



Entrepreneurs of Compromise? The Rotating Presidency of the Council of the EU after Lisbon

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Summary

The Treaty of Lisbon has produced deep changes to the EU institutional structure and its internal balance of powers. It has reshuffled powers between institutional actors and curbed the responsibilities of the rotating Presidency of the Council of the EU in fields characterised by 'high politics'.

This paper discusses the institutional framework shaped by the Treaty of Lisbon, and provides an overview of the new, post-Lisbon roles of the rotating Presidency. Against this backdrop, the paper shows that the rotating chair maintains relevant roles in managing the Council agenda and in the legislative process, especially when representing the Council in trilogues. In addition, the paper examines how the rotating Presidencies dealt with crises in the post-Lisbon period. The analysis shows that asymmetric shocks tend to increase general disagreements in the Council, while shocks affecting countries in similar ways allow the Presidency to display effective leadership. These situations of urgency offer small member states the opportunity to take the initiative and engage in policy entrepreneurship, and to shape EU policymaking in ways which would otherwise likely be out of reach.

All in all, the rotating Presidency is still considered a rare opportunity for the member states to put forward certain priorities, and it should not be neglected in the post-Lisbon times. Since crisis management is an integral element of almost every Presidency, policy flexibility and sufficient resources should be devoted by national governments to their activities as rotating chairs to act as efficient entrepreneurs of compromise.

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The opinions expressed in the publication are those of the author.

1. Introduction

Every six months, the Council of the European Union (EU) changes its Presidency: one by one, the member states take the lead of this once-mighty institution. With 27 member states of the EU, it should come as no surprise that the rotating Presidency is often considered a once in a decade opportunity by national policymakers. Consequently, the member state assuming the office often holds a number of expectations, and the Presidency is often seen as an occasion to narrow the gap between the domestic public sphere and the EU.

Is the importance attached to the rotating Presidency still justified? While the rotating Presidency was indeed originally considered a prestigious and influential position, the office has gone through several changes which have somewhat diluted its importance. The main such change occurred with the Treaty of Lisbon that entered into force in 2009, which not only led to a new institutional set-up, but simultaneously curbed the powers of the rotating Council chair. While the Treaty aimed to bring more continuity to the Council's work, it also altered some of the Presidency's responsibilities. Even though the post-Lisbon rotating Council Presidency is somewhat limited in its responsibilities compared with the past, it still retains its core roles. This paper examines the implications of these latest institutional amendments by addressing the following questions:

1. What are the institutional conditions in which the rotating Presidency operates?
2. How much room for manoeuvre does the rotating Council chair have?
3. How can a rotating Presidency deal with exogenous events and crises?

The first part of the paper focuses on the first two questions, providing an overview of the key institutional developments and how they shaped the role of the rotating chair as we know it today. In this context, the legislative, institutional powers and the policy-relevant influence of the rotating chair are discussed. The second part of the paper focuses in particular on the third question, investigating the rotating chair's role in situations of sudden crisis, but also taking into account

institutional conditions and the Presidency's margin of action during unexpected events. To do so, the paper will look at the migration crisis with a focus on 2015, and at the COVID-19 crisis in 2020. Overall, the paper argues that, notwithstanding the changes introduced by the Treaty of Lisbon, the Council Presidency retains an important competence. Its primary role has evolved from providing political leadership to acting as an entrepreneur of compromise, enabling the European Union to deal better with exogenous, unexpected crises.

2. Institutional developments and their impact on the rotating Presidency

The current role of the rotating Council Presidency has essentially been shaped by the Treaty of Lisbon. Four main changes have altered the Presidency powers: the institutionalisation of the European Council, the expansion of powers of the High Representative for Foreign Affairs and Security Policy, the institutionalisation of the Eurogroup, and the reinforcement of Presidency coordination through the Trio method.

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The institutionalisation of the European Council could be considered one of the major changes that affected the rotating Presidency. In the pre-Lisbon period, the European Council was hosted under the helm of the Council of the EU. The assembly of the Heads of States and Governments was the Council's most important configuration, and its chairmanship had been under the leadership of the rotating Presidency, not unlike the ministerial configurations. The formal separation between the two institutions—today the Council of the European Union and the European Council—and the consequent establishment of a separately appointed President for the European Council by the Treaty of Lisbon took away the opportunity for the member state presiding over the Council to shape the high-level agenda—i.e. the topics discussed among the heads of state.

Next, expansion of the responsibilities of the High Representative for Foreign Affairs and Security Policy took over the rotating chair's functions in the Foreign Affairs Council, which remains to this day one of the core Council configurations, where the unanimity rule still applies. Since foreign affairs and security policy represent 'high politics', the transfer of the coordination role from the intergovernmental Council Presidency to the more 'supranational' representative weakened the Presidency's powers in an area of great importance for national sovereignty. In fact, even though the High Representative is appointed separately, s/he remains a full member of the College of Commissioners, acting as a Vice-President, and is therefore bound to the same independence and responsibility to put the interests of the Union as a whole first, a responsibility not necessarily shared to the same extent by presiding member states.

Thirdly, establishment of the Eurogroup—initially introduced well before the Lisbon Treaty and recognised by it in 2009—means that yet another essential policy area is today outside the rotating chair's responsibility (Batory and Puetter, 2013), even if the Eurogroup affects only the Eurozone members, and the chairmanship of the Economic and Financial Affairs Council is still in the hands of the rotating Presidency. The separation of the two has undoubtedly weakened the stance of the Council Presidency in shaping broad economic and financial matters, as much as the expansion of the powers of the High Representative weakened the Presidency's influence on foreign and security policy.

Finally, in addition to these changes, the Treaty of Lisbon has further institutionalised the Trio Presidency *modus operandi*. Under the Trio Presidency method, three member states closely coordinate their work and issue a common 18-month programme. The Trio was initially established in 2006 and later institutionalised by the Lisbon Treaty, being presented as the new Council Presidency working mechanism (Batory and Puetter, 2013). The aim of the 18-month Presidencies was to limit the changes due to the member state rotation and to bring more continuity into the Council's work by following the common Trio programme.

Overall, the Treaty of Lisbon introduced more continuity and supranational-level governance,

especially for issues of 'high politics'. However, these changes were made at the expense of the functions of the rotating Council Presidency. In this regard, the following sections discuss in more detail how these institutional changes impacted the duties of the rotating Presidency and what is the role of the chair in the new institutional setting.

3. Institutional and legislative powers of the rotating Presidency

Historically, the rotating Council Presidency was known for its four main functions: management and organisation of the Council work, mediation, political leadership, and internal and external representation. While the first two pertained to daily Council business, such as organising meetings and acting as a mediator between member states when disagreements on specific dossiers arose, political leadership was related to the promotion of specific priorities and political initiatives, while the representative role meant that the Presidency would act as the agent of the Council in relation to other EU institutions and external partners (Quaglia and Moxon-Browne, 2006).

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With the Treaty of Lisbon coming into force, there was a significant shift in the functions of the rotating chair, and the administrative and brokerage roles became the central responsibilities of the Presidency. The transfer of responsibilities to the President of the European Council and the High Representative significantly curbed the Presidency's performance as a political leader and external representative. Even though the Council chair formally collaborates with both offices, its actual visibility has significantly decreased. The European Council summits are now chaired by the appointed President, and they usually take place in Brussels instead of being convened in the member state holding the Council Presidency, whereas the

EU's representation abroad is in the hands of the High Representative, as well as the Presidents of the European Council and the European Commission.

The new institutional set-up inevitably raises questions as to what can be expected from the post-Lisbon rotating chair. The Presidency's managerial and brokerage responsibilities nonetheless entail substantial room for manoeuvre. Acting as a chair in different Council configurations, the Presidency is simultaneously responsible for different Council agendas, thus leading the political debate and ensuring consistency and coordination. Furthermore, the chair still acts as the representative of the Council in relation to other EU institutions. This is particularly important during the trilogues,¹ where the rotating Presidency negotiates with the European Parliament and the European Commission on behalf of the entire Council. Hence, agenda management and relations with the European Commission and the European Parliament remain the key powers of the post-Lisbon rotating chair. The following sections further discuss how these two aspects of the Presidency responsibilities can be turned into opportunities for the member states holding the chair.

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3.1 Presidency and agenda management

Agenda management is one of the core responsibilities of the rotating chair and, simultaneously, one of its main prerogatives. It has long been considered as the key mechanism not only to shape the Council debate, but at the same time to leave the presiding country's imprint on the EU legislation. The Treaty of Lisbon, however, has altered the Presidency's agenda management power. Tallberg (2003) identified the following Presidency agenda powers: agenda setting, agenda structuring

and agenda exclusion. Of these, the Presidency has maintained mainly agenda structuring—also called agenda scheduling (Häge, 2017)—and agenda exclusion capabilities. In other words, agenda setting as such is almost non-existent today, in part because of the separation of chairmanship between the ministerial and heads of state meetings, and in part due to the constraints of the 18-month Trio agenda. Nevertheless, agenda structuring and agenda exclusion leave sufficient room for the Presidency to manage the Council debate.

Agenda structuring can be understood as the right to emphasise particular issues. In practice, this is done by arranging informal meetings, setting the frequency of the formal Council meetings (Tallberg, 2003) and determining their timing (Häge, 2017). Agenda exclusion, besides the actual removal of an item from the agenda, can be exercised by remaining silent on a topic or, alternatively, presenting proposals which are unacceptable to other member states (Tallberg, 2003).

In this way, the Presidency has the prerogative either to speed up or to delay negotiations among the member states based on the national priorities (Warntjen, 2013b). In fact, on average, agendas of post-Lisbon Presidencies differ by about 30 per cent in terms of salience attached to policy issues (Vaznonytė, 2020), the rest being inherited from previous chairs. Such an average value can be misleading at times because the rotating Presidency does not operate in all policy areas at the same level. As previously mentioned, with the Treaty of Lisbon, agenda setting in matters of foreign affairs is now managed by the High Representative; similarly, economic issues within the Euro area fall under the competence of the Eurogroup, while macroeconomic issues in the past years have been largely coordinated by the European Council. These two fields tend to occupy a significant share of the agenda both in the European Council (Alexandrova, Carammia and Timmermans, 2012) and in the Council (Vaznonytė, 2020), and the importance given to these topics remains stable over time. In the other policy fields, such as regional policy or civil rights, minority issues and

¹ Trilogues are informal meetings between the European Parliament, the Council of the EU and the European Commission on legislative proposals under the Ordinary Legislative Procedure (OLP) (Dionigi and Koop, 2017).

civil liberties, the salience attached to them tends to differ from Presidency to Presidency, which shows the rotating chair's ability to emphasise or de-emphasise certain issues on the Council agenda. This privilege is more evident in policy fields which fall under the competences shared between the member states and the EU.

The Trio Presidency is yet another element affecting the ability of a presiding country to affect the agenda. Despite the obligation to draft an 18-month agenda (covering three different Presidency terms) which has been embedded in the Treaty of Lisbon, Trio Presidencies are based on the geographical diversity principle (Batory and Puetter, 2013), which often leads to sufficiently broad programmes.

The Trio agendas are drafted by all three member states, which allows each of the countries to bring forward their own priorities. In fact, even though the Trio Presidency was considered a tool to prevent major fluctuations on the Council agenda, its effectiveness is somewhat disputed. This is in part due to the nature of the bureaucracies involved. The ministries responsible for the horizontal coordination of the Presidency's work seem to be more engaged in Trio matters than the line ministries, which are involved in specific topics (Jensen and Nedergaard, 2014). Furthermore, towards the end of the Trio, the programmes tend to be outdated (Grumbinaitė, 2018). This does not mean that cooperation between the presiding member states cannot become an advantage, but neither should it be considered a serious burden during the six-month term. Since all the EU member states have already held the Presidency once and the same Trios will work together in the next round, more coordination between the countries can be expected.

Agenda management does not exhaust the responsibilities of the Presidency. Even though member states would certainly prefer to be able always to give precedence to their preferred legislative priorities, sometimes exogenous events force their hand. Crises and external events pose unforeseen challenges to the EU governance, unsettle established priorities, and often require a more coordinated, EU-level approach. Furthermore, new areas, such as social policy or health policy, are progressively seen as interlinked

across the European space, meaning that novel attempts to coordinate them at the EU level are under way. These policy areas for a long time either fell under the competence of the member states alone or were shared with the EU only to a limited extent. However, recent challenges have begun to reshape the traditional division of competences across the layers of the European multilevel polity, generally leading to EU-level action gaining weight. This has implications for the rotating Presidency, sometimes leading to reshuffling of the Council agenda, sometimes altering peer expectations regarding the role to be played in such crises. The latter aspect will be discussed further in this paper, looking at the examples of the 2015 migration crisis and the ongoing COVID-19 emergency.

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In sum, despite the constraints brought by the Treaty of Lisbon, the rotating Presidency maintains some of its agenda management roles and can shape a significant part of the Council agenda. Most of such prerogatives, however, lie in policy fields where the member states share competences with the EU, while the policy areas governed at the supranational level are becoming more institutionalised and are therefore not impacted by the rotation of the Council chair. To what extent such a division between policy areas will remain is an open question, since unexpected events and other external shocks often call for a more coordinated response and action at the EU level. This inevitably implies increasing the role of supranational institutions in areas that were previously governed at the national level, leaving less room for intergovernmental debate.

3.2 The room for manoeuvre for the Presidency in the legislative process

Besides managing the agenda, the rotating chair also acts as a mediator between the member states in trying to reach a compromise on legislative

acts, and it represents the Council in negotiations with the European Commission and the European Parliament. Given a rather lengthy EU legislative process, one may think that little can be expected from a member state in terms of legislative outcomes during the six-month Presidency period. However, a lot depends on the decision-making stage of a particular dossier. The highest influence the presiding member state can expect to exert is during the first reading and the final stages of the Ordinary Legislative Procedure (OLP) (Warntjen, 2008, 2013a). In addition, the efficiency of the Presidency throughout the legislative process is highly dependent on the importance it gives to the policy field. High salience attached to a specific policy area by the Presidency and effective domestic governance system lead to a shorter legislative duration (Cross and Vaznonytė, 2020).

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Nevertheless, the rotating Presidency of the Council of the EU does not dictate its specific policy preferences in the legislative process; as such, it does not have any exceptional voting powers compared to the other EU members. The only situation wherein the substantive policy preferences of the presiding member state can find a preferential avenue into legislative acts is when the Presidency acts on behalf of the Council in negotiations with the European Commission and the European Parliament. Trilogues potentially grant the chair some leverage in terms of specific policy content (Tallberg, 2006), since the Presidency can then present the agreement to the Council as a ‘hard fought’ interinstitutional compromise. The Treaty of Lisbon has not substantially affected these powers, while the number of trilogues (and therefore of potential occasions for content steering) has substantially increased over time: while less than 10 per cent of legislation involved a trilogue in 2005, about 75 per cent did so in 2016 (Dionigi and Koop, 2017).

A further avenue to ensure the Presidency’s room for manoeuvre is through closer informal ties with the European Commission. It is common practice that both the six-month single Presidency programmes and the 18-month Trio programmes are drafted in cooperation with the European Commission (General Secretariat of the Council, 2015). Close cooperation with the Commission may indeed grant additional leverage for the member state in setting the agenda for the Council (Tallberg, 2003). As a recent study shows, the Commission puts forward its proposals strategically—i.e. when the priorities of the presiding member state are closer to those of the Commission (Van Gruisen and Crombez, 2021). Therefore, aligning the Presidency’s preferences with those of the European Commission may grant the Council chair more success in negotiating the issue among the EU ministers and bringing the final decision closer to its preferences.

Finally, the Presidency will often seek a working relationship with the European Parliament. This is in part a necessity, given that one of the key changes brought by the Treaty of Lisbon (in addition to those discussed in the previous sections) has been the extension of legislative powers for the European Parliament. In other words, the Parliament has become an equal co-legislator to the Council under the OLP. This also implies closer cooperation between the two institutions, including frequent meetings between Parliament officials and the forthcoming Presidency to discuss the priorities for the upcoming six months, and presentation of the rotating Presidency’s agenda at the beginning of the term and the progress achieved at the end of term in the plenary sessions of the European Parliament (General Secretariat of the Council, 2015).

However, these obligations bestowed upon the rotating Presidency do not have substantial implications: the presentation first of the Presidency programme and then of its results has no actual impact on whether the programme or its results will be approved. In other words, no actual parliamentary control over the Presidency performance is implied, consistent with the intuition that the Council, when acting as a co-legislator, functions as an independent and equally legitimised legislative chamber. This cooperation between peers with the European

Parliament is nonetheless crucial, especially in the legislative process, since obtaining the Parliament's support for a legislative act is essential to pass the legislation. On the other hand, since trilogues are more and more becoming a standard feature of the OLP (Dionigi and Koop, 2017), the rotating Presidency may use the restricted information that comes from these meetings to its advantage and select what to reveal to the rest of the Council members (Tallberg, 2006). In other words, the limited transparency of the trilogues benefits the rotating Presidency, allowing the final outcomes of the legislation to be dragged closer to its national position.

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To sum up, the role of the rotating chair in the legislative process in part depends on the legislative procedure and the stage of the decision-making process, where there is significantly more room for representation of the chair's interests in either the initial or the final stages. While the Trio Presidency agenda does not pose any significant constraints for the Presidency, the Commission's preferences may empower or obstruct the actions of the Council chair, depending on their alignment with those of the Presidency.

4. Crises and external events – where does the rotating Presidency stand?

The post-Lisbon Presidencies have faced not only the constraints posed by the new institutional environment, but also the challenges produced by various exogenous events, disrupting the usual flow of the policymaking process. In fact, the EU has been in crisis resolution mode since 2009. Starting with the Eurozone crisis, the Union has subsequently faced an unprecedented migration inflow in 2015, and eventually the COVID-19 outbreak in 2020. Some of these crises have interacted, creating shifting coalitions of member states whose boundaries changed

depending on the challenge (Zeitlin, Nicoli and Laffan, 2019). All three cases required political leadership in addressing unforeseen situations. In such situations, a leadership role is often taken up by the European Council and/or the European Commission. However, crisis management requires swift adaptation of the legislative process to the shifting context, and therefore calls into play the Presidency of the Council of the EU. Accordingly, this section investigates the input brought by the rotating Presidency of the Council of the EU. The performance of the Latvian and Luxembourgish Presidencies that took place in 2015 is examined with respect to the migration crisis, while the Croatian and German Presidencies in 2020 are analysed in terms of their response to the COVID-19 pandemic.

4.1 Rotating Presidency during the migration crisis: Latvia and Luxembourg compared

Migration policy is a relatively new area that falls under the competence of the EU. While migration policy was included under the so-called 'third pillar' in the Maastricht Treaty, where decisions were taken in an intergovernmental setting under unanimity rule, with the Lisbon Treaty the OLP was extended to migration policy as well (Niemann, 2012). An exception is made for emergency situations when member states face sudden migration flows: here, the Council can adopt a decision on measures assisting the member state in question, for which only a consultation with the Parliament is required. Hence, the chair's room for manoeuvre in this policy field is limited in 'normal' times, when a compromise with the Parliament is needed, but more extensive during crises, when it is not.

The 2015 crisis, which was marked by an unprecedented influx of migrants in Europe, was a first serious test for the EU-level governance of migration issues. While the peak of the migration flow had been reached in mid-2015, the Latvian Presidency had nonetheless faced mounting political pressure for action at the European level. Naturally, little had been anticipated at the time the Latvian Presidency agenda had been drafted, which explains why limited attention was granted to migration in the Presidency work programme—about 2.5 per cent of the content (Vaznonytė, 2020). The following six-month term, led by

Luxembourg, was instead able to take stock of these developments and include them in the planning, attributing about 5.6 per cent of the content of the Presidency agenda to migration issues. Since then, migration has remained a rather salient topic in the Presidency planning, suggesting that unforeseen circumstances are able to produce semi-permanent shifts in priorities that last after the immediate emergency is dealt with.

Nevertheless, the Presidency work programme *per se* is not a sufficient indicator of the leadership the country aims to pursue during unexpected events. Agendas imply a degree of planning and therefore start playing a relevant role from about six months after the initial impact of an exogenous unforeseen shock. The frequency of meetings of different Council configurations, which are in the hands of the Presidency, provides a more accurate measure of the Presidency leadership in the immediate weeks and months after a crisis begins.

The case of Latvia is interesting: at the time of the migration crisis, the country was holding the Council Presidency for the first time, and therefore had limited experience in managing the Council negotiations. Nonetheless, it reacted in line with what can be expected from rotating chairs, promptly convening relevant meetings of the Justice and Home Affairs (JHA) and General Affairs Councils and contributing to the preparation of European Council summits. In fact, migration issues were included on every meeting agenda of the JHA Council (Latvian Presidency of the Council of the EU, 2015). It must be noted that the Presidency went further than exerting a coordination role: it was in fact relatively vocal about its readiness to find common solutions in tackling the migration flow, openly claiming that unprecedented migration had become a high priority of the Latvian Presidency (Council of the EU, 2015a). The Presidency contributed to the preparation of the roadmap on migration and initiated the debate on relocation and resettlement, as well as on return policy—issues that were discussed in the European Council meeting in June (Latvian Presidency of the Council of the EU, 2015). Furthermore, in June, the Council had approved budgetary amendments ensuring an immediate increase in resources for the

management of migration and refugee flows, which were finally adopted in early July—i.e. during the Luxembourgish Presidency (Amending budget No 5 of the European Union for the financial year 2015).

While the efforts of the Latvian Presidency in dealing with the migration crisis were not unnoticed, the Presidency generally took a position more of a preparatory body for the European Council rather than the chair of a separate institution. In addition, in the same semester, following the invitation received from a special European Council summit on 23 April 2015 (European Council, 2015) and the Parliament's resolution (European Parliament, 2015), the European Commission presented a European Agenda on Migration (European Commission, 2015) as a response to the emergency. Given these actions at the supranational level, the Latvian Presidency, which had relatively weak policy formulation capabilities and often relied on European institutions (Auers and Rostoks, 2016), seemed to do what was necessary in addressing the migration crisis from the rotating chair perspective, but did not aim to compete with the European Council and the European Commission in taking the lead.

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The comparison with the following Presidency term of Luxembourg is significant. Like Latvia, Luxembourg is a small country. It enjoys much higher material resources, however, and, holding the rotating Council Presidency for the 12th time, had sufficient experience in handling unexpected situations. Furthermore, by the second half of 2015, the crisis had exhausted its surprise potential. Hence, different dynamics were at play. Not only had the number of formal meetings across different Council configurations increased compared to those during the Latvian Presidency, but also the new Presidency had organised several informal

meetings. Luxembourg activated the Integrated Political Crisis Response (IPCR)² arrangements, which allowed better coordination of the political response to the migration crisis (Council of the EU, 2015c). Luxembourg also managed to forge a common agreement on additional funding for EU agencies in managing the crisis and, despite significant differences across member states, on the temporary relocation and resettlement of migrants (Ministry of Foreign and European Affairs, 2016).

While, in principle, Luxembourg is well known for its consensual decision-making culture (Högenauer, 2016), the decision on the relocation of migrants to alleviate the burden for Italy and Greece was adopted by qualified majority voting (QMV), as it was considered the most efficient way to reach a decision (Smeets and Beach, 2021). In fact, this legislation created serious divisions between the member states. Hungary, Slovakia, Romania and the Czech Republic voted against the Council decision, the Czech Republic also noting that the Luxembourgish Presidency did not respond to its concerns regarding the technical aspects of relocation (VoteWatch Europe, 2021). While Luxembourg was deliberately seeking adoption of the decision in September, it did acknowledge the concerns of the member states when discussing the permanent crisis relocation mechanism later that year. At that time, the Luxembourgish Presidency called for more flexibility in the mechanism, asking the European Commission to make adjustments (Council of the EU, 2015b).

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Unlike the Latvian Presidency, the Luxembourgish Presidency seemed to cooperate with the Commission on a more equal basis, which can in part be explained by the long-standing experience

of the member state and the institutional contacts established. In fact, the decision to apply the QMV and not seeking a consensus regarding the temporary relocation measures was also supported by the Commission, since neither institution expected any progress in the European Council negotiations (Smeets and Beach, 2021).

The migration crisis was a good example of how the institutional norms and legal requirements set out in the treaties become guidelines for action. The Latvian Presidency, possibly due to its lack of experience as a first-time chair, acted more as a side player, doing the necessary but not aiming to be at the forefront of crisis management. The Luxembourgish Presidency instead took a proactive role, reaching decisions which were essential to progress with crisis management. These countries also differed in their committed administrative capacity. In the case of Luxembourg, the number of staff working on migration issues was further increased (Högenauer, 2016). Even though staff capacity had also been tripled in the Latvian Permanent Representation, the total number was nonetheless lower than that of Luxembourg (Auers and Rostoks, 2016). These extra capabilities, matched with a clearer understanding of the challenges ahead thanks to the additional six months to prepare for the crisis and the long experience in the role, meant that the Luxembourgish Presidency was considerably more proactive in leading the Council negotiations and brokering common solutions.

4.2 Rotating Presidency during the COVID-19 crisis: Croatia and Germany compared

A second unexpected crisis—the COVID-19 pandemic—struck Europe in early 2020. Unlike the migration policy, the EU has a very limited role in health-related issues, which are almost entirely coordinated at the national level. The EU mainly supports member states in their policies and promotes coordination (Brooks and Geyer, 2020). Nevertheless, differently from the migration crisis, COVID-19 spread across virtually all policy

² IPCR is the Council crisis coordination mechanism which allows information sharing to be streamlined, supports cooperation, and allows the crisis to be coordinated at a political level. The mechanism can be activated by the Presidency or by a member state following invocation of the solidarity clause (Council of the EU, 2021c).

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The reaction to the erupting health crisis was managed in a 'standard' way—i.e. the European Council taking the lead on emphasising the issue and putting the European Commission in charge of specific actions and proposals (European Council, 2020). In fact, the European Commission played a central role in responding to the pandemic. In the first half of 2020, the Commission adopted 291 decisions and other acts as a response to the pandemic. None of them were included in the work programme for 2020 (Council of the EU, 2020a), which shows that the Commission was capable of taking the lead in emergency situations. It must be noted that for the coordination of a cross-border health crisis, the EU has an additional institution, the Health Security Committee, composed of representatives of the member states acting in liaison with the European Commission.³ By 7 February, this Committee had already been convened six times to discuss the challenges brought by the pandemic (Council of the EU, 2020b).

Even though the initial COVID-19 management resembled that of the migration crisis, when the supranational institutions took the lead, the rotating Presidency did not take a secondary role and, despite the active role of the Commission, Croatia was a relatively active Presidency. At the end of January, the Croatian Presidency decided to activate the IPCR mechanism (Council of the EU, 2020b). In February, as the situation in Italy started to worsen considerably, the Presidency convened a high-level video conference between the member states, the European Commission

and the European Centre for Disease Prevention and Control, where the COVID-19 outbreak was discussed (Council of the EU, 2020b).

While eventually the pandemic turned out to be a fully symmetric shock, with all EU countries affected in similar ways, in the early days of the contagion it still appeared to be a localised event in Southern Europe, which also created difficulties in Council negotiations. In light of a rapidly evolving situation and increasing pressure on EU institutions, the Croatian Presidency not only made use of formal meetings, but also organised several informal gatherings, including among the transport, telecommunications and tourism ministers (Council of the EU, 2021a). The scheduling of Council meetings, as previously noted, is one of the main tools the rotating chair can use in responding to unexpected situations. In this particular case, however, it must be noted that while these meetings show the Croatian Presidency's will to ensure sufficient leadership at the Council level and its understanding of the wide nature of the crisis, they also indicate a certain degree of concern for the country's own interests, since transport and telecommunications topics featured among the Presidency's priorities (Croatian Presidency of the Council of the EU, 2020), while tourism is a key economic sector for the country.

'The Croatian government took its first Presidency seriously.'

The Croatian government took its first Presidency seriously. Regardless of its small size and being the last member state to accede to the EU, Croatia was proactive in managing the health crisis at the Council level. Undoubtedly, the Croatian Presidency, like any other Council chair, was supported by the General Secretariat of the Council, yet its active role shows that even a small and new member state can be an efficient mediator of Council debates in times of deep European distress.

The following six-month period was led by Germany, dealing with crisis management during

³ The Health Security Committee was established on the basis of the Belgian Presidency Conclusions on bioterrorism in 2001 (Decision No 1082/2013/EU).

its six-month term for the second time in a row. In 2007, Germany had acted as a conciliator among the member states in the wake of the referendums on the European Constitution (Maurer, 2008), which had been rejected in both France and the Netherlands. In 2020, it was in charge of the European recovery in the aftermath of the COVID-19 pandemic.

‘Before its presidential term, Germany had already raised expectations, teaming up with France to establish a pandemic recovery fund.’

Before its presidential term, Germany had already raised expectations, teaming up with France to establish a pandemic recovery fund (Pistorius and Grüll, 2020). This was to a large extent a revolutionary move, since Germany had long been a stark opponent of debt mutualisation. The coalition with France left the fiscally conservative alliance (later called the “frugals”) without its strongest member, fundamentally weakening their stance. Furthermore, Germany had used the first months of the outbreak to shift its Presidency programme to put significant emphasis on the COVID-19 emergency, to the extent that ‘overcoming the COVID-19 pandemic permanently’ was the first guiding principle of the German Presidency (German Presidency of the Council of the European Union, 2020a).

The main focus of the German Presidency was indeed on economic recovery, which included strengthening the single market, pursuing sustainable and inclusive growth, improving the resilience and competitiveness of enterprises, and tackling unemployment (German Presidency of the Council of the European Union, 2020a). Attention had been paid also to the improvement of crisis management instruments (such as IPCR), to the establishment of EU-wide contact tracing and warning systems, and other measures (German Presidency of the Council of the European Union, 2020a). In fact, by the end of the Council Presidency term, Angela Merkel even suggested that these numerous measures could be given further consistency as a comprehensive ‘leap forward’ of the EU into the field of welfare

and health, constituting the building blocks of a European Health Union (De Ruijter, 2020). Given the salience attached to COVID-19 in the work programme, it could be stated that Germany showed not only flexibility but also experience in adapting the programme to current events and emergencies, and it made use of its weight as the largest and economically most powerful member state to spearhead a deep, multi-layered integration plan, spanning from fiscal integration to the proposed European Health Union.

Like the other Presidencies, Germany made use of the chair’s prerogative to organise informal meetings among justice, health, employment and social affairs, competitiveness, research and transport ministers (Council of the EU, 2021b), which likely facilitated finding agreement between the member states in many fields. In fact, Germany not only managed to broker an agreement on the Recovery and Resilience Facility (RRF) (Council of the EU, 2020c) and the Multiannual Financial Framework (MFF), but also to ensure additional funds for regions to tackle the consequences of the pandemic (REACT-EU); the member states agreed on the independent health programme EU4Health, and overall resilience and crisis management were improved (German Presidency of the Council of the European Union, 2020b).

‘[...] a common point between the two Presidencies in their crisis response is their proactivity in seeking compromise, which allowed the Council to reach common decisions in a reasonably short period of time.’

Comparing the German and Croatian reactions to the COVID-19 pandemic is somewhat problematic, not only because of the experience the countries had, but also because of their size and de facto influence in the EU. Nevertheless, a common point between the two Presidencies in their crisis response is their proactivity in seeking compromise, which allowed the Council to reach common decisions in a reasonably short period of time. The spread of the implications of the pandemic across various policy areas to a certain extent increased the

role played by the Council Presidency because of the need to find common solutions among different ministers. As illustrated by both Presidencies in 2020, the organisation of informal meetings was used as a means for reaching consensus.

5. Conclusions

The Treaty of Lisbon has brought a number of changes to the EU institutional mechanism and affected the rotating Presidency of the Council of the EU. Because of the six-month agendas and changing priorities often criticised for creating instability and disruptions in the Council's work, the rotating chair was curbed by the 18-month Trio programme, the European Council President, and the High Representative for Foreign Affairs and Security Policy, which took away part of the previous functions of the Council chair, including political leadership and external representation. In this regard, the role of the rotating Council chair in the field of macroeconomic policy and international affairs is now limited because these topics are largely dealt with by the supranational institutions. In turn, this implies that on 'high politics' issues that may emerge in the future, one should have limited expectations for the performance of the rotating Presidency, especially if the priorities of the member state holding the chair do not align with the path being paved by the supranational institutions.

These new limitations notwithstanding, the rotating Presidency of the Council of the EU remains an influential body which could profit even from a relatively short term. The ability of the Council chair to determine the timing of the meetings, to organise informal gatherings, to exclude a dossier from the ministers' agenda, or to participate in the trilogues on behalf of the Council carries relevant weight in the decision-making process, and the prerogative to leave an imprint on EU decisions is granted equally to all member states. Furthermore, even if the 'high politics' issues are now at the discretion of supranational institutions, the rotating chair has a say in policy fields, the governance of which is shared between the member states and the EU. Given the wide range of such topics and sub-topics, and the margin of action granted to the presiding member state by the treaties, the relevance of the rotating chair at the Council level remains significant. Therefore,

to achieve the most from its six-month term, the rotating chair should assess the feasibility of certain agreements and decisions—i.e. considering the legislative stage of a proposal, the scale of divergence of opinions among the ministers, and the position of the European Parliament.

Exogenous crises and other unexpected events inevitably affect the Council agenda and bring new dynamics to the work of the rotating chair. The unexpected shocks of the 2015 migration crisis and COVID-19 created windows of opportunity for the rotating chair to exert a degree of leadership once again in organising meetings and spearheading compromises between member states. As discussed, even small member states can play a leading role—if not as designers of new policies or architectures, certainly as forgers of agreement and entrepreneurs of compromise.

Naturally, not every Presidency has what it takes to be an entrepreneur of compromise. First off, a great deal of success in managing critical situations depends on the experience held by the rotating chair. Secondly, the type of crisis to some extent determines the potential spaces of compromise the Presidency can exploit. A six-month term is simply too short to produce fundamental shifts in country positions, so symmetric crises are more likely than asymmetric shocks to allow the Presidency to play a stronger role. Finally, a lot of the rotating chair's work depends on the work of its predecessors, especially in moments of crisis. While the details of an exogenous crisis cannot, by definition, be anticipated, the occurrence of unexpected events can be planned for by forward-thinking about current policy shortcomings and preparing contingency plans.

'Forward-thinking, flexibility and investment in administrative capacity are the markers of successful rotating Presidencies, and small countries stand to benefit most of all from adequate preparations.'

The main take-aways from this analysis are threefold. First off, despite the changes brought

by the Treaty of Lisbon, the rotating chair's role remains relevant in setting the agenda for a number of Council configurations and in the legislative process, given the increasing importance of trilogues. Secondly, even though the rotating Presidency does not take the lead in crisis management, its role remains essential in brokering decisions among the ministers, and therefore ensuring a timely response to unexpected

events. Finally, the extent to which the member state can make the most of the Presidency term regarding national priorities highly depends on its flexibility and the resources allocated to the six-month chairmanship. Forward-thinking, flexibility and investment in administrative capacity are the markers of successful rotating Presidencies, and small countries stand to benefit most of all from adequate preparations.

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