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**‘A First Look: The many faces of the European Council’**

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## 1. The Rise and Relevance of Europe's Institutionalised Summitry As the Centre of Power

Since its creation in 1974, no other institution has shaped the fundamental developments of the European construction as widely and deeply as the European Council. Besides system-making functions like revising the EU-Treaties top national politicians have considerably contributed to the policy-making process in essential areas of the EU agenda. Despite what some Treaty articles –in the new provisions of the Lisbon Treaties- state, the Heads of State or Government have made –de facto – major decisions for and within the institutional architecture.

This book, dealing with a rather unusual institution, starts out observing what the Heads of State or Government of now 27 Member States have agreed upon and achieved in the summits from 1969 to 1974 as well as in the more than 115 meetings and in at least 15 extraordinary, informal meetings of the European Council between 1975 and the end of 2011. Even though the European Council has already dealt with nearly all major issues on the European political agenda since its creation in 1974, the Heads of States or Governments have yet again increased its influence and impact since the 90s, especially in the context of the global financial crises of 2008 onwards.

The activities and agreements of this 'politically most authoritative institution' (Bulmer/ Wessels 1987: 2) which 'has largely fashioned the Union as we know it today' (De Schoutheete 2006: 57) has and had as much major impact on the EU's institutional balance as it has on the relations between the political leaders of the EU's Member States.

The rise and relevance of this institution is a key element to understand not only the formation and workings of the political entity we now call the European Union, but also to understand the history of (Western) Europe in the last six decades.

In the face of increasing numbers of conferences of top national politicians all over the world, the European Council and its institutionalized summitry of the Heads of State or Government of the European Union (EU) may serve as a symptom and symbol of a general trend towards an intensified personal engagement of national leaders to deal with a large variety of issues on a regular basis. But at the same time said body is a product of specific conditions and constellations: The European Council constitutes an essential part of an institutional architecture which has evolved out of an emerging multi-level polity of a sui generis nature. Compared with other forms of regular summitry, the European Council does not present itself as a typical and representative case, but is located at one end of a broad spectrum of several, vastly different forms of institutionalized summitries (Johansson/Tallberg 2010: 230).

Close observers and academics have characterized the nature and role of the European Council differently.

As a recurring notion, politicians and academics alike use the term 'highest authority'. Some propose to even employ the label 'European government'. Generally, they locate this body somewhere near the 'apex' of the institutional hierarchy and as a 'Locus of power second to none' (Hayes-Renshaw/Wallace 2006: 165), however without defining its precise position in the EU architecture. Beyond stressing the European Council's overall role, most of the labels given to it have a limited value to explain the making and working of this institution.

Given its high relevance it is not surprising that the European Council's role has been highly controversial. From the first introduction of such a concept by the French President de Gaulle to the strong propagation of the European Council by the German Chancellor in what she calls 'Union Method' (Merkel 2010), this body is either categorised as the 'Saviour' or the 'Villain' of European integration (see Bulmer/Wessels 1987: 1-3).

Despite how an observer might assess and define the European Council's nature, role and impact, we might need to address other major issues in this context: how can we explain that these Heads of State or Government, representing the Member States as 'Masters of the Treaty' (BVerfG, 30/6/2009, para. 298), have agreed on decisions with far-reaching consequences for their own home countries and what are the reasons for national, traditionally hard-nosed politicians – each of them equipped with veto power – having achieved a relatively high output of their club in the past?

## **2. Treaty Provisions: The Legal Word**

To read the legal provisions, especially those formulated in the (Lisbon-) Treaties is a necessity for understanding some of the European Council's fundamental features, although this is not sufficient to grasp its real world influence, impact and profile. Even the articles of the Lisbon Treaties do not inform us about the dimension of the European Council's political role and its actual function in the EU's ever-changing architecture.

The European Council is certainly a strange addition to the original construction of European integration. Its nature and role within the institutional architecture of the EU system has been left widely undefined. From its emergence and establishment in 1974 up to the Lisbon Treaties in 2009, intensive and controversial debates about its basic legitimacy, legal status, its assigned tasks and implied political functions as well as its institutional form and internal organisation including its Presidency have taken place on a fairly regular basis.

In terms of its legal status we are able to notice a considerable evolution. After its creation by mere declaration during the Paris summit in 1974, this body was put into a legal form for the first time in the Single European Act (1987), but outside the European Community Treaty. The following Treaty amendments and revisions increasingly mention the bodies for the Heads of State or Government.

The articles of the Lisbon Treaties mark considerable changes compared to the pre-existing legal architecture.

Like for other EU institutions, the Lisbon Treaties regulate tasks, membership, decision-making rules and major parts of the internal organisation of this body. In addition the European Council has given itself 'rules of procedures' (European Council Decision 2009/882/EU).

The upgraded importance of this institution is evident already by a quantitative indicator: While 27 references to the European Council plus seven to the 'Council in Composition of the Heads of State and Government' are to be found in the Nice Treaty, the Lisbon Treaties counts 148 references to this institution.

As a fundamental innovation, the TEU defines the basic legitimacy of the EU institutions (see Art. 10 (1) und (2) TEU). In this view, 'Member States are represented in the European Council by their Heads of State or Government [...], themselves democratically accountable either to their national Parliaments, or to their citizens' (Art. 10 (2) TEU).

As to the legal status, the Lisbon Treaty incorporates the European Council formally into the 'institutional framework' (Art. 13 (1) TEU) of the EU just as the Union's other institutions. Being part of this institutional framework indicates a step towards a full integration into a complex system of institutions.

Its compliance with Treaty norms is up to judicial review by the Court of Justice of the European Union. The 'Court of Justice of the European Union

shall review the legality [...] of acts[...] of the European Council intended to produce legal effects *vis-à-vis* third parties' (Art. 263 TFEU). These provisions feed an intensive debate about the position of the European Council in the evolving institutional balance.

Following this integration, a distinction between the European Council and the 'Council in the composition of the Heads of State or Government' – found in the earlier Treaties – is abolished.

The catalogue of tasks (Art. 15 (1) TEU) is taken up again, complementing official documents and Treaty articles. The European Council's general description is 'to provide the Union with the necessary impetus for its development' and 'define general political directions and political priorities thereof'. A notable change in this context is the addition of the term 'priorities thereof'.

Compared with analogue articles on other EU institutions, the functions conferred to this body remain vague and general. The wording might let us expect a role somehow superior to or independent of the remaining EU institutions.

One newly written passus aims to limit the kind of activities and acts the European Council is allowed to perform: As such, it 'does not exercise legislative functions' (Art. 15 (1) TEU). Excluding the European Council from legislative acts might look strange at first glance, but in my reading it represents a precautionary and pre-emptive reaction to the increasing tendencies of the Heads of State or Government to directly pass legislative acts. With this passus, the defenders of the traditional Community method, seek to set a legal boundary *vis-à-vis* the 'ordinary legislative procedure' which is located in the institutional triangle between the Commission, the Parliament and the Council. Thus it might be seen as a confirmation of the European Council's *de facto* role as some kind of pre-legislative chamber.

Beyond these general attributes, the new Treaty text assigns a set of tasks to the European Council with regard to system-making and policy-making.

Even more explicitly than in the Nice Treaty, the TEU defines the European Council's pivotal role in the 'general provisions on the Union's external action' (Art. 22 (2) TEU) and in the 'specific provisions on the Common Foreign and Security Policy' (see especially Art. 22, 24 and 26 TEU). The TFEU now additionally empowers the European Council in the 'Area of Freedom, Security and Justice' (Art. 68 TFEU).

The Lisbon Treaties confirm the European Council's role as electoral body in proposing the President of the Commission, but also extend its electoral functions to the nomination and appointment of two newly introduced positions of key importance: In a clear change to the previous rules, the Heads of State or Government will now also elect the President of their own body, thus ending the rotating Presidency Art. 15 (5) TEU). They also appoint the High Representative of the European Union for Foreign Affairs and Security Policy (Art. 18 (1) TEU).

Furthermore, the European Council's role as the highest instance of political appeal is extended to areas of high political sensitivity. Under specific conditions, a government can now avoid being overruled by a qualified majority voting in the Council using an 'emergency brake' through which they can then turn to the European Council.

As to system-making, the newly designed 'ordinary' and 'simplified' revision procedures (Art. 48 TEU), including the activation of the so-called passerelle clause, allocate important gatekeeper functions to the European Council: More clearly than before the new provisions strengthen a role of the European Council which I classify as the 'constitutional architect'.

The (Lisbon-) Treaties also allocate power for adapting rules of other EU institutions to the European Council.

As to the accession – another system-making function – the Lisbon Treaties add few new formulations.

Additional tasks are allocated to the European Council by a new article regulating the procedures for the withdrawal of a Member State and by

the competence to 'determine the existence of a serious and persistent breach' of the Union's values (Art. 7 (2) TEU). Overall, the Lisbon Treaties reinforce the role of this institution as the master of relevant procedures and the highest authority to decide on Treaty texts.

Concerning its institutional form and internal organisation, the Lisbon TEU and TFEU and the respective rules of procedure (see European Council Decision 2009/882/EU) introduce some major changes.

**Box 1 TEU provisions on the European Council's composition**

**Article 15 TEU (Lisbon)**

2. The European Council shall consist of the Heads of State or Government of the Member States, together with its President and the President of the Commission. The High Representative of the Union for Foreign Affairs and Security Policy shall take part in its work
3. The European Council shall meet twice every six months, convened by its President. When the agenda so requires, the members of the European Council may decide each to be assisted by a minister and, in the case of the President of the Commission, by a member of the Commission. When the situation so requires, the President shall convene a special meeting of the European Council.

Source: Treaty on European Union, 2009

The composition seen above (see Box 1) is of high significance: the European Council consists of the highest political decision makers of the Member States and the Commission. Members of this body are the Heads of State of a few selected states – namely Cyprus, France and Finland – and the Heads of Government (prime ministers and chancellors) from other Member States as well as, situated on the same legal level, the President of the European Commission (see Box 1).

One major addition is that according to the Lisbon Treaties, the permanent President of the European Council replaces the rotating Presidency model and is now a member of this group. The Lisbon provisions also assign a specific status to the High Representative of the Union for Foreign Affairs and Security Policy: This person 'shall take part in its work' (Art. 15 (2) TEU, see Box 1). In contrast to former versions however, the new provisions do not mention a specific status for the Ministers of Foreign Affairs. Foreign

ministers are no longer 'natural' members of a second rank; the new provisions exclude them from regular sessions unless the members of the European Council specifically ask them or other national ministers to assist them.

The frequency of the meetings (Art. 15 (3) TEU) – at least four times per year – can be considered relatively high compared with other regularly held summits on an international level, but it is also low when compared to other EU institutions like the Council (of Ministers).

The legal provisions also adjust several rules regarding decision-making: The dominating mode is that of a 'consensus': 'Except where the Treaties provide otherwise, decisions of the European Council shall be taken by consensus' (Art. 15 (4) TEU). But the provisions also enable the members to take decisions by qualified majority (Art. 235 TFEU): they can be applied when exercising electoral functions, e.g. with respect to proposing the President of the Commission to the EP (Art. 17 (7) TEU), the High Representative of the Union for Foreign Affairs and Security Policy (Art. 18 (1) TEU) and the members of the Executive Board of the European Central Bank (Art. 283 (2) TFEU). The QMV rules of the European Council also apply to some minor adaptations for the working of other institutions such as the Presidency of Council configurations (Art. 236 TFEU).

As to the (re-)organisation of the European Council's work, the Lisbon Treaties introduce a major novelty: instead of a presidency rotating equally between the member states on a half year basis, the Heads of State or Government vote for a president that stays in office for two and a half years (this presidency can be renewed once). The extensive list of his tasks (Art. 15 (6) TEU) shows that the member's intent was to increase their own institution's efficiency.

This form of Presidency, introduced by the Lisbon Treaties, has major consequences for the internal functioning of the European Council and an overall impact on the EU's institutional balance.

### 3. Major Agreements: The Real World

The Heads of State of Government have developed a broad and differentiated set of activities which is based on the relevant Treaty articles including the Lisbon TEU and TFEU among other, but also went beyond these provisions. As such, they made – at least *de facto* – highly significant ‘real decisions’ in the past (Jacqué/Simon 1988: 119). Their agreements (see Box 2) defined major constitutional steps in the history of the EU. They document the European Council’s role as the ‘constitutional architect’.

As ‘constitutional architects’, the top representatives of the highest political authorities have been the masters of all procedures concerned with framing, shaping and making all acts that lead to a deepening and widening of the EU system. In particular they concluded the final agreements of intergovernmental conferences for Treaty reforms and related to accessions to the Union. As an indicator of importance, the labelling of Treaty revisions follows the cities where the Heads of State or Government took the history-making decisions – e.g. the Treaties of Maastricht, Amsterdam or Nice.

<b>Box 2 Major Agreements of the Heads of State and Government on System-Making and Policy-Making</b>	
<b>Year and Place</b>	<b>Topic</b>
1969 The Hague	Completion, deepening and widening
1978 Bremen	Creation of the European Monetary System

1984 Fontainebleau	Agreement on budget
1985 Luxembourg	Single European Act: decisions on majority voting in the Council and the completion of the internal market
1991 Maastricht	Treaty of Maastricht: Economic Monetary Union and Common Foreign and Security Policy
1996 Dublin	Decisions on the Stability and growth Pact
1997 Amsterdam	Treaty of Amsterdam: Creation of an Area of Freedom Security and Justice
2000 Lisbon	Lisbon Strategy: initiative to make the EU a more competitive and dynamic economy
2000 Nice	Treaty of Nice: preparation for enlargement
2002 Copenhagen	Agreement on enlargement: Central and Eastern Europe + Malta + Cyprus
2004	Accession: Central and Eastern Europe + Malta+ Cyprus
2004 Rome	Constitutional Treaty
2005 Brussels	Changes to the Stability and Growth Pact
2007	Accession: Bulgaria and Romania

2007 Lisbon	Treaties of Lisbon
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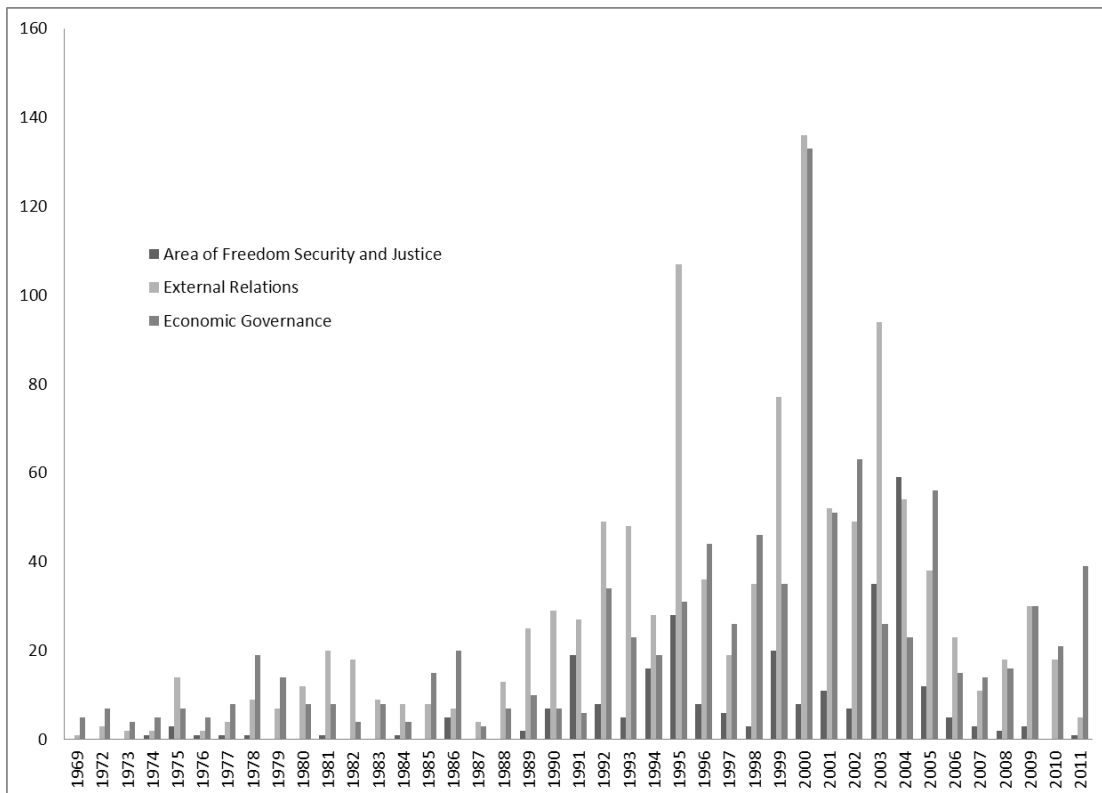
Source: Jean Monnet Chair Wolfgang Wessels 2011, see also Werts (2008: 182-183)

Besides these system-making functions, the European Council has an extensive record in respect to ‘policy-making’.

As a result of their intensive work, the European Council has developed a ‘state-like agenda’ covering – in different degrees of intensity – all areas of public policies.

In several ways (though with varying impact), the Heads of State or Government have also set the EU’s agenda and priorities, framed doctrines and formulated guidelines for most public policies.

**Graph 1 ‘State-like Agenda’ – topics of the Heads of State or Government from 1969-2010**



Compilation: : Jean Monnet Chair Wolfgang Wessels 2011. The documents used in this graph comprise the summit Communiqués from 1969-1974 and the (Presidency) Conclusions of the regular European Council meetings from 1975-December 2010. As a

starting point for the allocation of chapter headlines the following chapters of the Lisbon Treaties have been used: Title V TEU; Part III: Title II, Title IV, Title 5 (Chapter 2, 4, 5), Title VII (Chapter 1), Title VIII (Chapter 1), Title XVII ; Part V: Title II, Title III (Chapter 1, 2) TFEU. See also: notes on method

The chief national executives have dealt with nearly all areas enumerated in the Treaties and beyond. My argument is that the European Council created, coordinated and monitored major forms of what is labelled as 'European governance' (Peters/Borrás 2010: 125-129), 'modes of governance' (see Diedrichs/Reiners/Wessels 2011) or 'policy modes' (H. Wallace 2010: 92-93). As significant examples the Heads of State or Government have installed the European Political Cooperation (EPC), the Common Foreign and Security Policy (CFSP) or the 'Open Method of Coordination' (OMC). The political leaders of several generations have turned their institution into a 'master of EU procedures'. They initiated, energized, steered, coordinated, reviewed, monitored and moderated processes in most domains of EU policies. Via their body, political leaders exercised pre-legislative functions - outside the Treaty provisions, the top national politicians gave 'instructions' to the EU organs that were consequently taken up in the formal procedures.

As the master of the procedures, the European Council exercised its 'power as an electoral body' in regular intervals, selecting people for key positions in the EU's institutional architecture and 'the power of the purse' in achieving time-consuming and highly controversial agreements for the size of the 'own resources' of the EU budget and for setting the limits of the expenditure for policy domains in multi-annual financial frameworks. They also agreed on procedural adaptations of other EU institutions. By making use of the power of their institution, political leaders have again and again exercised their power to act as a final instance of appeal for controversial issues not settled on a lower level – even if the Treaty provisions do not allocate any direct powers to the European Council (such as deciding about the EU's own resources and its distribution as well as about enlargement).

Thus the chief national executives did not leave all issues to the 'normal' EU machinery. In major areas of policy activities such as external action and economic governance, they got involved on a regular basis. Dominating items on the European Council's agenda were a broad and differentiated set of topics related to economic governance. Heads of State or Government have used the European Council to discuss possible measures dealing with all major economic challenges. They framed and made cornerstones of the EU's economic and monetary constitution. From the creation of the European Monetary System (EMS) to the stabilization of the Euro-zone, they made decisions with a strong impact on core areas of the national economic sovereignty. With a differentiated set of measures – including the 'Stability and Growth Pact' (SGP) for fiscal discipline, the 'Lisbon Strategy' and the 'EU 2020 Strategy' for an inclusive range of economic, employment and social objectives – the Heads of State and Government massively shaped policies for the European welfare state. Further agreements could result in the construction and stabilisation of a 'supranational governance' for monetary policies and the establishment of a 'hard coordination' for nation fiscal discipline and a 'soft coordination' for general economic employment and social policies (for categories, see Wessels/Linsenmann/Meyer 2002: 66-70). The European Council has taken a path towards the highly controversial model of a '*gouvernement économique*'.

The Heads of State or Government have also frequently dealt with nearly all issues on the international agenda. Declarations of the European Council range from dealing with developments in the regional neighbourhood to global issues. In their attempts to establish the EU as a 'global player' or 'global actor', the European Council can be regarded as the EU's 'collective voice', perhaps even simpler as a 'collective Head of State' (De Schoutheete 2006: 52). As confirmed by the Lisbon TEU, the Heads of State or Government have placed the European Council at the top

of the institutional architecture regarding what the TEU now calls 'external action' (Art. 21 TEU).

In core areas of national sovereignty related to Justice and Home Affairs, the Heads of State or Government exercised major pre-constitutional and pre-legislative functions in creating and developing an 'Area of Freedom, Security and Justice'.

On their agenda the Head of States or Governments have also included traditional policies of the European Community like the internal market and the CAP, as well as newer issues like environmental, climate and migration policies.

A major function that is not explicitly mentioned in the Treaties is the European Council's role to offer political leadership in situations of internal crises and external shocks, as a strong demand for guidance has often pushed the European Council to react in these times. From the Yom Kippur War in 1973 over the fall of the Berlin wall (1989) to the financial crisis of Greece (2010), national leaders sought a common position and made use of the European Council to achieve it. Especially in times of crises the question of power both of and within the European Council is raised.

#### **4. Inside the European Council: Explaining Consensus-Making**

To explain the work of the European Council, we will have to look at the factors leading to successes and failures in its performance. The puzzle to be addressed here is to look at dynamics, leading to what close observers rate as a relatively high degree of productivity (see Stäsche 2011: 643-644; Weerts 2008: 139 -144; De Schoutheete 2006).

To improve their workrate, the members of the European Council have developed a set of procedural rules and internal arrangements in a trial

and error process. We need to give specific attention to the Presidency, its legal empowerments and its real world patterns.

I argue that the Heads of State and Government have developed and used a set of negotiation devices, especially package deals, and a club-like consensus culture to reach agreements more easily. We should also try not to overlook the fundamental factor of power relations. Inside the European Council, we observe cleavages between leaders and followers, as well as between larger and smaller countries with special attention to the Franco-German leadership which has been of specific importance for the European Council.

## **5. Identifying Models: Four Types of Institutionalized Summitry**

### **5.1 The European Council and the Institutional Balance**

Given its relevance, several analyses, assessments and perceptions of this key institution can be discovered both in the public and in the academic realm. Though few academic works deal directly with the European Council (see Paterson 2010: 76), I will make use of several theoretical approaches and political debates. Using the traditional dichotomy between supranational and intergovernmental dichotomy, I will identify a set of role models, each of them addressing the issue of legal status and political functions as well as the institutional form and internal organisation. We are able to find traces of each of the models in the ‘legal’ and ‘living’ architecture of the EU system.

One key point of interest is the impact of the European Council on what is generally called ‘institutional balance’ (see Monar 2011, Jacqué 2004, Jacqué/Simon 1988: 119-129; Bonvicini/Regelsberger 1988: 186-196): has the foundation of the European Council and its work affected the original

EU institutional balance and if so, how can we characterise the new balance? What is the nature of the European Council's relationships with other organs in the 'institutional framework' (as defined by the Lisbon TEU in Article 13) ?

## 5.2 The Presidency Model

The approach to analyse and assess the European Council is to take up elements from some of the most historically prominent views on the nature of the European construction. In retrospective, such an account starts with a 'Europe des patries' (see De Gaulle 1965; Thatcher 1988). Such a 'sovereignist' point of view (see Kassim 1997; Stahl 2006), the Member States are seen as the 'Masters of the Treaties' (BVerfG, 30.6.2009, para. 150).

This school of thought is one of the most powerful narratives dealing with the nature of the EU. Though there have been many political disputes about the role of European Council, this specific interpretation seems to dominate the public perception.

When regarded from this perspective, the overall role of the European Council can be clearly defined as 'the intergovernmental structure by excellence' (Croisat/Quermonne 1999: 115), serving as the 'top of the pyramid' of the institutional architecture. The 'summit' is then a typical sign of a 'con-federal' nature of the European construction (see Fontaine 1979: 357). By representing national legitimacy in its highest form, the European Council is the institutional incarnation of a European 'association of sovereign nations' (BVerfG, 30.6.2009, para. 148). With the academic debate in mind, we can make use of the 'liberal intergovernmentalism', viewed by its inventor(s) as a 'baseline theory' (see Moravcsik/Schimmelfennig 2009: 67).

Based on these assumptions, I suggest as the *idée directrice* two models for the European Council.

The first concept derives from a traditional view of summits as history-making events: The *deus ex machina* model stresses the extraordinary functions of the summit to be called upon only in exceptional cases of uttermost importance. The highest national leaders should meet in 'constitutional moments' (see Christiansen 2005: 72; Ackerman 1992: 48) for shaping and making the political system of the EU polity as such and in emergency situations for crisis management. To be able to reach groundbreaking decisions, their legitimacy should not be eroded by the banality of regular sessions and mundane issues. The respective provisions giving the European Council's summits an adequate legal status and the provisions for the institutional and organisational form of such a summitry remain vague. If needed though, members would find an adequate way to meet these issues and to agree on a solution. External shocks in particular would force national leaders to reach results.

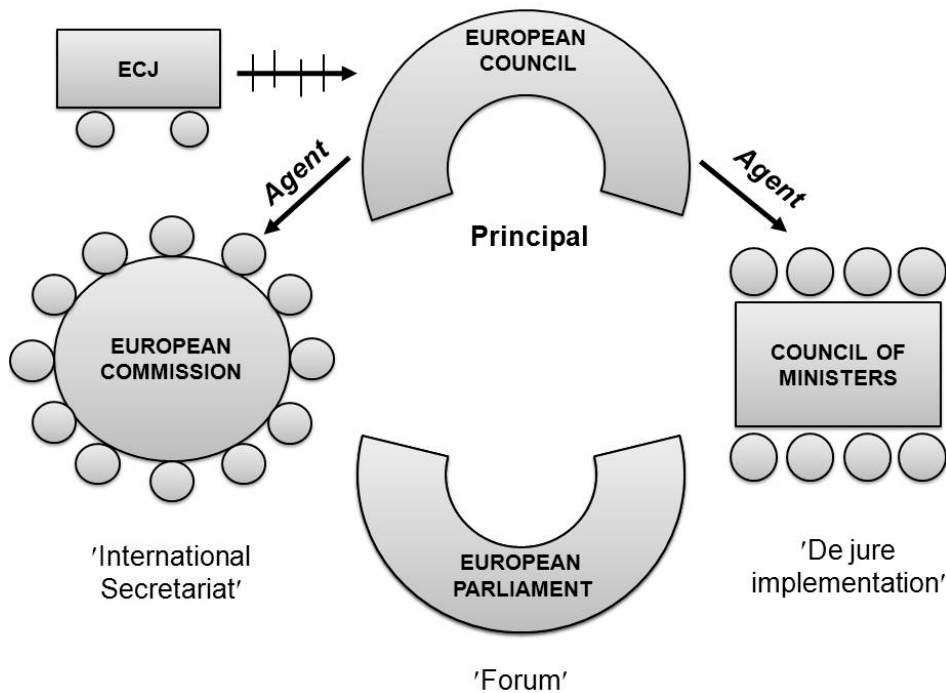
Following the same intergovernmental line of arguments, the Presidency model with the European Council being located at the top of a pyramidal architecture is more precise (see graph 2).

It understands the institutionalized summitry European Council as the supreme authority for Europe. Here, national leaders are the key actors to 'formulate a consistent set of national preferences', bargain with one another to reach 'substantive agreements' and finally 'choose to delegate and pool sovereignty in international institutions that secure the substantive agreements they have made' (Moravcsik 1998: 20). In this model, the top national politicians are supposed to meet regularly and discuss all points on the public agenda they see appropriate for dealing with common problems. In pursuing this function, the body of the highest national representatives should not be subject to any legal constraints and

they should consequently be placed above and outside of the Treaty provisions. Through 'their' body they evidently exercise prerogatives of ultimate leadership. Irrespective of legal provisions, the European Council is supposed to be the key locus of power in the EU.

Despite the existence of other actors in the institutional architecture of the EU, the Heads of State or Government are the 'principals' (see for the term Kassim/Menon 2003; Pollack 2003; Moravcsik 1993) who, as masters of the procedures, direct the EU's political process (at least when it interferes with vital political interests).

Graph 2 The European Council: The Presidency Model



Source: Jean Monnet Chair Wolfgang Wessels 2011.

Without major regard to the tasks delegated to them in the relevant Treaty texts, this body *de facto* covers all areas of interest of the member states. The ultimate authority of the European Council is then used for history-making decisions like Treaty revisions and accessions, as well as for policy-making functions in the most important policy domains. Beyond any *de jure* interpretation of the legal words, the Heads of States or Government

are the dominating instance in the EU on a practical level. Given the status of their body, the highest national representatives remain in a superior position with regard to the checks and balances system developed in the EU Treaties.

Following this model, the European Commission's role is one similar to a General Secretariat as known from conventional international organisations. Following the reading of the intergovernmental school of thought one expects the ministers in the Council of the European Union to transfer the *de facto* political decisions of their 'bosses' into concrete legal acts, with only few possibilities of actual change on their part. From that perspective the European Parliament – despite its label – does not possess full parliamentary legitimacy on its own, as there is no actual 'European *demos*' and thus is expected to be a forum for the public opinion and rather irrelevant debates.

As to the role of the Court of Justice of the European Union, the intergovernmental perspective sees its role as serving some kind of 'referee' for settling disputes of minor political importance by 'securing the credibility of interstate commitments' (Moravcsik/Schimmelfennig 2009: 69). The style of interaction within the European Council is marked by intensive and hard bargaining. National leaders, being the representatives of sovereign states, use the European Council as an arena to rationally pursue their pre-fixed national preferences, or at least what they perceive and sell as national interests. The process of defending national sovereignty will in turn make them unreceptive to any learning process which might be following exchanged debates and arguments within their 'club' (see Risse 2000). The institution is just an arena in which national leaders exchange their positions and bargain over pre-fixed preferences.

In line with these considerations, the internal dynamics within this group is bound to be shaped by the dominant states and their respective coalitions. 'The distributive outcomes reflect the relative power of states based on patterns of asymmetrical interdependence' (Moravcsik/Schimmelfennig

2009: 71). Smaller countries will then have to accept the packages as formed by a directorate of the 'EU's 'great powers'. This leadership is based on traditional power resources and can be measured by respective indicators. The larger members will form a core group leading to a *de facto* 'directorate' of the few 'great powers'. They establish a 'cooperative hegemony' (Paterson 2008) which sometimes consists of the Franco-German couple solely.

Along the same lines will the permanent President of the European Council (as introduced by the Lisbon Treaties (see Article 15 (5) and (6) TEU )) serve as an 'agent' of the top club. The President will be more of an upgraded Secretary General serving the club than develop an independent profile, with a strong leadership role for himself.

In this Presidency model, the European Council also enables Member States to react to changes of geopolitical power constellations in and outside of Europe. Looking at its geopolitical interests, the EU is of higher importance to European nations than to 'just' set rules for some kind of economic cooperation and integration. Going along their pursuit of vital national interests, the overall role of the body of national leaders goes beyond publicly declared goals and objectives. The hidden agenda for the European construction is to increase the security and power of their states.

Through the European Council they develop strategies to defend vital national interests by some kind of 'antagonistic balancing' against hostile powers and threats from outside. From a security-driven view, Member States use the European Union to extend their realm of power by shaping the regional milieu. For the national leaders 'their' European Council hence symbolises the concept of '*L'Europe puissance*'.

Taking up the concept of power, the European Council also provides the European states with the ability to pursue some kind of 'cooperative balancing' – in contrast to other major players in the international system,

it can formulate positions for international and global regimes of cooperation, such as trade negotiations within the WTO, international climate negotiations or deliberations within the G8 or G20.

In my mind, one of the most stimulating concepts addresses the logics of 'integrative balancing' (Link 2006: 21). From this perspective, one of the major original motivations for European integration has been to establish lasting peace among arch-enemies by creating a supranational institutional architecture putting restraints on the too powerful Member States. Facing the once ongoing power struggle among European states, national leaders found their body to be the appropriate and adequate arena in which they could collectively define institutional constraints to prevent domination by one member or a group of Member States. The overall role of the European Council is then to analyse the changing relationships between its members and to achieve a balance of power both among the greater powers of the EU and among groups of larger and smaller states. When confronted with the systemic tendency of larger countries to build some kind of directorate, the smaller Member States at least gain institutional opportunities to raise their voice (Hyde-Price 2006: 226).

### **5.3 The Council Model**

As a clear alternative to the 'Presidency model', the 'Council model' aims at integrating the political potential of the highest national decision-makers into the 'ordinary' institutional architecture characterized by the Community model. National chief executives debate and decide within the Council and its rules. Heads of State or Government act according to the relevant Treaty rules including the qualified majority voting. Thus this special form of the Council, located on the highest level of power, may take legal decisions applicable for the EC or EU – though on the condition that it strictly follows the Treaty rules. The European Council will be subject to the

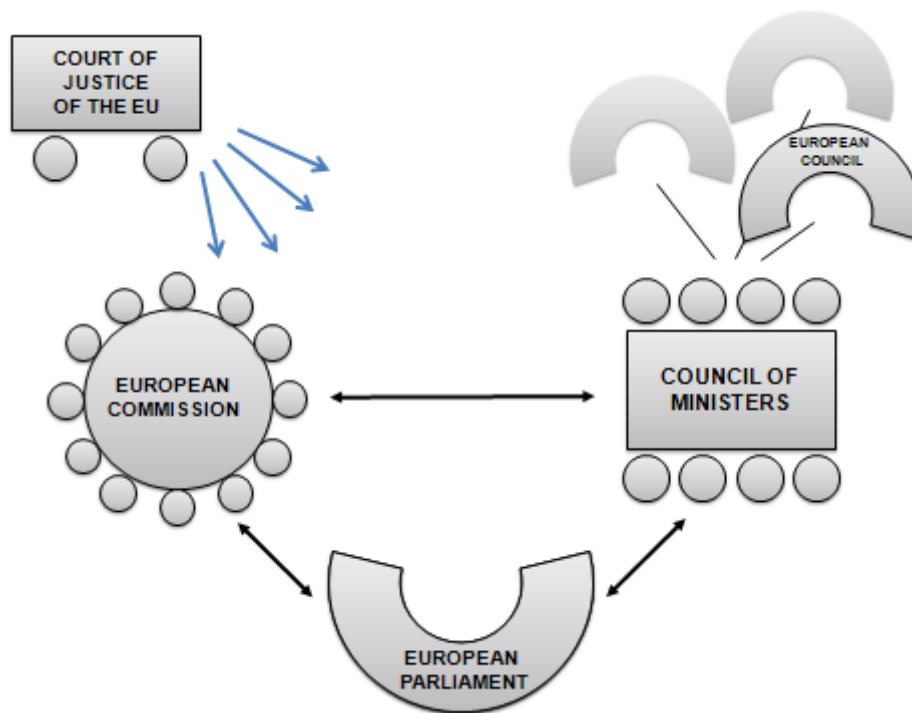
constitutional checks and balances of the EU system, including the Court of Justice of the European Union (reviewing the legally binding acts of the European Council).

Following the relevant Treaty provisions, the Commission should keep the right of initiative on EC matters – even with respect to the European Council. To aid the meetings, the existing administration, especially the Council secretariat, is supposed to be sufficient. Thus, the body of the Heads of State or Government gets ‘communitarised’.

Following neo-functionalist assumptions (see e.g. Niemann and Schmitter 2009), the Heads of State or Government perceive the EU system as a useful opportunity through which they can pursue their problem-solving efforts. Heads of State or Governments turn into ‘agents’ of functional spill-over dynamics. The chief national executives in the European Council are under strong though partially hidden pressure to follow intended or unintended consequences of earlier steps transferring key competences to the European level. This once laid down path (Pierson 1996) will determine the topics on the agenda as well as functions and form of the European Council itself. So-called ‘necessities’ from ‘anonymous’ structural forces (see Hallstein 1972), especially those arising from the ‘market’ or the ‘logics’ of the international system, push the current chief executives to extend the scope of common policies and improve earlier institutional efforts. National leaders are bound by the inbuilt demands of policies their predecessors have launched and pursued over several decades.

Following thus a community orthodoxy, the European Council is expected to incorporate the strongest domestic authority to accelerate the rather slow-moving procedures of the Council of Ministers and overcome the inherent inertia. Institutional summitry according to the Council model would not disturb the existing and desired institutional balance (see graph 3).

**Graph 3 The Council Model**



Source: Jean Monnet Chair Wolfgang Wessels 2011.

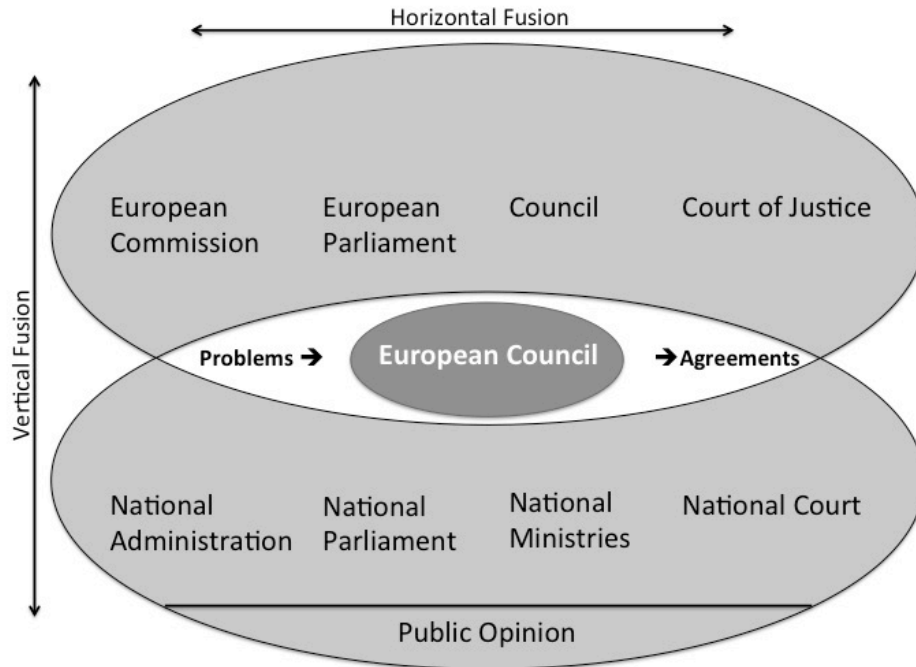
With the hope for large benefits in terms of efficiency and effectiveness of common actions, the costs in terms of the supranational Community method would be minimised. Putting top national decision makers into an improved institutionalised political system would reinforce the legitimacy of the EU system.

#### **5.4 The Joint Management of a Fusion Process**

My own set of arguments stresses that the European Council is part of a complex vertical multi-level constellation and horizontal multi-institutional architecture. My basic argument is that the European Council is an institution characterised as being a 'joint management of shared

responsibilities'. It incorporates and carries forward both the vertical fusion between levels as well as the horizontal fusion between EU institutions.

**Graph 4: The Fusion Model**



Source: Jean Monnet Chair Wolfgang Wessels 2011.

In this regard the European Council can be seen as an active supporter of the fundamental evolutionary dynamic of the EU system, based on a logic which may be best described and analysed as a 'fusion process'

In this approach, members of the European Council are in a dilemma between problem-solving instinct and sovereignty reflex. The European Council constitutes the natural arena and the best locus for confronting this dilemma Member States face. With their own countries facing major global and transnational challenges, the chief national executives realise that addressing vital issues on a purely national level is not the adequate problem solving area, especially considering that they can be made directly accountable by their voters. Following this insight, they perceive the EU system as an increasingly useful opportunity to shape policies and make them more effective. In consequence, they are inclined to use their club as

an institution to move their concerns and interests from the national level to the EU level. The leaders conceive the EU as an essential instrument to gain influence in contrast to their less effective national instruments. While at the same time being driven by the inborn instinct to protect their national sovereignty, the highest representatives of member states keep certain 'red lines' and fall-back positions intact to guard their respective national influence by their own institutions.

Although the models are based on different assumptions about the nature of the EU and the overall role summits should play, a co-existence in the legal architecture is not out of the question; we can even expect such a 'hybrid nature' of the European Council (Hoscheit/Wessels 1988: 2)

## 5.5 Bridging Gaps to Avoid Analytical Traps

In my book, I will call attention to some shortcomings in the conventional political and academic debate on the European Council and try to fill some gaps in knowledge, while also pointing to some traps resulting from a reduced and biased analyses.

A major gap between the *de jure* Treaty provisions and the *de facto* agreements and role of this body leads to a risk of underestimating its 'real world' importance. As a consequence, one might easily draw faulty conclusions if the 'legal words' are taken as constituting the whole 'real world'. The evidence suggests that the legal provisions fail to fully identify and highlight the body's political significance, especially in its role as the constitutional architect and the master of the procedures.

My argument goes even further: This gap might not only lead to a misleading analysis of this strange *sui generis* institution itself, but might neglect a rare opportunity to explain essential developments in the

European Union's evolution in the post World War II history of Europe; it might block a deeper understanding of the dynamics of the European construction itself. Without an evidence-based analysis of this key institution, essential elements of the European integration process cannot be researched adequately; thus, we might be trapped in a distorting view of the EU system and its evolution.

There is a second major gap in analysing and assessing this *sui generis* institution: We might be persuaded too easily by a purely intergovernmental characterisation of this institution; there is a temptation to reduce the role of the European Council just to agree on 'big bargains' at 'critical junctures' or to sovereignty-sensitive domains like Foreign and Security Policy. Such a view underestimates the extensive agenda accompanying the European Council in its regular work and its continuous influence on constitutional politics and on major domains of policy making. The trap is to exclude the European Council from studying major policy domains.

## Literature

- Ackerman, Bruce (1992): *The Future of Liberal Revolution*, Yale University Press, New Haven.
- Bonvicini, Gianni/Regelsberger, Elfriede (1988): *The Organizational and Political Implications of the European Council*, in: Hobscheid, Jean-Marc/Wessels, Wolfgang (eds.), *The European Council 1974.1986: Evaluation and Prospects*, Maastricht, European Institute of Public Administration,
- Bulmer, Simon/Wessels, Wolfgang (1987): *The European Council: Decision-Making in European Politics*, Palgrave MacMillan, Houndmills.
- Christiansen, Thomas (2005): *Constitutionalising the European Union, Constructing EU Borders*, in: Browning, Christopher S. (ed.), *Europe at the Markings: Remaking the North of Europe*, London Ashgate.
- Croizat, Maurice/Quermonne, Jean-Louis (1999): *L'Europe et le fédéralisme : contribution à l'émergence d'un fédéralisme intergouvernemental*, Montchrestien, Paris.

- De Gaulle, Charles (1965): Conférence de Presse, 23. September 1965, in: De Gaulle, Charles (ed.), *Discours et Message*, Paris, Unknown, 372-390.
- De Schoutete, Philippe (2006): The European Council, in: Peterson, John; Shackleton, Michael (ed.), *The Institutions of the European Union*, Oxford, Oxford University Press, 2nd ed, 37-59.
- Diedrichs, Udo/Reiners, Wulf/Wessels, Wolfgang (2011): The dynamics of change in EU governance, in: Diedrichs, Udo/Reiners, Wulf/Wessels, Wolfgang (eds.), *The dynamics of change in EU governance*, Cheltenham, Edward Elgar Publishing Limited, 1-20.
- Hallstein, Walter (1972): *Europe in the Making*, London.
- Hayes-Renshaw, Fiona/Wallace, Helen (2006): *The Council of Ministers*, Palgrave Macmillan, Houndsmill/ New York.
- Heads of State and Government, Berlin 2007 (2007): Meeting of the Heads of State and Government of the European Union on the occasion of the 50th anniversary of the Treaties of Rome, Berlin, 24 and 25 March 2007.
- Hoscheit, Jean-Marc/Wessels, Wolfgang (1988): Introduction, in: Hoscheit, Jean-Marc/Wessels, Wolfgang (eds.), *The European Council 1974-1986: Evaluation and Prospects*, Maastricht, European Institute of Public Administration, 1-6.
- Hyde-Price, Adrian (2006): 'Normative' power Europe: a realist critique, *Journal of European Public Policies*, 13(2): 217-234.
- Jacqué, Jean-Paul/Simon, Denys (1988): The Constitutional and Juridical Role of the European Council, in: Hoscheit, Jean-Marc/Wessels, Wolfgang (eds.), *The European Council 1974-1986: Evaluation*, Maastricht, European Institute of Public Administration, 105-154.
- Jacqué, Jean-Paul (2004): The principle of institutional balance, in: *Common Market Law Review* 41: 383-391.
- Johansson, Karl Magnus/Tallberg, Jonas (2010): Explaining Chief Executive Empowerment: EU Summitry and Domestic Institutional Change, *West European Politics*, 33(2): 208-236.
- Kassim, Hussein (1997): French autonomy and the European Community, *Modern & Contemporary France*, 5(2): 167-180.
- Kassim, Hussein/Menon, Anand (2003): The Principal-Agent Approach and the Study of the EU: Promise Unfulfilled?, *Journal of European Public Policy*, 10(1): 121-139.
- Link, Werner (2006): *Auf dem Weg zu einem neuen Europa. Herausforderungen und Antworten*, Schriftenreihe der ASKO Europa Stiftung "Denkart Europa", Schriften zur europäischen Politik, Wirtschaft und Kultur, vol 1, Baden-Baden.
- Merkel, Angela (2010): Speech by Federal Chancellor Angela Merkel at the opening ceremony of the 61st academic year of the College of Europe in Bruges on 2 November 2010, College of Europe, Bruges.
- Monar, Jörg (2011): *The European Union's institutional balance of power*

- after the Treaty of Lisbon, in: Commission, European (ed.), *The European Union after the Treaty of Lisbon: Visions of leading policy-makers, academics and journalists*, Brussels, 60-89.
- Moravcsik, Andrew (1993): *Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach*, *Journal of Common Market Studies*, 31(4): 473-524.
- Moravcsik, Andrew (1998): *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht*, Cornell University Press, Ithaca, New York.
- Moravcsik, Andrew/Schimmelfennig, Frank (2009): *Liberal Intergovernmentalism*, in: Diez, Thomas/Wiener, Antje (eds.), *European Integration Theory*, Oxford, Oxford University Press, 67-87.
- Niemann, Arne/Schmitter, Philippe (2009): *Neofunctionalism*, in: Wiener, Antje/Diez, Thomas (eds.), *European Integration Theory*, Oxford, Oxford University Press, 2 ed, 45-66.
- Paterson, William E. (2008): *Did France and Germany Lead Europe? A Retrospect*, in: Hayward, Jack (ed.), *Leaderless Europe*, Oxford, Oxford University Press, 89-112.
- Paterson, William E./Egan, Michelle, et al. (Eds.) (2010): *Research Agendas in EU Studies: Stalking the Elephant* Palgrave Macmillan, Houndmills.
- Peters, Guy B./Borrás, Susana (2010): *Governance and European Integration*, in: Egan, Michelle/Nugent, Neill, et al. (eds.), *Research agendas in EU studies*, Basingstoke, Palgrave Macmillan, Houndmills.
- Pierson, Paul (1996): *The Path to European Integration: A Historical Institutional Analysis*, *Comparative Political Studies*, 29(2): 123-163.
- Pollack, Mark A. (2003): *The Engines of European Integration. Delegation, Agency, and Agenda Setting in the EU*, Oxford University Press, Oxford.
- Risse, Thomas (2000): *Let's Argue: Communicative Action in World Politics*, *International Organization*, 54(1): 1-39.
- Stahl, Bernhard (2006): *Europe in France's foreign policy discourses: Threat versus chance*, Paper proposal for the epsNetPlenary Conference, 16-17 June 2006, Central European University, Budapest. Retrievable from:  
<http://www.unizar.es/euroconstitucion/library/working%20papers/Stahl%202006.pdf>; last accessed: 03/29/2010.
- Thatcher, Margaret (1988): *Speech to the College of Europe*, September 20th 1988, Bruges.
- Wallace, Helen/Pollack, Mark A., et al. (2010): *Policy Making in the European Union*, Oxford University Press, Oxford.
- Werts, Jan (2008): *The European Council*, John Harper Publishing, London.
- Wessels, Wolfgang/Meyer, Christoph O./Linsenmann, Ingo (2007): *Economic Government of the EU. A Balance Sheet of New Modes of Policy Coordination*, Basingstoke, New York: 66-70.