral negotiations and confessionals with the heads of state and governments. In front of the skeptics, the President-in-Office of the European Council understated the position of the Convention by claiming that it was just a preparatory body at the intersection of parallel processes (e.g., civil society organisations' fora, debates at the national level), whose product would be subject to the IGC's will. To draft the Laeken Declaration, the Belgian Presidency resorted to the assistance of five political figures,<sup>220</sup> who acted as advisers. The content of the Laeken Declaration consisted of a number of questions underpinning a debate on the Future of Europe, especially on the "delimitation of competence" between the two levels, national and European (Vos and Bailleul 2002; Kerremans and Drieskens 2002).

The open-ended style questions addressed to the members of the Convention (the member-states, the European Parliament, and Commission)<sup>221</sup> were the outcome of a process that respected the ethics of deliberation (by formulating questions rather than supplying policy preferences). Yet, in response to particular interests or perspectives, the Belgian Presidency had to be sensitive to the critics of the Declaration (France and the United Kingdom). In this vein, unlike the Nice Declaration, the Laeken declaration was less ambitious about the federalist development of the EU. Moreover, the Laeken Declaration was explicit about a requirement on the Convention's Chair to report to each European Council meeting (and to

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<sup>220</sup> Former Commission president Jacques Delors, former prime ministers from Belgium (Jean-Luc Dehaene), Poland (Bronislaw Geremek) and Italy (Giuliano Amato), and the former adviser to British prime minister Blair, David Miliband.

<sup>221</sup> The Conventions included observers the European Ombudsman, representatives of the Economic and Social Committee, the European social partners and the Committee of the Regions. The Convention was also to be opened to civil society organisations.

receive, in turn, the views of national leaders) during the Convention's lifetime (Vos and Bailleul 2002, pp. 18-19 and 23; Kerremans and Drieskens 2002, p. 50).

The defeat of the Convention-drafted Constitution Treaty in France and the Netherlands, just three years later, in 2005, polarized the member-states. With an earnest experiment ending in dramatic rejection, uncertainty and hesitancy crept in. In 2007, the German Presidency's endorsement of an almost intact Constitutional Treaty<sup>222</sup> met the resistance of a number of member-states (the United Kingdom, the Czech Republic, and Poland). The June 2006 European Council meeting mandated the German Presidency to conduct consultation with the member-states during its Presidency and subsequently write a report. This report would have been adopted as a mandate, and this mandate would have supplied the framework for the IGC's preparation of a draft Treaty (Maurer 2008, pp. 25-26).

The German government preferred negotiations involving direct exchange among the leaders (with the added participation of the Presidents of the European Parliament and the

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<sup>222</sup> After the defeat of the Constitutional Treaty in the Dutch and French referenda in 2005, two camps emerged. The first camp advocated a "Constitutional Treaty Minus" while the other one a "Treaty of Nice Plus". The first camp consisted of the seventeen governments that have ratified the Constitution including the Germany, Portugal and Ireland. The "Constitutional Treaty Minus" camp preferred the Constitutional Treaty as it stood. They defended the Constitutional Treaty text as the only basis for renegotiations and for preserving as much as possible of it. The opposing camp took the pre-Constitution treaties as a starting point. Acknowledging the need for institutional reform, these governments preferred a simple "amending treaty" in the tradition of the Treaty of Amsterdam or the Treaty of Nice. The second camp includes the United Kingdom, the Netherlands and France (after the victory of Nicolas Sarkozy), the Czech Republic and Poland. Blair, the Dutch Prime Minister Balkenende and Sarkozy preferred a solution that would have not involved a referendum in their countries, but also the countries in the "Constitutional Treaty Minus" group had come to accept that the text would not be introduced to the French and Dutch people for a second time. (Kurpas and Riecke 2007).

European Commission). Indeed, this method envisaged the involvement of a maximum of two special representatives through the setting up of focal points, while excluding the foreign ministries and their Permanent Representatives in Brussels. The inauguration of the circle of “Friends of the TCE” (Spain, Luxembourg, Ireland, Denmark, Sweden, and Portugal) offered formidable support to the German government. Indeed, the Chancellor's frequent face-to-face talks with the leaders of the more reluctant member-states (the United Kingdom, the Czech Republic, and Poland) would hardly have resulted in success in identifying their issues of utmost concern and maintaining a constructive atmosphere if the heads of state of France, Spain, Luxembourg, Austria, and Italy had not been actively involved alongside the German Chancellor.

The point of departure was a questionnaire containing twelve questions reduced, after a focal points<sup>223</sup> exercise, to just three headings<sup>224</sup> and six issues. Obviously, exchange<sup>225</sup> through focal points does not amount to deliberation, as may be the case in public fora such as the Convention. Indeed, the exchange through focal points did not shape or transform preferences in such a way as to bring about a unified frame shared by both the Friends of the Constitution and the skeptics. Rather, what the focal points had to address were powerful

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<sup>223</sup> The Merkel government chose to create a new network of so-called “focal points”. These were group of emissaries (“sherpas”) hailing from the EU capitals. Initially, they contributed to the drafting of the Berlin Declaration celebrating the 50-th anniversary of the signing of the Treaties of Rome. Between April and June 2007, they negotiate the roadmap on the Constitutional Treat (Kurpas and Riecke 2007).

<sup>224</sup> The question of the symbols and of the primacy of EU law; possible terminological changes; the treatment of the Charter in Fundamental Rights ; the specificity of the CFSP ;the delimitation of competences between the EU and the Member States; the role of national parliaments.

<sup>225</sup> The word exchange in this context means dialogue, conversation, discussion.

policy preferences, and the major effort in the process was that of accommodating these preferences rather than altering them. In fact, the three headings<sup>226</sup> and six issues tabled for discussion in the IGC were the outcome of the agreement<sup>227</sup> between the Friends and the critics of the Constitutional Treaty.

The IGC mandate of June 26 underwent further debate in the European Council between the completion of the report and its own publication. Even at this stage, certain proposals antagonized European Council members, and the pioneers of Treaty reform had to make concessions to the unwilling.<sup>228</sup> Generally, rather than treating proposals as constructive arguments on the way to the consolidation of a frame embraced by all in spite of each player's preferences, the debaters employed their energy in a strategy of preference accommodation. Still, in spite of this strategy of preference accommodation, the mandate managed to galvanize the member-states around a set of fundamental values like subsidiarity, proportionality, and the principles of External Action (Maurer 2008, pp. 27-29; Ludlow 2007b, pp. 2-22; Ludlow 2007a, pp. 26-42).

Norm Advocacy is a prominent framework for deliberation. There are limitations in this study of norm advocacy, which lacks detailed evidence garnered through the minutes of

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<sup>226</sup> No more use of the word Constitution, but acceptance of its innovations. Reinforcement of the Capacity of the Union to Act, but discernible identity of the Member-States. A consideration of the most recent developments and items of interests.

<sup>227</sup> For instance, the Preservation of the identity of the member-states, for instance was in harmony with the British interests<sup>227</sup>, as the reinforcement of the Union's capacity was in synch with the preferences of the Constitution Treaty cheerleaders. The veto of the national parliaments against the EU legislation was advocated by the Dutch government but met with hesitation by the Commission (Ludlow 2007b, 2-22).

<sup>228</sup> The voting system in the Council for Poland, the national parliaments, and subsidiarity for the Netherlands.

exchange between the Presidency and other member-states or institutions or through interviews in lieu of the minutes of exchange or as corroboration of them. However, the focus of this section is on the primacy of norms in the policy process, and it is from this perspective that the defense of norm advocacy as a form of deliberation must be appreciated.

The point of departure for norm advocacy is not the dissenter's preferences, but rather the preferences or causes of a member-state government expecting to assume the Council Presidency. The Presidency as a norm advocate promotes new ideas and incorporates them as agenda items and seeks to persuade the other actors of their validity and necessity. It cooperates with another President-in-Office to consider these value-ideas. Sweden and Finland had the merit of introducing the Petersberg Task in the Treaty of Amsterdam and, accordingly, proposing a modification of the CFSP to insert participation in conflict prevention and crisis management . As early as the spring of 1999 during the German Presidency, the Swedish government distributed an Action Plan, whose purpose was to familiarize the member-states with the concept of conflict prevention, while tendering moral and rational arguments as to the importance of conflict prevention. Conflict prevention was an issue of the Cologne and Nice European Council summits; in between the summits, the Secretary General/High Representative and the Commission completed a report on the theme. Following that report, the Swedish government was given a mandate to submit concrete proposals for improving the coherence and effectiveness of conflict prevention action to the Gothenburg European Council during its Presidency (Björkdahl 2008, pp. 9-10).

Swedish diplomats had been instrumental, first in commissioning and then in contributing to the Secretary General and Commission's report to ensure it included the mandate for the Swedish Presidency to build on. Discussions during the pre-Helsinki Summit negotiations

with the Finns<sup>229</sup> and consultations with the German and Italian governments in the following year (2000) helped to further crystallize the meaning of and perceptions about conflict prevention, as well as to put together a coalition of frame-accepters. Although the Belgian, French, and British authorities were more difficult to persuade than Germany and Italy, bilateral talks with these governments awakened in them sympathy for and interest in the Swedish cause (Björkdahl 2008, p. 11).

In this vein, the Swedish government's ability to bring the European Commission to privilege Early Conflict Prevention in the context of EU Development politics is a prominent example of the extent to which state activism may mold EU politics. The Council Secretariat's Policy Planning and Early Warning Unit (PPEWU) was another important EU agency that the Swedish government (and, then, the Swedish Presidency) had to work with. Ambassador Björner submitted the Swedish booklet on conflict prevention in four different formats to the PPEWU's Director well before the beginning of the Swedish Presidency. Frequent meetings between PPEWU staff and Swedish representatives exerted enormous influence by altering normative beliefs and facilitating the institutionalization of Conflict Prevention in the Council Secretariat's activity (Björkdahl 2008, p. 15).

During its Presidency, the Swedish government organized a seminar with the participation of member-state experts and member-state/ EU officials for the purpose of stimulating an idea-based interchange on the Swedish draft of an EU Programme for the Prevention of Violent Conflict (Björkdahl 2008, pp. 16-17). Deliberation unfolded at many levels in the institutional chain. The less politicized questions were clarified in the Political Security Committee. At the General Affairs Council, member-states discussed a number of global

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<sup>229</sup> As the Presidency-In-Office during the second half of 2001.

overview papers with the aim of garnering political support and decided to hold a regional meeting with organizations involved in conflict prevention during 2002. At the Working Party of Foreign Relations Counsellors (RELEX), problematic confrontations were resolved by reference to the GAC resolutions. At the end of the day, the EU Programme for the Prevention of Violent Conflict,<sup>230</sup> with more than 20 substantial commitments and a Rapid Reaction Mechanism budget, was given the green light (Björkdahl 2008, pp. 17-19).

Norm Advocacy was crucial in another field, the environment. The Swedish government was very advanced in its proposals on environmental protection. Indeed, the Swedish Presidency inserted into the agenda a number of issues including acid rain, a chemical strategy, emissions reductions from motorcycles, electrical/electronic equipment waste, public access to environmental information, and the Sixth Environmental Action Programme. The Sixth Action Programme was initially based on a Commission's proposals, but the Swedish Presidency presented it to the members of the Council for further drafting by adding new targets. Norm Advocacy played an essential role in solidifying a common Commission/Council position on the Kyoto Protocol, with the agreement of the European Parliament. Norm Advocacy also underpinned efficacious inter-institutional communication in the co-decision procedure.<sup>231</sup> Finally, environment and security issues permeated one of the crowning initiatives of the Swedish Presidency, the Northern Dimension (Wurzel, 2002; Bjuruf 2001, p. 18; Bengtsson 2002, p. 213).

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<sup>230</sup> Not a Common Strategy as initially suggested by the Swedish government.

<sup>231</sup> The Swedish Presidency's facilitation of the Environmental Council's adoption of the EP's entire first-reading amendments to a list of 33 substances or groups of priority hazardous substances under the water framework directive. without resorting to a second reading.

Norm Advocacy was also salient in the Transparency dossier. Sweden had very clear ideas about what it wanted to achieve: a bold extension of the duty to disclose. This expectation informed the Commission's proposal and the latter's embracing of the Swedish demands. The Presidency found a valuable ally in the European Parliament, and chief negotiator Gunnar Lund used the EP's endorsement to challenge the secrecy-favouring members of the Council. Moreover, a synchronization of norms and expertise gave the Presidency's negotiation chair a large enough margin of freedom to set the standards on the issue and, on that basis, filter through input from the other members (Bjuruf 2001, pp. 15-16).

The Open Method of Coordination (OMC)<sup>232</sup> is another framework for deliberation that the Swedish Presidency promoted in areas like employment and social issues. Here the Presidency's intent was to advance its best policies and its social system's characteristics and values at the European level. Through the coordination of the EU deadlines and common agendas, the goal was (and is) to bring about the informal harmonization of member states' rules and practices in social areas traditionally regulated at the national level (e.g. employment, education, pensions, social inclusion, childcare). The bulk of the activity under an OMC area occurred mainly at national and sub-national levels. The choice of OMC as a strategy was coherent with the traditional Swedish antipathy to centralized (supranational) solutions (Ekengren 2002).

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<sup>232</sup> The OMC (open method of coordination) provides a new framework for cooperation between the Member States, who wish to coordinate their national policies through common objectives, agreed measuring instruments and benchmarking. Objectives, measures and benchmarks are binding, but they never take the form of supranational directives, regulations and decisions. The Member States' actions are evaluated through peer pressure as the Commission oversees the whole process.

### **Deliberation in national elections and its connection to the Presidency's program**

The drafting of an electoral program and the campaign in which this program is introduced to the electorate have elements of deliberation as much as other strategic, non-deliberative elements. Electoral programs are usually written by party cadres or intellectuals, and the exchange of ideas rarely moves beyond restricted circles. Before certain issues become program items, they are prominent in the polls or there is an awareness among the drafters that those issues may appeal to a section of the electorate (left or right). We rarely see party programs being generated in town halls during a deliberation day, whose outcome then binds the leaders.

Yet there are public debates during an electoral campaign. Leaders publicly confront each other on their programs and their record. The press and the people pose questions or exact clarifications. At the end of the day, this process ends in a vote, which embodies the electorate's judgment about the standing of the leaders and the quality of the program, as these have emerged during the campaign.

No matter how much deliberation there is during elections, the electoral cycle preceding the EU Presidency term and the EU Presidency term are two separate moments, almost unrelated to one another. Although particular themes of vital importance, like for instance employment, may flow from a party or parties to the Presidency's programs, they belong to two different contexts, one concerning domestic politics, the other concerning European politics. In the latter case, a government must often labour within a framework already laid down by the European institution. The Pre-presidency period, as much as the drafting of an electoral program and the campaign, has its deliberative and non-deliberative elements. On

the one hand, a government may consult or discuss the program<sup>233</sup> within the government party and with stakeholders. Alternatively, the theme may reflect an ideological penchant,<sup>234</sup> take stock of particular outcomes and events, or simply be a response to lobbying forces.<sup>235</sup>

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<sup>233</sup> This was the case with the French and German governments in the prelude of their respective Presidencies in 2000 and 2007 (Die Welt, 2006a and 2006b; Le Monde 2000a; Milner 2002; Eurofond 2001a; Clift 2002).

<sup>234</sup> Employment had always been a key theme for the coalition parties that won the 1998 Swedish for the Social Workers Party (SAP), and, even more so, for its junior partner, the Leftist Party, employment was the main theme as much as environment was for the third coalition partner, the Green Party. Even though the SAP did not emphasize employment during the 1998 campaign, it had to return to it after scoring its worst poll in that year's election (SAP Document, 1998; Swedish Green Party Document, 1997; Swedish Left Party Document, 1998; Arter 1999; Möller, 1999; European Parliament Document, 2001).

<sup>235</sup> In the years preceding the 2005 elections, German or international organizations or interest groups (like the Council for Sustainable Development in Berlin or the "Carbon Disclosure Project" investors) and citizens (through polls) favored more and better government action on the environment and all party manifestos incorporated environment-related themes such as a move away from oil, diversified energy sources and an advancement on renewable resources. The results of the Stern Report alerted the European public opinion to the effects of climate change just few months before the beginning of the German Presidency. Yet, the management of the energy-climate dossier (as we wrote about it in the first chapter) was entrusted to the Ministry of Economics, whose holder, Michael Gloss, speaking on the behalf of his government, considered energy a matter of economic policy, whose cost-effective and secure supply was good for the German economy. This synergy between economics (employment and competitiveness) and energy is unequivocally enunciated in the 2005 CDU/CSU and SPD programs (CDU/CSU Document 2005, 19-20; SPD Document 2005, 25-26; Die Zeit 2005a, 2005b, 2006a, 2006b, 2006c, 2006d, 2006e; Die Welt, 2006c; Dröge and Geden, 2008; Stormy-Annika 2008).

## **Section conclusion**

At least three of the four Presidencies did an excellent job of creating a deliberative setting when conducting important EU business. The chairs guided the process with the assistance of a cluster of friendly member-state governments and/or supranational institutions. They operated methods, moderated fora, and promoted frameworks.

In terms of method, bilaterals can be an end in themselves or they may become a premise for other deliberative fora unrelated to the European Council or the Council of the EU, such as the groups of wise and broader representative fora (like the Convention). As an end in themselves, bilaterals are useful because it is through them that the chair approaches dissonant positions and understands the motives undergirding them. Preferences are not transformed through bilaterals or confessionals, but accommodated. However, by probing preferences and motives, bilaterals and confessionals remove those hurdles that impede deliberation. As a means, the bilaterals' purpose is a formal agreement that provides a green light for other undertakings (the group of the wise men and the Convention).

Norm Advocacy is an incentive (or framework) for promoting deliberative fora. Norms are beliefs and values whose proponents (member-state representatives) seek to disseminate across a variety of actors. Norm advocacy gives rise to a number of procedures that aim at deliberation. Publications, programs, and papers set standards and supply a basis for exchange, either between member-states or between the member-state (or the member-state as a President) and supranational institutions. Seminars with political and non-political actors enrich the norms and consolidate the learning process. Bilaterals, multilaterals and co-decision cater to the coalition-building effort. The Swedish Presidency's experience shows that deliberation through norm advocacy may engineer interests and/or socialize those who may

be skeptics. The experience of the Swedish Presidency also shows that deliberation may be realized more fully with supranational institutions rather than with national governments. At the same time, deliberation under norm advocacy may begin quite some time before the country assumes the Presidency.

The expectation about the OMC as a framework is that it will produce a positive impact by enhancing the quality of the democratic process (transparency, public debate, participation) at national, subnational, or local levels of governance, and hence provide the best outcomes. However, the research of De la Porte and Nanz (2004) calls into question the capacity of the Employment and Pensions OMCs to generate more and better public debate and participation. The OMCs had only a slightly positive effect on transparency. Norm advocacy is a framework that can incentivize forms of deliberation encompassing both intergovernmental/supranational deliberation and directly deliberative polyarchy<sup>236</sup>(through open seminars or conferences). The OMC as a framework is a form of directly deliberative polyarchy. The Europeanization of the Office of the Permanent President has relegated the promotion of these forms of democracy to the levels of the Council governed by the rotating Presidency. More importantly, national societies or cultures have an instrumental role in shaping the frameworks proffered by the government in charge of the rotating Presidency.

Still, issues are very important when it comes to the deliberation-inducing capacity of a chair. As we saw in the previous section when we discussed the Task Force, money matters involving the distribution or transfer of funds from the member-states to the EU, from the EU to the member-states, or from member-states to each other are unlikely to invite deliberation

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<sup>236</sup> When talking about the extent to which seminars or conferences represent instances of a directly-deliberative polyarchy, the evaluation of these fora's reach (towards local actors) is a must.

and agreement by the force of the best argument. They are either settled at the highest political level through carefully-worded resolutions or simply taken off the table. Second to the monetary issues are constitutional issues which involve sub-themes such as the power to vote, the weight of the vote, or the separation/balance of power between national governments and the EU. Constitutional issues are prone to disagreement, and the promotion of methods like bilaterals and confessionals demonstrates that there is a potential for communicative action even when power considerations are at stake. Deliberation-inducing capacities are more likely to flourish in areas that may be located further away from considerations of money flows or state power. Issues of identity and well-being like the environment that are cross-boundary (and therefore not limited to a single locality or nation) are more likely to be propounded as norms and invite various state and non-state actors to deliberate on them.

## **Conclusion**

Formally, the chair's duties as forum moderator have not changed substantially except for the supplementary responsibilities of the Permanent President in the supervision of fora outside the European Council and his absence from the legislative Councils. Likewise, the methods for stimulating deliberation have not changed.

The chair's duties have not changed when the rotating Presidency is compared to the actual Permanent Presidency of the European Council. The President moderates the work of the European Council, but, unlike the rotating President of the European Council, the Permanent President of the European Council has also taken charge of ad hoc bodies, the Task Force on Economic Governance, and the group of the Four Presidents. This offers him a window of opportunity to create an environment conducive to deliberation. The methods for stimulating

dialogue and/or deliberation have not changed (bilateral, multilaterals, paper discussion, question-based drafts). However, in the European Council, the intractability of interests acts as an initial constraint on the extent to which the Permanent President may effectively exploit these methods as channels of deliberation.

The Task Force as a forum was also subject to the persistence of national preferences and interests, but, generally, the governments contributing to the Task Force were geared towards problem-solving. The Group of Four as a forum was predominantly deliberative. The Permanent President's role was that of moderating the discussions based on proposals and papers (certainly not the array of methods employed when he was managing the work of the European Council). The chairmanship of the Task Force and of the Group of Four is, without a doubt, an innovation in the history of the institution. Except for Verhofstadt's supervision of the group of wise men in the drafting of the Laeken declaration, the other rotating Presidencies never chaired any formation outside the European Council.

With the Permanent President a degree of centralization and restrictiveness of the processes involving deliberation has taken place. This is not threatening to the potential for deliberation, but it is for democracy.

Although the Permanent President has assumed the chairmanship of bodies outside the European Council, there has been a concurrent centralization of the processes involving deliberation. Three major factors account for this centralizing trend. First, the Europeanization(de-nationalisation) of the office has insulated the figure and office of the Permanent President from national democratic processes. Second, the structure of the decisions of the European Council coupled with the EU's exceptional situation (the Euro crisis) has contributed to the ascendancy of elitist forms of executive-centred supranational/

intergovernmental fora. The restrictiveness of the fora has grown as their legitimacy has decreased (this becomes obvious from a comparison of the Task Force with the Group of Four). For institutional actors outside the forum itself, it has become increasingly difficult to insert all of their proposals into the workings of the fora. This does not in itself threaten the deliberation-incentivizing potential of the Permanent President. Indeed, I argued that fora like the Group of Four were deliberative (characterized by the prevalence of communicative action). Yet, these fora are problematic in terms of publicity and inclusiveness, and the mode in which they function has been pre-determined by the European Council.

In the theoretical section of this chapter, I outlined three forms of forum: formation, supranational deliberation, directly deliberative polyarchy and the Convention. Supranational deliberation is the only type of forum in the Permanent President's activity. Supranational deliberation fora under the post-Lisbon regime lack the openness, largeness, and variety of membership that typified previous democratic experiments like the Charter and Constitutional Conventions. This is the result not just of the nature of the issues (monetary and economic), but, even more important, of the high leaders' unwillingness to open these issues to the publics and give a central role to strong publics at different levels. Moreover, in the Group of Four, forum participants (except for the Eurogroup President) were not directly accountable to citizens through an electoral process. The more restricted the group, the more we find solidarity among the insiders and marginalization of the outsiders. Finally, the preeminence of a small group of states (e.g. France and Germany) and the creation of parallel power structures such as the Frankfurt Group inhibit the preconditions for deliberation.

Besides engaging in deliberative supranationalism, the rotating Presidencies promoted a directly-deliberative form of decision-making by reaching out or delegating initiatives

vertically to lower levels of government or to other local non-political actors (and entities). Moreover, the governments holding the Presidency (the 1999 German Presidency and the 2001 Belgian Presidency) played a critical role in upholding the Convention model in drafting both the Charter and the Constitution Treaty (see Deloche-Gaudez 2001 for the Charter Convention).

What distinguishes the Permanent President from the rotating Presidency is his focus on methods and fora and a lack of reference to frameworks. The Permanent President focuses on methods and fora. He generally employs the same catalogue of deliberation methods as the rotating President or other chairs in the pre-Lisbon era. He has been chair of important fora. He does, however, have a tendency to manage methods and fora as efficiency mechanisms rather than as exercises in democracy. Rotating Presidencies used deliberation methods not only as tools for achieving the best outcome, but, even more so, as a springboard for democratic forum-building (the experience of the 2001 Belgium Presidency is instructive in this connection).

Another characteristic of the Permanent President's work is its lack of reference to frameworks. Deliberation frameworks are normative platforms (i.e. bodies of values, beliefs, and norms), whose origin or necessity may be traced all the way to national public spheres.<sup>237</sup> It seems that with the Permanent President, there is no longer any reference to these frameworks. The President has not come to the office with a set of worldviews or views that

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<sup>237</sup> The Open Method of Coordination, for instance, is a policy instrument, whose rationale fits with the preferences of the national public opinions that certain European area solutions be formulated by national or sub-national governments or other stakeholders rather than imposed from the (more distanced) EU institutions.

resonate in the societal public sphere and that provide the basis for a coherent platform or a policy instrument. Norms are instead generated from within the fora or through methods.<sup>238</sup>

Finally, there is limited transparency in the ad hoc fora supervised by the Permanent President, particularly when compared to the ad hoc fora in the pre-Lisbon era, and this has implications for the study of deliberation. In the case of the Task Force on the European Governance, only the text of the final report was published alongside a number of press declarations by Van Rompuy after each of the Task Force meetings. The Group of the Four also published only its final report. In both cases, some of the contributors also published their contributions independently, while other contributions were available only through the Council's Transparency Office. However, there are no transcripts of the actual meetings, which constitutes a methodological limitation of this study. This absence of documentation stands in contrast to fora like the Charter and the Constitutional Conventions, whose proposals and counterproposals were all published along with valuable narratives by their own members.

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<sup>238</sup> It can be argued that good economic governance is a norm and therefore constitutes a normative framework. However, this is a government's norm that, at the moment, has more to do with the urgency of a situation than with the preferences of the public. The Permanent President has to take stock of this situation, in which governments, especially those more powerful, demand on emphasis on deficit/debt control and austerity. No doubt he believes in good economic governance (which is a common belief among politicians), but this belief has surfaced due to a pressure from the markets, the governments and the product of the deliberative fora, not as a preliminary mission (or Pre-Presidency program) of Van Rompuy himself.

## **CHAPTER 6: PARTICIPATION**

This chapter concentrates on the dynamics of participation in the EU's multilevel democracy. It does not touch on participation in the electoral process to derive from it the degree of institutional legitimacy. Rather, I take institutions for granted (they are there, they make policies, and they take decisions), while active citizens seek to have these institutions pay attention to them. Moreover, this chapter focuses on participation beyond elections for one important reason. The aim of this part of the dissertation is to look at the latitude and disposition of the institutions (after their officials have been elected or appointed) to provide opportunities for citizens and their associational representatives to participate and share in their tasks. In particular, the chapter will take the President of the European Council and compare him with his pre-Lisbon predecessor before 2010 and with the Commission and European Parliament, two key players in the dialogue between EU institutions and civil society.

This chapter will argue that all three institutions (the rotating Presidency, the Commission, and the EP) rank much higher than the Permanent Presidency when it comes to engaging civil society. Likewise, the Permanent President is not a target of criticism in the language and worldview of the actors using protest. There are a number of factors that explain this. Among them, ties to the national associational sphere, Treaty provisions, and the establishment of viable practices (even through experience) are of considerable salience. In the context of this dissertation's query, this chapter affirms the PP's low democratizing potential and his inability or unwillingness to provide opportunities that encourage participation. While he may stimulate deliberation in the restricted fora he chairs, the PP has not himself initiated broader

and more inclusive fora. And while he may be available in particular sites (Conferences, websites) or through his office, he is not active, at least not as a principal actor, in institutionalized dialogue occurring at the EU level.

The chapter begins with the introduction and subsequent operationalization of the concept of participation. It defines institutional and policy opportunities and defines the choice between cooptative, pressure and protest repertoires. It then traces the effect of opportunities on repertoires, and, more important, it looks at why some actors provide opportunities and why others do not, as well as why some actors become protest targets while others do not. The rest of the chapter is divided into two parts, the first describing the current situation with the European President of the European Council, and the second dealing with the four rotating Presidencies between 2000 and 2007.

### **Conceptualizing and operationalizing participation**

What actions constitute participation? Indicators of participation according to the nature of the undertaker may be classified in two categories: those initiated by political institutions (top-down approach) or those initiated by interest groups or civil society organizations (bottom-up approach). Balme and Chabanet (2008, pp. 31-32) classify indicators of participation according to the intent of the action in terms of three repertoires (cooptative, pressuring, conflict-based). A repertoire is a catalogue of actions that have the same intent. Elite-initiated forms of participation are cooptative in that they engage (co-opt) various actors into state-controlled governance arrangements. Society or interest-initiated forms of participation belong to pressuring and conflict-based repertoires as they purport, respectively, to exert influence on the institutions or question them (Balme and Chabanet 2008, pp. 31-32). In

concrete terms, elite-based cooptative repertoires range from relatively passive activities such as polling, the distribution of questionnaires and Council- or Commission-sponsored events like Conferences and regular consultation processes all the way to the EU's institutionalized Committee system. Society or interest-initiated pressuring (or lobbying) repertoires include information exchanges, distribution of organization manifests, awareness campaigns, policy papers or positions, theme Conferences, memoranda or citizens' actions. Conflict-based repertoires include strikes, boycotts, blockades, and demonstrations of both a violent and non-violent nature (Balme and Chabanet, pp. 31-32).

I privilege a political opportunity structure approach (Tarrow 1994). According to Tarrow, one of the most prominent proponents of this approach, it is the political environment, not just the group's inner resources (like money or power) that encourages or discourages people from using collective action. While state structures create opportunities, critical changes in opportunity structure are life changing for particular actors, particularly the weak and disorganized. Such changes occur with the opening up of access to power, with shifting alignments<sup>239</sup>, with the availability of powerful allies, or as the result of cleavages among elites (Tarrow 1994, p. 18).

This chapter will assume that the forms (repertoires) of participation are shaped by institutional and policy opportunities.<sup>240</sup> Institutional opportunities are those openings for interest groups and civil society that may be traced in the design of the institution itself (its competencies and accessibility). Policy opportunities consist of the direction of public policy

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<sup>239</sup> A shifting alignment is a change in political alliances among parties in government or running for government. Alternatively, the concept of shifting alignment also describes new alignment of a party's factions.

<sup>240</sup> These two concepts, which have been coined by Balme and Chabanet (2008, p 30-33), mirror the landscape of state-society relations at the EU level.

that may favour or threaten particular interests. Balme and Chabanet(2008, p. 33) offer a third set of opportunities having to do with the media and the extent to which issues benefit of publicity and public/media sensitivity (Balme and Chabanet, p 34).

This dissertation will discuss only the first two types of opportunities (institutional and policy), because it focuses on the EU institutions (the Permanent President, the rotating Presidency, the Commission, and the European Parliament) as receivers of input. Obviously, the core of this analysis is about the Lisbon Treaty's semi-permanent President of the European Council and its predecessor (the rotating Presidency of the Council of Ministers), with the former being compared to the Commission and the European Parliament. In terms of relations, the chapter maintains that institutional and policy opportunities encourage the further development of cooptative and lobbying (pressuring) repertoires, and that the absence of these opportunities either encourages conflict-based participation (what the literature on social movements has termed contention) or incentivizes direct forms of pressuring repertoires like petitions or citizen actions. Taken together, the interaction of the actions, on the one hand, and opportunities, on the other constitute a regime (corporatist<sup>241</sup>, pluralist<sup>242</sup>, protest<sup>243</sup>). Yet

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<sup>241</sup> Deeply institutionalized opportunities that define and stabilize co-management and task-sharing between the state and the interest groups or containing decision-making arrangements invested by interest group constitute a corporatist regime. A typical case in this connection is Scandinavia.

<sup>242</sup> Politics may see the promotion of interests as legitimate and offer well-endowed interest groups the possibility of negotiating their relationship with the authorities through public policy. This is what Balme and Chabanet define as a pluralist regime. Typical cases are the US and the UK.

<sup>243</sup> In the protest regime, unfavourable policy and institutional opportunities may be compensated by media activity and publicity. This may allow the organization of diffused interests into collective action against particular decisions or against the authorities to the attention of the public opinion.

regimes are not pure. While the Scandinavian countries may be cast in the corporatist mold or the U.S. in the pluralist mold, most countries or polities (like the EU, for instance) are a mixed bag of features and a protest regime may thrive under both corporatism and pluralism (Balme and Chabanet 2008, p. 33-34).

While I think that the interaction between opportunity and form of participation is important, I also believe that this interaction is more complex. What's more important is that the provision of opportunities (institutional or policy) depends on certain factors or preconditions, which indeed is the core of our argument in this chapter. Here, we take a look at how these factors or preconditions have changed through time or differ across institutions. The chapter does account for the groups' power and position vis-a-vis EU governance structures, whether insiders or outsiders (Greenwood 1997, pp. 15-20), but only insofar as the presence or absence of opportunities may lead them to adopt a given repertoire.

An important methodological strategy of this chapter is the interviewing of interest group representatives. We build a narrative from their perspectives on the state of participation and opportunity in the post-Lisbon era in light of the financial and Eurozone crises. I conducted interviews with some of the most important associations at the EU level. I interviewed representatives from the European Economic and Social Committee (EESC), the EU institution representing civil society. I also interviewed representatives from the two umbrella associations representing the social partners, Business Europe (BE) and the European Trade Union Confederation (ETUC), from the Social Platform (the largest EU association representing the social sector), from Committee of Professional Agricultural Organisations and General Committee for Agricultural Cooperation in the European Union (Copa-Cogeca), the largest EU association representing the farmers and from the European Roundtable of

Industrialists (ERT). Finally, I conducted interviews with a representative of one of the oldest movements in Brussels, the European Movement, and two other organizations that are simultaneously members of the European Movement, CESI<sup>244</sup>(an association representing unions outside the ETUC), and CERM<sup>245</sup>(an association representing the regions and municipalities). I conducted these interviews during my fieldwork trip to Brussels between September and mid-December of 2012.

### **The Permanent President**

To what extent does the Permanent President represent an institutional opportunity for citizen participation? In the second chapter, this dissertation considered the instruments that the office makes available to citizens and analyzed them from the perspective of the President's willingness to be transparent and accountable to citizens. In this chapter, I focus on the President's ability to encourage citizen participation and, consequently, citizens' willingness and ability to respond to this encouragement by being active in his fora.

Quick research on the Ask the President initiative on the President's webpage showed that it has been quite ineffective at stimulating citizens' interest around it. When I completed the inquiry in December 2014, the most recent questions posted were dated July 1, 2013. Moreover, the format of exchange (with question being asked by text or video and replies given through sessions running four times a year) limits the group of question-askers to active computer users. Whether the question selection method (using the highest number of thumbs

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<sup>244</sup> Acronym for The European Confederation of Independent Trade Unions (CESI).

<sup>245</sup> Acronym for The Council of European Municipalities and Regions (CEMR).

up as the only criterion) has any effect on the magnitude of citizen participation in the Ask the President initiative should be the subject of further inquiry (Ask the President 2014a).

Another caveat in this respect is the impact of the questions in terms of input. The Ask the President rubric requires that questions be limited to requests for information. The analysis of sample questions revealed that not all were information-related. Many urged action, asked whether the president could do something on a particular topic, proposed solutions to problems or put forward policy recommendations, while others solicited the President's reaction to his own previous statements, or invited reflection or concern about the manner in which decisions are taken. Indeed, the site is a virtual place that resembles a Parliamentary forum. However, it is unclear whether Ask the President has any decision-making impact (Ask the President 2014b).

Returning to our concept of opportunity, the Ask the President website cannot be classified as a policy opportunity, one that begets feedback from the citizenry and adjusts the policy-making process in response to that feedback. Nor can it be classified as an institutional opportunity, given that it is not an institutionalized procedure that incorporates feedback into the decision-making process. It thus fails to build a repertoire of participation around its office and figure. It remains little more than an instance of publicity with some accountability features.

The President of the European Council also has relations with representative and consultative bodies, the social partners, and other civil society actors domiciled in Brussels. In the next paragraphs, we will look into the dynamics of the institutional and policy opportunities coming from him and his Office and their capacity to shape the repertoire options of the social and civic actors.

There is a relationship between the EESC<sup>246</sup> and the European Council which has developed out of the Treaty provisions on the former's role. Hence, it is a political opportunity that is primarily institutional. Two patterns typify the EESC and European Council relationship: indirect and direct contacts. There are submissions of regular reports to the Spring Summits (in particular, on the Lisbon Strategy) or demands to the European Council through letters addressed to the Permanent President. There are direct meetings between the EESC Presidents and the Permanent President of the European Council (Interview, Monika Raide). There are also policy opportunities seeking to influence the work of the European Council. There is a parallel relationship with the European Commission, as the EESC assists the latter in the implementation of the Europe 2020 strategy. This is an important institutional opportunity for the EESC to the extent that, in the best corporatist tradition, it involves the latter in a policy community where they are co-managers along with an EU political institution (the Commission). The relationship between Brussels' EESC and national Economic and Social Councils (ESCs) is an important source of democratic

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<sup>246</sup> The European Economic and Social Committee (EESC) is a Treaty-acknowledged consultative body of the European Union. It is structured in Groups, Sections with a Presidency atop. The constituent parts of the EESC include unions, employers association and other civic interest groups. The EESC also possesses a mechanism for the involvement of the citizens through website access, visits and others participatory forms. The national counterparts of Brussels' EESC in all the member-states are the Economic and Social Councils (ESCs). In terms of membership, the latter mirror the former. At home, they have consultative status with peculiar focus on the occurrence of social dialogue between the social partners (unions and employers' associations). Besides, the ESCs offers advice to national governments and Parliaments on matters of strategic decision-making, provide expertise, deliver opinions, and compile studies and reports on social and economic matters (European Economic and Social Committee, 2010).

legitimacy for the bodies that cooperate with the Commission to prepare and execute EU-related policies, the Lisbon Strategy Observatory being an example of an inclusive forum.

Another intersection at which the Permanent President and the European Economic and Social Committee meet is through the former's participation in a few of the Committee's plenary sessions (Commission 2010c). The speech from the Permanent President precedes a debate<sup>247</sup> between the member associations' representatives and the President himself. In comparison to the relationship with the Permanent President, that between the EESC and the rotating Presidency or the Commission is more intense, combining both corporatist and pluralist features and a strong sense of accountability. The rotating Presidency regularly consults the EESC on programmatic issues, and it invites the Committee representatives (rapporteurs) to outline their opinion during informal Council meetings and Presidency-sponsored events. Ministers present their priorities to the EESC Plenary Session. Similarly, the Commission's President, at the beginning of his mandate, introduces his strategic objectives. Commission members may be invited either to discuss their fields' strategic guidelines with the Committee or to be heard by the Plenary Assembly. Moreover, the Commission promotes additional policy opportunities by submitting for consultation to the Committee proposals and documents of a non-legislative nature or inviting the latter to draft exploratory opinions on key issues. Finally, the EESC may provide expertise to both the Presidency and the Commission, much as its national counterparts do to their respective

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<sup>247</sup> For instance, in the January 2013 session, the question of democracy (in the form of a dialogue between the European institutions and the citizens) surfaced in the framework of the broader debate on social dimension (European Sting 2013).

governments. The same dynamics apply to the relationship between the Committee of the Regions (CoR) and the Commission or the rotating Presidency (or Trio Presidency).

Political opportunities provided through interaction with the Commission are more formal and institutionalized. Indeed, the EESC and CoR have signed two protocols of cooperation with the European Commission in the last nine years (in 2007 and 2012). No such formal instrument exists with the rotating Presidency and the Permanent President (European Economic and Social Committee 2010b, 2010c, 2012, 2014 and Committee of the Regions 2012, 2013 and 2014). The Treaty of Lisbon, continuing in the tradition of its predecessors, recognizes the EESC and CoR as bridges between civil society and the EU institutions, therefore placing it at the heart of a European corporatist regime. Protocols of cooperation build on Treaty principles by stabilizing and fine-tuning practices and instances of political exchange. But a routinized institutional opportunity does not seem to have materialized in the relationship to the Permanent President. The combination of the European Council's insularity and the PP's narrowly-circumscribed duties have compelled the EESC or CoR to act like lobbyists rather than active policy-makers. The direction of policy stipulated by the European Council does not permit any involvement of the EESC and CoR, which also means that their constituent parts may not engage in another role than that of a lobbyist (European Economic and Social Committee 2010a).

In the previous chapter, our emphasis on the social partners' exchange with the PP showed that the former had to resort to lobbying through a number of means like draft opinions, resolutions, written positions, or direct correspondence. The talk with the social partners (wanted by Van Rompuy) during the June 2013 European Council Summit's Review of the European Semester was a ceremonial (not to say, a once-in-a-lifetime) event in which

the contrasting views of the European associational representatives hardly left a trace in the leaders' reflection on policy. On the other hand, the Tripartite Social Summit (TSS) as an institutional opportunity still represents a loose form of cooptation into policy-making based on deliberation rather than lobbying. The Permanent President presides over the Tripartite Social Summit alongside the Commission's President. However, the TSS's content is not linked to European Council decisions through the Permanent President. There is no preparation leading in this direction; it is only a hashing out of themes ending with a press conference (Interview ETUC). The TSS thus fails to develop into a genuine institutional opportunity for the social partners.

It is the Commission which, in the context of cross-industry and sectoral social dialogue, plays an omnipresent and substantive role, unlike any other institution.<sup>248</sup> Indeed, in an interview with one of the social partners, the activism of the Commission in Social Dialogue or, conversely, its recalcitrance were central to the ETUC's preoccupation with the fate of Social Dialogue. It is the Commission that puts the outcome of the social dialogue through the legislative process and whose reluctance to do so may trivialize social dialogue, favouring one side of the social partners over the other and causing a rift between the disadvantaged social partner and the Commission itself (ETUC interview). Indeed, while Articles 11.1 and 11.2 of the Lisbon Treaty require all EU institutions to "give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of

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<sup>248</sup> The Commission is an initiator (the establishment of the sectoral dialogue committees is a case in point), a manager (via the preparation of the sectoral dialogue meetings, their agenda and follow-up work or through the admission of a new social partner representative to a sectoral dialogue committee), a chair (the President of the Commission) of the high-level social dialogue summits, or a chair-on-request (a representative of the Commission) of a sectoral social dialogue committee.

Union action" and to "maintain an open, transparent and regular dialogue with representative associations and civil society," subsequent provisions (11.3 and 11.4) specifically delineate duties or obligations of the Commission vis-a-vis citizens or concerned parties. There is no such specification with respect to other institutions (Ludlow2013; EPSU 2011 a and b; European Commission 2014 a, b and c; Lisbon Treaty 2008a and 2008b; the President of the European Council 2014). Yet, besides the letter of the law and/or as a result of its Treaty position and requirements, the Commission has elaborated practices that create institutional and policy opportunities for participation.

Generally the Commission provides financial subsidies to civil society and its various activities and/or dialogues. For various functional purposes like dialogue simplification, the Commission determines the form of representativeness by compelling different organizations to consolidate into single ones (Interview Social Platform). In lobbying/pressuring, the Commission and the EP are the main targets of the Brussels-based civil society organizations to the extent that they offer vast policy-making opportunities. The Commission has the power to propose legislation and, as such, it is the first step in the law-making process at the EU level. Be it about farmers' interests, food chain problems, or the services market, it is the Commission that writes proposals, prepares a timeframe, and sets in motion a process that mobilizes the various niche associations to influence the Commission.<sup>249</sup> This is especially the case for framework legislation like the Multiannual Financial Framework (MFF) through which the monies for many policies (e.g., the CAP, or the European Social Funds) are allocated and delivered (ETUC, COPA-COGECA and Social Platform interviews).

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<sup>249</sup> There are a number of methods through which interest groups and other NGOs influence the Commission. Two prominent methods are policy proposals and position papers.

A number of the civil society and interest group representatives spoke about the relationship of their organization to individual Commissioners and particular DGs (Employment, Human Rights, Migration). One of them (the ETUC) describes the extent to which the reconfiguration of the Commission and of the DGs' power within the Commission itself had affected the direction of policy and its orientation towards the association's demands (Interviews ETUC, Social Platform, the European Movement). On the other hand, the Commission itself has introduced structured procedures for receiving input into its legislation from civil society or for examining how policies work on the ground. The publication of consultations about topics regarding prospective legislation or regulations and the issuing of White or Green books provide institutional and policy opportunities for associations, interest groups, and social partners to counter them through their own reports and, hence, potentially sway the outcomes at the very initial stage. Alternatively, the dissemination of questionnaires and company surveys or the conduct of opinion polls are for the Commission a process of learning through the experiences of different economic and social actors. Formal events also occasion informal exchanges between the Commission's representatives and the associations (Interviews Businesses Europe, CESI, ERT and the European Movement). Additionally, some lobbying organizations participate in arrangements like the expert or high-level administrative groups; alternatively, the Commission may grant them a mandate to self-regulate (Interviews Social Platform, Copa/Cogeca and European Banking Federation, EBF).

The European Parliament has come out more invigorated from the Lisbon reform due to the entrenchment of the co-decision procedure. However, the Lisbon reform of the Treaties has not specified its standing as a political opportunity provider. As a matter of fact, there is

no detailed Treaty requirement on the EP comparable to what Articles 11.3 and 11.4 (mentioned above) are for the Commission, but like all the EU institutions it is subject to Articles 11.1 and 11.2 of the Lisbon Treaty. There are also consultations and other practices that could be described as policy opportunities that have developed in the course of its law-making activity, as well as through the dialogue between the EP and the Associations outside the legislative process.

The interaction between the Associations and the EP occurs at four levels: with friendly MEPs who are likely to table a proposal from an Association to the appropriate EP Committee or rapporteurs (some members of associations are concurrently MEPs); with an EP Committee as a whole (and through its chair); with political groups; and with the Issue-specific Intergroups (in these meetings amendments to a candidate legislation are put on paper and forwarded to the EP rapporteur who, in turn, refers them to the appropriate EP Committee) (Interviews European Movement and CESI). Lobbying<sup>250</sup> the EP commences once the Commission's proposal is published and it is ready to move through the co-decision chain.<sup>251</sup> Since Lisbon, the European Parliament has stepped up its game with civil society by intensifying the consultation process through agoras and public hearings rivaling in many respects the various dialogues and arrangements of the European Commission. Moreover, the establishment of a common Lobby Register for the Commission and the EP as an element of

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<sup>250</sup> Lobbying the EP tends to be very specific and narrow, centered on particular legislation or directives. Comparatively, lobbying the Commission is both on the microelements of the drafts, and on the macro-questions (growth, energy, free trade).

<sup>251</sup> Joint approval of potential legislation by the EP and the Council of the EU.

the Transparency Initiative<sup>252</sup> indicates a tendency toward strict regulation by further formalizing and publicizing the institutional/civil society links (Interviews BE, ETUC, Social Platform, Copa-Cogeca, ERT<sup>253</sup>, the European Movement, CESI, CERM).

The Council of the EU is also subject to lobbying, either through the national associations that are members of the European umbrella association (these members communicate directly with their relevant ministers) or through the umbrella organizations petitioning the Permanent Representations in Brussels and/or the Rotating Presidency. With respect to framework policies like the MFF, the primary targets are the national governments, as is the case with other macro-questions (such as energy, for instance) or specific issues. Decisions on these aspects are prepared at home and there is no structured dialogue<sup>254</sup> with civil society at the European level except during the activities engineered by the government (Interviews BE, Social Platform, Copa-Cogeca, ERT, the European Movement, CESI, CERM).

The relationship of the European Council's President to civil society or the associations representing interests has evolved under other conditions. Unlike the Commission, the European Parliament, and the Presidency of the Council, the European Council and its President are not involved in the ordinary legislative process, which removes the incentive for day-to-day communication between the associations and the Permanent President's office. Still, much as with the EP and other EU institutions, Articles 11.1 and 11.2 of the Lisbon Treaty create an obligation for the European Council President as well. Unlike the Commission and the European Parliament that are large organisms with many members and

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<sup>252</sup> One of the interviewees (Business Europe) revealed that parts of the Commission are refusing to be lobbied by parties who are not registered in the Register and that MEPs need to write down with whom they meet.

<sup>253</sup> European Roundtable of Industrialists.

<sup>254</sup> Although the rotating Presidency as coordinator of the Councils has an important role in legislating dialogue.

staff and complex architectures (the Parliament has 751 MEPs, rapporteurs, Committees, Groups and Intergroups, while the Commission has directors, heads of divisions, and Commissioners covering a broad array of areas), the Permanent President has only a small office. More importantly, the dialogue between civil society and the Commission or Parliament is rule-based and disciplined, while that with the Permanent President (similar to that of the Council) is not. Reflecting on this reality, an interviewee contrasted his organization's familiarity with the Commission to its ignorance about the people and divisions in the President's Office who formulates policies in which they have no input<sup>255</sup> (Interview ETUC). Even with the ECB, which is, by Treaty, an independent institution, the social partners have the opportunity to debate during the semi-annual Macroeconomic Dialogue Forum. Although the European Council is an important actor,<sup>256</sup> especially in the context of the financial crisis, some of the Associations' representatives interviewed<sup>257</sup> had difficulty identifying concrete favourable policy opportunities generated by the Permanent President and his office during the course of registering their preferences into the European Council's outcomes.

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<sup>255</sup> The writing of the Fiscal Treaty (coordinated by President of the European Council) tells us a lot about the state and dynamics of the communication pattern between the PP and the associations. A representative of an important social partner (ETUC) claimed that "they weren't consulted or brought into the loop" and that the only opening for them to have input into the making of the Treaty were the three MEPs, the rapporteurs of the EP for the Treaty.

<sup>256</sup> Some of the interviewees consider the members of the European Council as the most important actors (Interview BE, ETUC, the Social Platform, CERM).

<sup>257</sup> Although they recognized his role as a coordinator and were of the opinion that his intervention may be critical on some themes but not central and that he may provide some impetus.

Beyond these considerations, there is a catalogue of venues that the associations exploit for the purpose of deliberating with the Permanent President. Firstly, there is the PP's attendance at the General Assemblies and/or Business Summits or various thematic Conferences. Often these events are an opportunity for exchange (through question periods) and offer promise for a more sustained dialogue over time (interview BE, Social Platform). Secondly, there are regular meetings with the highest authorities of an association or a group of its prominent members, events that are also characterized by principled discussions over current developments and future challenges of the EU (Interview ERT, ETUC, BE, Copa-Cogeca). Thirdly, there are pre-summit letters on macro-questions (energy, competitiveness or growth) addressed separately or jointly to the Permanent President and/or the President of the Commission, and to the ministers or heads of states and governments (Interview BE, ERT). Prior acquaintance, either of the members of a national affiliate or of an association's high officer, with the statesman who becomes the President of the European Council is an added value contributing to the frequency and intensity of bilateral meetings (interview BE, ETUC). But other organizations (especially those outside the orbit of the largest employers, employees, social sector, and EU umbrella industrial associations) have not yet established a relationship with the Permanent President. They cite various reasons when seeking to explain this phenomenon. Either they display skepticism over the Permanent President's real importance in the decision-making boardrooms or they regard him as a high-level decision-maker<sup>258</sup> who is likely to engage only with the largest umbrella associations (Interview European Movement, CESI, CEMR).

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<sup>258</sup> One interviewee portrayed him as a caretaker for the most indispensable political decisions (the economic and financial situation, unemployment, structural reforms) and conceded that these problems were big enough to

Finally, the protest repertoire is a valuable resort for actors who want to be listened by the public or institutions. Protest is a political opportunity for associations to mobilize the people when costly decisions are being taken without a dialogue being channeled through institutional or policy opportunities. Moreover, any association, at some point in its lifetime, may take to the streets, no matter what its strength is, no matter how influential it is with the decision-makers, and no matter how it views or interprets the socioeconomic order and the developments within it. At the end of the day, protest is enormously beneficial to associational life. It fortifies an organization's credibility and standing in the eyes of decision-makers and its own members, it tightens the organization's inner ligaments (especially, the links between leadership and rank-and-file), and it helps create inter-associational solidarity. The following paragraphs will address the issues that give rise to protest, the actors who protest, and their targets.

A prominent actor employing a protest repertoire is one of the organizations representing the social partners, the European Trade Union Confederation (ETUC interview). The ETUC depends on its national affiliates for the deployment of the protest repertoires. This is the case for the anti-austerity<sup>259</sup> Days of Action and Solidarity<sup>260</sup> as much as it is for other issue-centred rallies. Their target are national governments (members of the European Council) and

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keep them from burdening him with those of the association--a situation she hoped it would change in a non-crisis future (Interview CEMR).

<sup>259</sup> A ritual having its start in 2010 with a decision by the executive committee of the organization.

<sup>260</sup> The Days of Action take the form of multilayered and decentralized events ensuing in both the European Brussels) and national capitals/cities or only at the domestic level. In countries like Greece, Portugal, Italy, Spain, and Belgium, the local unions (members of the ETUC), their members, and other constituencies announce strikes and take to the streets, quite frequently leading to violent clashes with the police.

national institutions like Parliaments and the EU complex (e.g. the Commission, the Eurogroup). Issues may range from youth unemployment, declining wages and stagnating growth all the way to the perceived dismantling of the social model. Yet beyond these issues, the crisis has created new, previously unforeseen trends and accelerated the pace of others. In their interviews, the social partners representing employee interests (the ETUC and CESI) identified the breakdown of collective bargaining and the emergence of debt agreements with the Troika (the ECB, the European Commission,<sup>261</sup> and the International Monetary Fund, IMF)<sup>262</sup> as bones of contention. Like the ETUC, other associational actors who protest are also actors who partake in the Commission-managed corporatist arrangements or who effectively exploit policy opportunities for lobbying. Yet there are times when even the biggest, best-connected associational actor may, for a variety of reasons, deliberately opt to protest. Given circumstances dictate the appropriate target<sup>263</sup> (Interview Social Platform, interview CESI,

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<sup>261</sup> One of the interviewees (ETUC) went so far as to place the blame particularly on the Commission be it for the role as part of the Troika as well as for its failure to transpose the social partner agreements into legislation (a procrastination that the Executive Committee of the ETUC iterates in the Days of Action resolution without explicitly pointing the finger at the Commission).

<sup>262</sup> The declaration of the ETUC Executive Committee links the austerity policies to the assessments of the Troika.

<sup>263</sup> For instance, though the Social Platform (SP) represents the most deprived constituencies across Europe, the organization has never taken the initiative of "getting the boot on the street". Only occasionally has the SP joined the ETUC demonstrations, even if its nation-based members associations do not refrain from acting on this repertoire. The other employer association, the independent social partner CESI, does not use protest. The Dairy farmers manifest their traffic-blocking anger at the European Parliament or at the Commission, at the same time as their associations confer with the Commission to examine the situation of the market in the Milk

European Milk Board 2009, Milk Market Observatory, MMO, Report 2014). For their part, a growing number of organizations and coalitions that are not or do not wish to be part of the EU arrangements or who reject official channels of lobbying use demonstrations or other forms of rebellion as the only means of getting their message through. Although they<sup>264</sup> oppose the system as a whole, it is quite interesting to note that their culprits are often the same actors aimed at by mainstream multirepertoire associations, such as the Commission, the ECB, or national governments (M31 2014 and 2015, Indignez Vous 2014, Blockupy 2015).

In order to learn who or what is the target of criticism in a protest action, one would have to take a look at the banners, flyers, or posters that a protesting actor is featuring or listen to

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Market Observatory Economic Board (Interview Social Platform, interview CESI, European Milk Board 2009, Milk Market Observatory Report 2014).

<sup>264</sup> The Indignados Movement, for instance, has a stake in opposing the system as such (not only the national governments and the European Council or other parts of the EU institutional corpus), but the powerful of the Banking and multinational corporations. The German-based M31 Network decries the rise of a crisis-policy authoritarianism helmed by the Troika (the European Central Bank, the European Commission, in particular, and the International Monetary Fund) and the national governments (especially, the German government). Beyond Europe, an inter-state platform of leftist organizations (in Germany, Cyprus, Greece and the UK) and Blockupy (a network of movements, parties, trade unions and refugee groups from Italy, Greece, the Netherlands, Belgium and France) target, through their concerted transnational action, the ECB as a symbol of an architecture of power that marks a distance between the financial/political establishment and the people, but also events like the European Business Summit (a prominent meeting spot for business leaders and decision makers). All these movements counter the reclusiveness of the EU decision-makers and the lack of democracy. Moreover, out-of-stream movements do not operate on a horizontal model of internal governance<sup>264</sup>, but each constituent part of the alliance is responsible for the mobilization of its members and sympathizers and what brings them all together is just a sense of solidarity (M31 2014 and 2015; Indignez Vous 2014; Blockupy 2015).

the associational representatives' statements and speeches. Without exception, the protesting actors pinpoint particular detrimental actions or strategies that they associate with these targets. The European Council is not exposed as an explicit target, but the timing of the demonstrations (just before the summits) and the messages conveyed prior, through and after them indicate that the body of the chief decision-makers hardly escapes scrutiny. The European Council President is neither an explicit nor an implicit target in the protest regime. He is nowhere to be found in the pronouncements, statements, and public actions of any protesting actors (be they those that reject the system or those that work within it). This is because associations still have a hard time distinguishing him as a principal author of particular policies or lines of action that give rise to protest (ETUC 2012a,b,c,d,e; ETUC flyer 2013, ETUC 2013 and 2014).

In sum, laws and practices are crucial at encouraging participation to the extent that they create institutional and policy opportunities. Political institutions create opportunities because the laws tell them to do so or because they have entered into agreements or established practices that connect their processes (policy or decision-making) to the interests, preferences, and insights of associational actors. At the same time, important policies or strategies that are the outcome of unilateral action in defiance of dialogue or consultation arrangements induce protest. The Permanent President fares quite poorly on both accounts (as a participation-incentivizer through law or practice, on the one hand, and as an authoritative policy-maker or decider, on the other). By employing the language of the political opportunity structure approach, we may say that the Permanent Presidency lacks the capacity necessary for creating the political environment that will induce collective action. But what about its

predecessor (the rotating Presidency) and how do they compare? This is what we shall address in the next section.

### **Rotating Presidency**

There were four sites through which the rotating Presidencies/national governments communicated with different publics before and during the Presidency. At the national level, in the Pre-Presidency period, communication occurred through a consultation process growing out of a tradition of civil and social dialogue as well as through initiatives premised on broader access and stimulating widespread citizen participation. At the European level, it took place through Conferences and events touching on the themes of the Presidency.

On the other hand, national civil societies were a powerful force in directing, compelling, or reprimanding the Government-in-Office/President of the Council. For a government, holding the Presidency of the Council of Ministers was a unique occasion to showcase its country and put it in “the centre of Europe”(for instance, by organizing an important European Council summit in the nation’s capital or one of its prominent cities). In turn, for civil society, the Presidency was an opportunity to turn it into a site for its own activities in response or reaction to the Presidency’s agenda. This section will explore both sides of the coin: the Presidency as provider of opportunities, and civil society as user of repertoires.

At the national level, the four member-states (Belgium, France, Germany, and Sweden) have well-established governance structures, which provide windows of opportunity for civil society organizations in spite of each one's deficiencies in particular areas.<sup>265</sup> The four

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<sup>265</sup> Regarding the French political system, there is no regulation of access for organized civil society. In the literature on corporatism Germany is considered to have a “medium-to-strong “corporatist political structure.

countries represent models of civil dialogue that either resemble the corporatist or pluralist mold or constitute a mix of them. In the Belgian model,<sup>266</sup> a pluralist regime offering favourable policy opportunities, there is dialogue between the state and the associations. Belgium's pluralist system is regulated by a Charter and monitored through a Forum, thus emulating the institutionalized features of a corporatist regime. France<sup>267</sup> represents a mix. It is pluralist to the extent that the state is open to civil society, but corporatist to the extent that the state is the gatekeeper (that is, it is the state itself that determines who has access or not). The German<sup>268</sup> and Swedish<sup>269</sup> models are mostly corporatist. There is also a strong tradition

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Although there have been several attempts to institute a formal social and economic council, none of these initiatives are still in existence. There is no formal regulation of lobbying, such as a public registers of lobbyists, in Sweden.

<sup>266</sup> In Belgium, civil dialogue between government and civil society organizations (CSOs) runs a large spectrum of issues stretching from environment and gender discrimination to social action. CSOs are grouped into two categories, those funded predominantly by public resources (e.g. Public Health and Research and Development) and those receiving private funding (e.g. sports, cultural and leisure associations). Only in 2009 was an Association Chart setting out the fundamental principles of the civil society/public authorities intercommunication been put in place in some of Belgium's regions, while a Non-profit Partnership Forum oversees its implementation.

<sup>267</sup> In France, the Economic and Social Council is the organ representing the organized civil society and the National Council of Associative Life is a government agency, whose mission is to vitalize associational life. Access to political institutions is based on the criterion of representativeness operationalized in terms of membership density and voting.

<sup>268</sup> In Germany, there is a distinction between consultation and dialogue. Consultation aims at improving legislation bills during the drafting stage. Ministry-initiated Advisory Councils and independent governmental agencies are the drivers in this exercise(the discussion of candidate legislation). Outside these institutions, the government consultation procedure with the civil society takes the form of task-sharing with a less ambitious

of Social Dialogue characterized by weak corporatist arrangements. It is limited in Belgium, de-centred in Germany, and unsupervised by the government in Sweden<sup>270</sup>(Chabanet and Trechsel 2011).

Concurrently, these member-states had devised procedures for involving civil society in EU affairs, not just immediately before or during their Presidencies. Be it in the preparation and management of EU programs and policies (e.g. the National Reform Programs), in the discussion of single themes like employment or the labour market, through information campaigns on the member-state Presidency, the Presidency's sponsorship of the CSO's activities or through ongoing open interactive websites, the governments approached not only social partners and other groups but the citizenry as a whole.

Social dialogue arrangements at the national level, for instance, represented both an institutional and policy opportunity for the social partners to influence EU decision-making. For instance, the German Peak Associations (Der Deutsche Gewerkschaftsbund -DGB, the German Trade Unions Federation and Der Bundesverband der Deutschen Industrie -BDI, The Federal Associations of German Industries) were involved in the preparation of the purpose(communicating government policies). Government-initiated dialogue fora between government Ministries and Foundations, Research Institutes and other Civil Society Organizations are sites of learning. Dialogue with the CSO networks seeks to enliven, encourage and improve engagement.

<sup>269</sup> In Sweden, there is an entrenched consultation procedure (*remissförfarande*). CSOs with formal status as consultation bodies (*remissinstans*) are invited to voice their opinion on pre-legislation reports from government-appointed inquiry commissions or various ministries' reports.

<sup>270</sup> In Belgium, social dialogue is confined to employment conditions and contracts. In Sweden, there is a strong tradition of social dialogue between partners in management and labour, without political or legal involvement. In Germany, several attempts to institute a formal Social and Economic Council have failed due to the fragmentation of labour and industry organizations in specific sectors.

Presidency alongside the federal Chancellery and the ministries.<sup>271</sup> The social partners' input into the agenda encompassed even Constitutional reform.<sup>272</sup> The French government offered the trade unions and employers' associations an opportunity to play an active role in consultations on the most important employment and social themes on the agenda of the 2000 Presidency of the Council, including a project on a Charter of European Fundamental Rights (Milner 2002; Eurofond 2001b; Clift 2002). In Belgium, a bipartite Central Economic Council of Labour and Industry adopted a framework embodying recommendations on what should have been the Presidency's prerogatives. The ETUC's memoranda to the Presidency and any related correspondence between the former and the latter were drafted in conjunction with the national affiliates (ETUC 2007a and b and Notre Europe 2001).

At the European level, the practice of civil dialogue with reference to the rotating Presidency has intensified as a policy opportunity,<sup>273</sup> especially in the last decade. Indeed, the Presidency's own activities (events, seminar, initiatives) offered an opening for the civil society organizations' participation. The President's reasons for launching these activities

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<sup>271</sup> The Chancellor's Office and the individual ministries called on a number of actors (the Adenauer Foundation and even the EU Apparatus) (*Die Welt*, 2006a and 2006b).

<sup>272</sup> German unions and business associations diverged on the values that the European Constitution Treaty revision should have embraced. The DGB wished the social component to be highlighted with more strength, while the BDI advocated a lesser bureaucratic and more competitive European Union. In the atmosphere of the pre-Presidency consultations, the German Industry and Commerce Chamber made a case with the government to include education as part of the pursuit of growth under the Lisbon Strategy (Universität Kassel 2007, Eurofond 2007, DGB 2006, BDA 2007 for the DGB perspective read also Deutschlandradiokultur 2007).

<sup>273</sup> Prominent in this respect is the case of the Portuguese, French, Swedish and Belgian Council Presidencies in 2000 and 2001, which reached out to the Social Platform by inviting it to participate in the Social Affairs and Employment Council meetings.

arose from the desire (or necessity) to publicize the Presidency's program priorities, receive feedback from stakeholders, pool expertise, and/or facilitate the implementation of given policies. Often the subjects that became part of the Presidency's programs were initially national policies that the Presidency promoted at the European level and/or policies that had remained national, but, informed by the work of the supranational institutions, were managed by the government within the ambit of the Presidency.<sup>274</sup> Those attending these events included experts, civil society and constituency representatives, and EU and member-state representatives who came together in large fora. At other times, the fora were more circumscribed, limited to either member-state ministers or, when policies were strictly national, to national and sub-national government representatives, but open to input from national associations.<sup>275</sup> They were organized by sub-national governments, in the case of

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<sup>274</sup> Themes were many and multifaceted. The Swedish Presidency, for instance, organized conferences on an array of themes that may be grouped in two families (social/employment policy issues and agriculture). These themes were closely or loosely related to at least two of the three famous Es of the Presidency program (Employment and Environment, in particular). The Belgium Presidency organized similar events on globalisation, conflict prevention and SMEs. The German Presidency held Conferences on a large number of policy areas central or peripheral to the Trio Presidency Program (fiscal policy, the social dimension, science and research, youth policy, all the way to life-centred phenomena like health and physical activities or disease prevention) (Swedish Presidency website 2001a,b,c,d,e,f,g; . Swedish Ministry of Industry 2001; Belgium Presidency 2001a,b,c,d,e,f,g Bundesministerium für Familie, Senioren, Frauen und Jugend 2007a, b, c and d; German Presidency 2007c,d and e; Bundesministerium für Ernährung und Landwirtschaft/ Bundesministerium für Gesundheit 2007).

<sup>275</sup> The Social Economy Conference participants during the 2001 Swedish Presidency included a total of 900 people speaking for cooperatives, networks, foundations, non-profit organisations, mutual insurance companies and others. On the other hand, an expert meeting on gender equality on May 16, 2001 consisted mainly of a

Belgium, or in other cases through a coordination of all three levels of government (Merten 2006; Bundesministerium für Ernährung und Landwirtschaft / Bundesministerium für Gesundheit 2007 and 2008; Bundesministerium für Familie, Senioren, Frauen und Jugend 2007a, b, c and d; Conseil de la Politique scientifique de la Région de Bruxelles-Capitale Rapport annuel 2004).

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handful of senior civil servants and experts. The European Research Infrastructure Conference, during the 2007 German Presidency, included research stakeholders affiliated with companies, Universities, Research Centers and Associations, The European Strategy Forum on Research Infrastructures (ESFRI) representatives, non-EU dignitaries and foreign Ambassadors to the EU and the government ministers covering the field. Representatives of national and European agencies dominated the Conference on Occupational Limit Values for Hazardous Substances. Company representatives and a few University-affiliated Researchers, predominantly German, made up the majority of the participants in the Conference entitled "Quality of work – the key to more and better jobs". Outside these two groups, exponents from the most important national Labour Union (DGB) and the International Labour Organization, Labour and Social Affairs Ministry functionaries (including the Minister) and Commissioner for Employment, Social Affairs and Equal Opportunities participated actively in panels, discussion rounds and workshops. At the EQUAL Policy Forum „Entrepreneurship“, the beneficiaries of the European Social Fund's EQUAL Community Initiative (Young Entrepreneurs) and other organizations like the European Antipoverty Network (EANP), Association pour le droit à l'initiative économique (ADIE) and the OECD (all in all 220 participants from 26 countries) shared, via three different sets of fora, their perspectives about problems and problem-solving strategies with German and other member-states institutional representatives. Finally, an important event of the German Presidency "Equal Opportunities and Social Participation" discussed the potential of youth involvement in decision-taking between 170 young people hailing from 34 European countries and the 27 member-state Director Generals responsible for Youth Policy plus the relevant Commissioner (Swedish Presidency website 2001a,b,c,d,e,f,g; ECRI 2007a and b; Federal Ministry of Labour and Social Affairs 2007a; Bundesministerium für Arbeit und Soziales 2007b and c; German Presidency 2007c and d).

Presidencies also sought to encourage broader civic engagement in policy-making through methods such as the Aktion Europa initiative (the 2007 German Presidency). Aktion Europa was a joint endeavour of the German government and of many other actors (the European Commission in Berlin, the German Information Office in the EP, the Länder, cities, communities, and civil society associations working on European projects). Supranational, national, and sub-national governmental and non-governmental actors acted as networkers while party, associational, township, and other social events served as settings for drawing the common citizens into dialogue for purposes of mutual learning and understanding (knowledge about the EU for the citizens and knowledge about citizens' attitudes, perception, and expectations for the government ). Along somewhat similar lines, the 2001 Belgian Presidency set up workshops with hundreds of Belgian young people on the subject of the debate on the Future of Europe. The young people delivered their ideas about Europe under the supervision of high-ranking politicians. These ideas and views were then forwarded through online fora to young people and youth organizations across Europe, who in turn were asked to state *their* opinions (Belgian Presidency 2001a; German Presidency 2007a and 2007b; Swedish Presidency Document 2001). Moreover, permanent structures and sub-national governments functioned as accessibility junctures for the citizenry. The 2001 Twin-Town project financed by the Swedish government (and promoted in cooperation with the Swedish Association of Local Authorities) sought to enhance already existing local twin-town cooperation programs through a number of activities including cross-city and broader exchanges among young people, adults, and teachers hailing from different European communities (Swedish Presidency website 2001).

Even more so, the rotating Presidency was vital to strengthening the EU arrangements that provide institutional and policy opportunities. Legislative input, programmatic intentions, and Council resolutions charted the landscape for social dialogue<sup>276</sup> to thrive and translated its results into binding legal instruments. The Swedish Presidency's conference on the Social Economy, for example, solidified the position of the European Standing Conference of Cooperatives, Mutual Societies, Associations and Foundations (CEP-CMAF ) that had just opened in November 2000. Other Presidencies (the 2008 French, 2010 Belgian, and 2011 Polish) continued the series of conferences inaugurated by the Swedish Presidency. Similarly, the youth events under the German Presidency sought to initiate a structured dialogue with young people, a renewed stage in the implementation of a process that had started with the 2001 Commission's White Book. "A new Impetus for the European Youth" and had progressed into a European Pact for Youth adopted by the European Council in March 2005 during the Luxembourg Presidency (Social Economy 2014a and b; Brussels Conference 2011; Jugendpolitik In Europa 2007a and 2007b; Webforum Jugend 2007; Deutsche Bundesjugendring 2007; Bundesministerium für Familie, Senioren, Frauen und Jugend 2007d; European Youth Forum 2004; Brussels Conference 2011).

In sum, despite its short lifespan, the rotating Presidency was a powerful institution in charge of a vast agenda. At both national and European levels, the rotating Presidency sought contributions from civil society, be they about setting the agenda or about managing and

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<sup>276</sup> Indeed, at home, the social partners, in spite of the traditional differences between them, are a powerful lobbying force in favor of stepping up social dialogue in Europe. Indeed, one of the interviewees (ETUC) underlines the force of this two-level game when affirming that the rapport between the government and the country's lead union was beneficial to the latter's input into the program.

gaining a deeper understanding of agenda items. The French Presidency's agenda on culture and its synergism with the professionals in the field is a prominent case (*Le Monde* 2000a, 2000b, 2000c, 2000d, 2000e, 2000f, 2000g). In contrast, the Permanent President does not enjoy the same clout in setting the agenda as the rotating Presidency had. The real agenda-setter of the European Council is the European Council itself, as a body, and this agenda is narrower than the ones typically proposed by the pre-Lisbon rotating Presidency. The Permanent President is not embedded in a national public sphere or national society, and there is a conflict of interest between his position and national officialdom. He has a set of duties and instructions coming from the European Council that he must follow as a good agent. These duties and instructions show no concern for the involvement of civil society or the citizenry in making even the most important decisions. Hence, to the extent that civil society or the citizenry are deemed irrelevant to that section of the policy process managed by the PP, the latter's relationship to civil society does not follow the logic of institutional or policy opportunities, which hampers his democratizing potential.

In contrast, both national and European civil societies were particularly energetic in promoting their issues before and during one country's Presidency. By employing the language of the political opportunity structure approach, we may say that while the national governments would make use of the Presidency as a justification for opening up access to power to civil society, the latter, in turn, petitioned for and took advantage of such access. One of the interviewees (the European Movement) described the Pre-Presidency period<sup>277</sup> before the Lisbon reform as a bright opportunity for European civil society to advocate its

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<sup>277</sup> The Pre-Presidency period covers the months or year preceding the beginning of a member-state's six-month term as President of the Council.

issues and get the Presidency to endorse them through a promise of mutual assistance. The fact that the Presidencies backed specific policies, had control over the agenda, and were animated by a desire to achieve encouraged civil society at the European level to engage with the government even well before the start of the Presidency. In this atmosphere, national civil society could exploit the balance of power between the Presidency of the Council and the Commission to get its agenda through. It was also an occasion for the Commission to travel to European capitals and face the representatives of national civil society and for the Presidency to use its country's stakeholders' preferences as leverage against the Commission's direction (Interview, European movement).

At times, civil society combined independent action through self-initiated deliberative fora with participation in Presidency-initiated fora. At other times, protest and civil society-initiated fora built around the Presidency-organized European Council summits. The African and youth questions (two of the German Presidency's themes) exemplified the first phenomenon, a forum launched by the Presidency with participation from civil society and a parallel forum by civil society. Over one hundred civil society organizations (African and European) came together in a conference, which took stock of the situation and crafted a set of demands on an EU-Africa strategy to be submitted to the Presidency as an input to negotiations<sup>278</sup> with the African Union. The initiators were the European Centre for Development Cooperation (ECDPM) and the Association of German Development NGOs (VENRO)<sup>279</sup>. "YOUrope07" was a series of events<sup>280</sup> which purported to increase the

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<sup>278</sup> The Presidency represented the European Union.

<sup>279</sup> This acronym stands for Der der Entwicklungspolitischen und Humanitären Nichtregierungsorganisationen, in english, the Umbrella Organisation of Development Non-governmental organisations (NGOs) in Germany.

visibility and salience of youth-related problems in the same vein as the government-sponsored events (Venro 2007; Jugend fuer Europa 2007; YOUrope07 flyer 2007).

Independent deliberative fora rising around inter-governmental summits constitute the second phenomenon. These events embodied an implicit dose of protest, while still adhering to the dialectic of deliberating fora. The EU's institutional reform in 2000/2001 galvanized the civic groups representing different facets of European societies. In the wake of the Nice Treaty, a number of European NGOs steered by the Permanent Forum of the Civil Society inaugurated a Forum (the Nice 2000 European Citizen Summit) with the aim of advocating the necessity of a Charter of Rights for European Citizens and led a demonstration.<sup>281</sup> On December 6, 2000, a "Meeting of the European Civil Society" was held under the auspices of the Permanent Forum of Civil Society, the European Movement, and the European Commission. A year later, the Laeken Summit (and Laeken Declaration) galvanized various NGO groupings (development, social, human rights, and environment) into a Citizens' Assembly, with the aim of leaving its imprint on the Declaration. In both instances (Nice and Laeken), the NGO assemblies formed outside the summits. Only at the conclusion of the Laeken Summit did representatives of the four NGO groupings receive an invitation to meet with Belgian Prime Minister Verhofstadt and Commission President Prodi (Alhadeff Giampiero and Simon Wilson 2002; *Euractiv* 2001. See also Humanist Federation 2002).

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<sup>280</sup> A Swedish/Danish/German seminar on energy, a Polish/German soccer match, a French/German discussion of the EU's Youth-in-Action program, a French/German debate on youth unemployment.

<sup>281</sup> The Nice 2000 European Citizens' Summit and Public Demonstration in Nice were organised by a platform of European NGOs, led by the International European Movement (IEM), the Union of European Federalists (UEF), the Young European Federalists (JEF), the Permanent Forum of Civil Society (PFCS), and the Centre International de Formation Européenne (CIFE). (<http://www.eurit.it/Eurplace/programm/nizza.html>).

Protest repertoires (Balme and Chabanet 2008, pp. 31-32) also developed around summits. At the Nice Summit, demonstrations went on during the 6<sup>th</sup> through 8<sup>th</sup> of December, 2000. The tens of thousands of protesters included unions and feminist, environmental, anti-capitalist, and anti-globalisation civic associations, all demanding the insertion into the EU Charter of Fundamental Rights of notions such as those of social protection, decent retirement benefits, stable employment, and free education.<sup>282</sup> These demonstrations occurred alongside the activities supervised by the Permanent Forum of the Civil Society and the other associations. ((Euromarches 2000; Flag Blackened 2000). At Göteborg, the demonstrations of the 15<sup>th</sup> and 16<sup>th</sup> of July, 2001 were directed against the EU, but also against globalization and an unwanted guest (US President George. W. Bush). Participation at Göteborg was massive (with 20.000 demonstrators), and scuffles with the police punctured the people's movement on both days. Yet, concurrently, Forum 2001 linked different catalogues of pressure (e.g. seminars and lectures) that flowed into a major Festival of Free Speech. Of the same intensity were the anti-globalization demonstrations at Heiligendamm during the double G-8 and EU German Presidency (Dissident, Network Resister against the G8 2001, and Swedish Presidency website 2001h).

In sum, pressure repertoires took shape not only within institutional and policy opportunities where the Presidency was an actor and coordinator, but even more often when the associations representing citizens and decision-makers parted ways. At times, protest was a reaction to the absence of institutional and policy opportunities. Protest repertoires also

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<sup>282</sup> The two demonstrations on the 6<sup>th</sup> were called, respectively, by ETUC and the Collective for Another Charter (an initiative supported by mainly French Unions and French and European civic organizations). On the 7<sup>th</sup>, the Collective For Another Charter escalated its actions by setting up a Blockade of the EU summit.

complemented pressure repertoires in an attempt to either call on the decision-makers or manifest disaffection. Unlike the Permanent President, who is entirely invisible in the post-Lisbon protest regime as a target of discontent or rage, the rotating Presidency and its agenda, events, and themes either inspired protest or, alternatively, helped foment large deliberative assemblies. In sum, the rotating Presidency encouraged mass participation even outside institutional or policy opportunities. This participation did not consist only of protest repertoires (as was the case with the financial/monetary crisis), but also employed other forms of pressure.

## **Conclusion**

Rotating Presidencies created institutional and policy opportunities at the European level, and there were similar arrangements at the national level. The rotating Presidencies continue to create these opportunities at the Council levels they still govern (after the Lisbon reform). Member-states have formalized their extensive domestic channels of social and civil dialogue. They have encouraged associational life and state-society interaction (as in law-making, task-sharing, and mutual learning) through an array of instruments including financing, government agencies, and government-initiated fora. The four Council Presidencies projected this spirit at the EU level through less onerous instruments (e.g. legislation, programs, and forum-establishment), thus contributing to the strength of existing cooptative arrangement and helping to mold new ones. Three factors are important for explaining the Presidency's activism in civil and social dialogue. These factors are the domestic culture of state-society relations and the pressure that national social actors (mediated by media

opportunities) and European civil society exercised on the government, combined with an ambition to achieve.

Conversely, while the whole structure of a government was put in charge of the management of the Presidency of the Council of Ministers (as it is now with respect to the Council of the EU), the Lisbon Treaty President of the European Council is just a senior politician who, by Treaty, must sever his institutional ties to his country's government. Hence, he cannot set the agenda in response to pressures coming from particular national constituencies, even when they are mediated by powerful agents. Moreover, his ability to emulate the practices of a particular national culture in the European sphere is quite limited, unless he has the power and resources to give it a try. In this connection, the rotating Presidency enjoyed both a broad margin and large resources.

Both before and after Lisbon, the Commission's engagement with European civil society has been extensive. The Commission has been the chief interlocutor of the "Brussels" civil society. Yet this exclusivity has been lost due to the rise of the European Parliament. Three moments of opportunity are of particular significance in this respect: the law-writing stage of law-making (institutional opportunity and policy direction), the committee system (institutional opportunity), and social and civil dialogue (institutional opportunity). Moreover, the Commission's specialization and its inner hierarchy create multiple contact points. These three moments of opportunity with the European Commission have sustained two repertoires of involvement: cooptation and lobbying (European Commission Website, 2015a, 2015b, 2015c, 2015d, 2015e, 2015f; Armstrong 2002; Greenwood 2007b).

The EP is becoming the second most important interlocutor with Brussels' civil society, particularly in the law-amending stage of law-making (institutional opportunity and policy

direction) where single MEPs and Committees play a critical role in different discussion fora like the Citizen Agoras and Issue Intergroups (institutional opportunities). Moreover, congruency of roles (MEP and organization members) and party group connections to the associations are additional networks of exchange and influence, which taken together with the opportunities mentioned in the previous sentence facilitate lobbying (EU Civil Society Contact Group 2009; European Parliament Website 2015; Bowen 2007; Sanchez Salgado 2014; Thiel 2014; Marshall 2015).

The Permanent President's interaction with civil society is a matter of personal choice and not perceived by him as a task of great importance. This interaction has not been structured by concrete Treaty provisions, beyond what Articles 11.1 and 11.2 of the Lisbon Treaty<sup>283</sup> impose in general terms. Nor are there any extra-Treaty practices established by the European Council or established contractually between the Permanent President and the associations, the EESC, or CoR. What's more, the Permanent President and his Office have been removed from the EU's ordinary legislative process, which inhibits intensive contact with stakeholders.

Overall, social and civil actors have little or no familiarity with the small Office that supports the work of the President of the European Council, and they all experience a distance of some sort. Be it about bilateral meetings, Conferences and Assemblies, or paper correspondence, the onus of creating (or petitioning for) opportunities weighs on the association(s), and the Permanent President merely responds to them through his availability. This stands in stark contrast to the activism of the Commission, the EP, and the rotating Presidency (before and after Lisbon) in conferring or contracting with civil society. More

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<sup>283</sup> <http://www.lisbon-treaty.org/wcm/the-lisbon-treaty/treaty-on-european-union-and-comments/title-2-provisions-on-democratic-principles/75-article-11.html>

concretely, citizens' communication via Ask Me is an illustration, first, of an inability to transform an instance of openness into an opportunity, and, second, of the negative effect that this failure to build on that instance of openness has had on the development and crystallization of a repertoire (lobbying/pressure by the citizens deliberating and participating via multimedia). Similarly, the Permanent President's role in social dialogue is imperceptible. Last, but not least, it is difficult for any observer to trace how the input of the various civil society actors channeled through the Permanent President's Office affects the policies and decisions of the fora chaired by the PP.

In terms of the deliberation-participation relationship with the Permanent President, we have a return to an orthodox version of Putnam's (1988) two-level politics, in which we have a Level I of negotiators (the heads of state and governments) and Level II of national actors. The Permanent President chairs the Level I negotiators' roundtables and other technical bodies, with no formal opening for the European associational umbrellas and no connection to Level II. If we use Putnam's two-level metaphor, we might argue that civil society input during the rotating Presidency aimed at making more organic the interaction between those two levels, whether downstream through policy delegation at national or sub-national levels of government or upstream through a dialogue between the national/European associations, the governments, and the EU institutions. While it cannot be denied that two-level politics has always been and still is a feature of EU politics, we must acknowledge the merit and virtue of the rotating Presidency in pushing the issues of general, all-European interest from national to European public spheres, not only through the government, but also through national niche associations and their European counterparts.

While this chapter dealt with the relationship between opportunity and repertoire, it contended that protest (and, at times, pressure) repertoires tend to surface when institutional or policy opportunities are absent. Before Lisbon, protest repertoires were directed against the European Council as a body. They were reactions against unwelcome or controversial elite actions or pressures to incorporate specific demands. Though not an explicit target, the rotating Presidency was a critical presence amidst contention, because it was the chief organizer/agenda-setter of the European Council summit, which always took place in the country holding the Presidency. Since Lisbon, institutions like the European Commission or the ECB have become targets either because they are part of non-democratic bodies like the Troika or because, as a single actor, they have failed to perform an obligation or duty or live up to a convention. The Permanent President is not a target of protest repertoires—a fact can be explained by the perception among social actors that his office is inconsequential in the making or implementing of policies.

## CHAPTER 7: CONCLUSION

The Conclusion will be divided into three parts. The first part describes what has happened with the efficiency/accountability (output democracy) and deliberation/participation (input democracy) dilemmas since the launching of the Permanent Presidency. The second part outlines potential factors that explain the Permanent President's behaviour. These factors are brought to light through the application of the government for the people and government by the people paradigms to the European Council President's job. In the third part, we take a step back and revisit the broader questions about the EU's potential democratization and the PP's role in this, and explain how our findings speak to these questions, how they fit into the literature on democratic theory and EU's democratization, and what theoretical implications they may have. We close by considering the degree of generalization and the further research perspectives that this inquiry may open up.

I formulated a first question in my introduction. Will the Permanent President in the course of discharging his duties influence positively the relationship between efficiency and accountability? By a positive efficiency-accountability relationship, I meant a situation in which efficiency considerations or performance do not make the actor less accountable to the publics, and in which the two go hand-in-hand.

I argued that rotating Presidencies, despite their efficient performance overall, experienced a conflict of roles.<sup>284</sup> With the supranationalization of the Office of the Permanent President, the national dimension has disappeared and that of the intellectual leader has gained

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<sup>284</sup> The national leader against honest broker, the European leader against the national representative, the national representative against taskmaster, the European leader against honest broker.

prominence. What underpins this provision of intellectual leadership is a renewed principal/agent relationship. The post-Lisbon principals control the agent through an exemplary diplomatic dexterity which consists, among other things, of periodic instructions (invitations) to undertake steps as a response to a situation. Moreover, the division of tasks between the two Presidencies has improved both efficiency and accountability.<sup>285</sup> Hence, we have a positive accountability-efficiency relationship in that part of the political process that links efficiency to the principal-agent relationship and the European Parliament's capacity as an account-seeker.

Otherwise, the accountability-efficiency relationship is negative. Laws and procedures privilege efficiency at the expense of accountability. There is, on the one hand, an improved synergy between the Permanent President and the supranational/intergovernmental bureaucracy.<sup>286</sup> Yet, on the other hand, the European Council President is no longer accountable to national parliaments as the highest authorities of the rotating Presidency used to be. Moreover, the Treaty has not provided for a dual Principal-Agent obligation of the PP to the European Council and the European Parliament as a remedy for the withdrawal of national parliaments.

While the Treaty has created a supranational President (and Office) with its own resources, the judiciary at the EU level, in particular the Court of Accounts, has not delivered any ruling over the details and propriety of his Office's expenditures. This stands in stark contrast to the domestic judiciaries' behaviour vis-à-vis their governments when the latter held the Council Presidency. While only a Qualified Majority is required for the election or re-election of the

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<sup>285</sup> Especially the power and the capacity of the European Parliament as an account-seeker.

<sup>286</sup> The Commission, the General Secretariat of the Council, and the rotating Presidency.

Permanent President by the members of the European Council, there is no formal opening of the President and his Office to citizens' scrutiny.

I formulated a second question in the introduction. Will the Permanent President in the discharge of his duties influence positively the relationship between deliberation and participation? With a chair who does not represent a member-state, the deliberation/participation incongruence has in many aspects been reinforced. Generally, the emergence of the Permanent President has contributed to a negative relationship between deliberation and participation, privileging deliberation while downgrading or overlooking participation. The fora chaired by the Permanent President are prearranged in such a way as to be impervious to pressures from citizens and/or constituency associational representatives. They are fora in which deliberation serves the prerogatives of efficiency, as demanded by the principals. On the other hand, while it is true that the Laeken Summit or Verhofstadt's group of wise men were not open fora, they were undoubtedly animated by an awareness of the publics' expectations and, in that context, the Presidency approached inclusiveness (or incorporation) as a democracy-building value.

Secondly, there is a centralizing pattern involving few actors, which has replaced a decentralizing trend involving a multitude of actors.<sup>287</sup> In the third and fourth chapters, we described the tendency of some rotating Presidencies to promote directly-deliberative forms of decision-making through the Open Method of Coordination (involving non-political actors). Additionally, the rotating Presidencies encouraged broad grassroots participation through their various initiatives. The four countries that held the Presidency had institutionalized and

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<sup>287</sup> We may argue that forms of directly-deliberative polyarchy, promoted by some rotating Presidencies have been shun by the predominance of supranational/intergovernmental deliberation (see also Uwe Puetter 2012).

formalized government-civil society relations. These relations peaked in the pre-Presidency and Presidency periods.<sup>288</sup>

Thirdly, there is an obligation on the PP to encourage dialogue that may lead to deliberation, but there is no such obligation when it comes to encouraging participation. Articles 15.6(b) and (c)<sup>289</sup> compel the Permanent President to behave in a deliberation-friendly fashion by giving him enough room to employ traditional and/ or new methods for encouraging dialogue. The Permanent President considers these Treaty requirements his primary tasks. On the other hand, when it comes to encouraging participation, there are only short, general Treaty provisions, and there are no practices that bind the Permanent President in this respect. It is up to the President to elaborate the mode of interaction with civil society or citizens. Evidently, the President does not consider this interaction to be a task of primary importance, at least not as important as the functions described in Articles 15.6(b) and(c), (see Consolidated Versions of the Treaty of the European Union 2012) .

In the methodology section, I pointed out the importance of the ‘why’ questions in our inquiry. In the next two pages, we will focus on the explanations provided by the

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<sup>288</sup> The most intensive preparatory period leading to the Presidency are the six months preceding the Presidency. The Pre-Presidency and Presidency periods for the French government were the first and second half of the year 2000. For the Swedish government, the Pre-Presidency and Presidency periods cover the time frame between the second half of 2000 and the first half of 2001. For the Belgian government, the Pre-Presidency and Presidency periods stretch throughout 2001, while, for the German government, they are the second half of 2006 and the first half of 2007.

<sup>289</sup> Articles 15.6(b) of the Lisbon Treaty stipulates that the Permanent President "shall ensure the preparation and continuity of the work of the European Council in cooperation with the President of the Commission, and on the basis of the work of the General Affairs Council". According to article 15.6(c), the President "shall endeavour to facilitate cohesion and consensus within the European Council."

dissertation's two paradigms, government for the people and government by the people. We claim that four factors<sup>290</sup> originating in the two paradigms shape the PP's stature and standing in the democratic process. These factors are (1) the role of the national public sphere, (2) the importance of democracy through law, (3) the importance of democracy through practice, and (4), the perception of relevance.

**The role of the national public sphere.** Democracy at the European level cannot do without the national public sphere. The electoral process provides legitimacy for the member-state government in its capacity as Council President. Moreover, both the electoral process and the embeddedness of a government in a particular society are instrumental in constructing those frameworks that become agenda platforms. Both the input (deliberation/participation) and output (efficiency/accountability) paradigms show that the weakening of the national public sphere is accompanied by intransparency, centralization, the withdrawal of strong accountability sites, the empowerment of a handful of intergovernmental fora, the concentration of policy-making with the supranational executive, and the disappearance of subsidiarity-friendly approaches. The creation of the Office of the Permanent President has undercut the influence that national societies could exert on the European Council through their governments. His office's lack of any affiliation to a national political system explains much of the PP's uneasy relationship to the different publics both in terms of output and input, the circumscribed ambit of his contacts among the associations (only a few well-resourced, Brussels-based ones), his reluctance to move beyond that small group of executives by

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<sup>290</sup> We do not exclude a fifth factor, an extraordinary situation like the crisis. The crisis has produced an after-effect such as the policy-making opulence of the European Council and a greater role for the PP (more than what the Treaty envisaged). However this factor does not originate in the two paradigms.

paying heed to the suggestions, ideas and expertise of the publics (here including the EP), and his pronounced deference to the logic of the markets and neo-classical economics.

**The importance of democracy through law.** The Treaties underpin democracy. That is, they create the arrangements through which the democratic process occurs. Needless to say, laws bind actors. The Commission's relationship to civil society is regulated through the Treaties. The "Comitology procedure" is also enshrined in the Treaties. The transformation of the European Parliament from an assembly of delegations to a directly-elected body came as a Treaty amendment. So did the transparency norms (Regulation No 1049/2001 on public access to the European Parliament, Council, and the Commission document). Thus, forms of accountability, deliberation, and participation percolate from Treaty provisions. The same cannot be said of Treaty provisions affecting the President of the European Council. These provisions stipulate the areas of the policy process where the PP must be efficient, but they fall short of subjecting him to the will of particular publics (like the European Parliament) or compelling him to engage with the citizens or associations in particular phases of policy development. The Treaty is silent<sup>291</sup> on the dynamics of account-giving on the part of the President even to his immediate principal (the European Council as a body), except for an ex ante selection and screening mechanism.

**The importance of democracy through practice.** Democratic behaviour may be the outcome of practices. The social and civil dialogue arrangements at the national level are practices entrenched in rules and regulations, and driven or supervised by institutional bodies and conventions that subscribe to a tradition of dialogue. At the European level, social dialogue and consultation are also a matter of practice, a practice emerging from the principles

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<sup>291</sup> Obviously, except for the mechanism through which the principals (the members of the Council) elect him.

and issues listed in Articles 153, 154 and 155 of the TFEU. The dialogue between civil society and the European Parliament, for instance, is predominantly a question of practice rather than of Treaty obligation. Equally, beyond any formal Treaty demands, the Commission and the rotating Presidencies have a more extensive engagement with the institutionalized civil society in Brussels (EESC and CoR).

The Permanent President and his Office have not devoted energy to the elaboration and consolidation of practices in his communication with civil society or different publics. This is either because he has not found room within the confines of his autonomy or has not willingly done so. Even more so, this may be because the European Council itself has not spoken about democracy-oriented practices and has not instructed the President to observe particular trends that would render his behaviour multidimensional and make him a central actor in the democratic processes occurring at the EU level. Much of his current underperformance as an account-giver and as an encourager of participation is due to the factors mentioned earlier in this paragraph.

**The importance of the perception of relevance.** The perception and knowledge of the position and potential of a given actor is important for building a partnership with it. What accounts for the PP's underperformance in the accountability region or in bridging the deliberation-participation gap is a reciprocal sense of apathy. On the part of civil society, there is a skepticism over the PP's real authority and influence. On the PP's part, there was, at least initially, a rather cavalier disregard for the European legislature. Even now, the PP does not treat the European Parliament as a principal.

Accountability, inclusive deliberation, and active participation stem from a sense of respect and recognition for the magnitude and consequence that a particular institution has for the

democratic process. Civil society in Brussels considers the Commission and the European Parliament critical power wielders, and therefore petitions them, protests against them, and converses with them. The Commission sees in civil society (and the citizenry) its most important input-provider, which may explain the frequent interactions between the European Parliament and civil society both outside of and within the usual parliamentary work.

In sum, the Treaties have created an institution (the Permanent Presidency of the European Council) whose primary mission is not that of contributing to the democratization of the EU.

The literature on the democratization of the EU displays manifest concern over the polity's detachment from citizens, the irrelevancy of EU politics in national democratic processes, the erosion of national parliamentary control over the EU decision-makers, the divergence between EU policies and citizens' preferences (the policy drift phenomenon), and the weakness of the directly-elected EU bodies (Marquand 1979; Scharpf 1997; Meny 2002; Follesdal and Hix 2006). The EU literature is also replete with solutions such as the desirability of political competition for EU office, the creation of a genuine party system in the EP, the promotion of ideological confrontation in the Council, a better institutional design for interest representation, a more representative Presidency of the Council of the EU, voting system reform to increase citizens' involvement, and the strengthening of the EP as an account-seeker (Schmitter 2000; Hix 2008).

If we were to summarize these considerations and proposals, we would say that the literature on EU democracy complains about poor accountability arrangements and deficient participation and offers solutions purporting to enhance both accountability and participation. Our findings in this study, however, prove that the creation of the PP has driven EU polity in the opposite direction. It has reinforced the distance between citizens and the EU. It has

estranged EU politics from national democratic processes. And it has strengthened the technical dimension of the policy-making process, moving that process away from politicization and ideological confrontation. The PP's appointment to the Office is a leaders' affair and not a public act of genuine political competition engaging the citizenry. In sum, the creation and functioning of the Office of the Permanent President tackles the "Faustian bargain" between efficiency and democracy by giving precedence to the former (Hurrelmann and DeBardleben 2009). The only force that counters the descent into utter non-transparency is the EP. While the EU democratization literature (Hix 1999; Marks et al 2002; Follesdal and Hix 2006) treats the processes forming the EP as problematic,<sup>292</sup> its position vis-a-vis an efficiency-driven executive office like the PP must receive due recognition for its part in exposing him and the fora he chairs to the public.

This dissertation's investigative strategy took three conceptions of democracy—republican, discursive, and liberal—as frames of reference, but laid primary emphasis on discourse theory. We connected those three theories to a conception of democratic government consisting of three elements: government of the people, government by the people, and government for the people. We focused on government by the people and government for the people, and we conceived of government for the people as an interaction between efficiency and accountability premised on decision-makers' output and government by the people as an interaction between deliberation and participation premised on citizens' input. The republican, discourse, and liberal theories are normative lenses. Historical experiences and empirical studies of democracies establish and enrich these lenses.

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<sup>292</sup> The elections constituting the EP are not genuinely European but national, centring around domestic issues and a test for domestic parties.

This study dealt with a new institution and its impact on the state of the EU democracy. We defined the Office of the President of the European Council as an institution with executive functions and no direct links to national public spheres and the citizenry. Discourse theory posits some key principles, such as the citizens' authorship of laws and the vitality of the public sphere. Republican theory hails the common good as the foundation of the polity. Yet discourse and republican theories must take into account the impact of institution-building on the democratization process. New institutions may enhance or diminish the importance of the public sphere, and may involve citizens in a dialogue over the definition of the common good or ignore them. Empirical studies such as this dissertation advise the normative theories over the types of institutions that contribute to or else, impair democratization.

Can we generalize from this study and suggest what prospects for further research it opens? The Office of the President of the European Council is "a strange beast," an institution that cannot be found in any other polity, and which is part of a sui-generis polity like the EU. Yet the ability to generalize from this study and indicate further research prospects should not be downplayed. National executives or legislatures around the world have set up powerful agencies which show some of the features characterizing the Office of the Permanent President of the European Council. These agencies may control important aspects of policymaking and, in the process, accumulate power, while escaping parliamentary control and other forms of scrutiny. The study of the performance of these institutions based on the four variables (efficiency, accountability, deliberation, and participation) is very important not just for understanding their posture vis-a-vis the democratic process, but also for discovering potential venues through which they can be reformed. These four variables

may also assist the research on the presence or lack of democracy in the international institutions (see Zweifel 2005).

Moreover, the Office of the President of the European Council is an institutional structure identified with an individual. In fact, the words President of the European Council and Herman Van Rompuy were interchangeable throughout this thesis. Studying the interplay between personality and structure<sup>293</sup> is a promising path for understanding the predisposition of an institution vis-a-vis the democratic process, especially when the institutional incumbent is removed from the electoral process.

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<sup>293</sup> For the purposes of this dissertation, I completed a study of Van Rompuy's personality and a comparison with his successor to understand the role that personality plays in the interaction between efficiency and accountability, on the one hand, and the interaction between deliberation and participation, on the other. The probe was an extension of Tobias Van Assche's study (2009) of Van Rompuy's personality along the lines of the Leadership Trait Analysis (LTA) technique. This method focused on Van Rompuy's interviews to uncover his propensities on four aspects: 1) openness to information, 2) task or interpersonal focus, 3) challenge constraints, and 4) motivation towards the world. My inquiry confirmed Van Assche's findings on Van Rompuy's openness to information, task focus, acknowledgment of constraints and the predisposition to instill trust. I concluded that what has by far exerted the greatest force on the positive and/or negative relationship between variables is the structural position of the office rather than his temperament or temperament. Indeed, his successor's personality is too different from his. Moreover, the appointment of Donald Tusk, Van Rompuy's successor, does not seem to have been motivated or inspired by any particular trait of his, it is rather the region of the EU he hails from (Central Eastern Europe) that have exercised a far greater role in this direction.

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