

THE EUROPEAN COUNCIL AFTER VAN ROMPUY

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This Tribune reproduces a lecture given at the Royal Academy of Belgium on 12 March 2015 as part of the series of conferences of the “Collège Belgique”. It analyses the exercise of the function of President of the European Council.

From an analytical point of view, in the exercise of the function of President of the European Council, it seems useful to differentiate between the permanent political constraints weighing on this function, from what may be linked to the personal character of the incumbent. We now have some hindsight to assess the five-year term of office of Herman Van Rompuy; we have no hindsight to assess that of Donald Tusk. This analysis is therefore bound to have a subjective dimension, but, in order to approach it, we can base ourselves on what has been achieved at this level over the past five years.

1. An established authority

The first point to remember is that the authority of the function has been established. Before the entry into force of the Lisbon Treaty, observers, particularly those in think tanks, wondered if the President of the European Council could go beyond the role of a chairman, a person simply in charge of a meeting. In a book published in 2010, Jean-Claude Piris, former Director-General of the Council’s Legal Service, recalled the compromise that had diluted the initial proposal of creating a strong President of the European Council, a “presidential” President in the French meaning of the term. The provisions finally adopted by the Treaty defined the functions of President in a rather vague manner, and were likely to be interpreted in diverse ways. Piris concludes that “It remains to be seen if the full-time president will carry enough political legitimacy to impose himself on the political scene as well as on his colleagues in the European Council”¹. This question was coming from one of the most outstanding experts on the Lisbon Treaty, who had in fact greatly contributed to its drafting.

The answer was soon given; shortly after his nomination, President Van Rompuy convened an informal European Council on 11 February 2010 that was meant to deal with economic recovery, and which in fact, as was often

the case, focused on the situation of Greece. The heads of government accepted the convening, they went to Brussels and the negotiation was led by the President. It resulted in a declaration that he prepared, stating that the member states of the euro area would take the necessary measures to safeguard “the financial stability of the euro area as a whole”. At the time (or even today) it was not a statement that was self-evident.

Very quickly the President was also put in charge of implementing the decisions of the European Council. In March 2010, he was given the responsibility of creating a working group whose task was to present an improved crisis resolution framework and better budgetary discipline. In October 2011, he became responsible for presiding the euro summits. This decision was not self-evident either. In June 2012, he presented a report entitled “Towards a Genuine Economic and Monetary Union”, drafted in conjunction with the President of the Commission, the President of Eurogroup and the President of the Central Bank; a quartet that we will often encounter!

During his term of office, Herman Van Rompuy established and consolidated the function of President of the European Council: he was in control of the agenda, leading negotiations, and supervision over implementation. It should be noted that this is mainly the result of the permanent nature of the position. “Time” Van Rompuy said in 2010, “is a politician’s prime material”². The lasting presence in the field leads to extensive knowledge of issues at hand, time for negotiation, the ability to reason in the medium term. When he speaks he is not the simple reflection of the current position of a majority of governments. He has earned his share of autonomy.

The first weeks of his successor have shown that he is benefiting from this level of achievement. Donald Tusk had indicated his preference for short conclusions: those

of the first European Council that he presided on 18 December 2014 were some of the shortest ever seen, and they bear his mark. He had said that he wanted to avoid night sessions: he ended the session at 11 p.m. Just like his predecessor, he controls the debate.

2. A balanced visibility

In addition to the authority of the function, we can add a reflection on its visibility.

We remember the campaign, mainly led by the British government and press, a few months before the appointment of the first President of the European Council. It claimed that it was necessary to choose a prominent personality, known the world over, capable of stopping traffic in Washington or Beijing. They were of course talking about Tony Blair.

It has always seemed contrary to all likelihood that the main European leaders would deliberately place a flamboyant personality at the head of the European Council, someone whose presence in the media would overshadow them. As a general rule, that is not how politics works. Presiding the European Council means presiding strong personalities, each of which has a large ego. Any incumbent was bound to fail if he had tried to extend his personal aura to the detriment of national leaders. These were not looking for a competitor, but an architect of compromise, respected and experienced, capable of putting things in order, of monitoring and giving coherence in the chaotic and often improvised organisation of the work of the European Council. They were seeking someone capable of leading a strongly diversified group to consensus. For well-known reasons, this is a qualification that is required for Belgian Prime Ministers. That is why Herman Van Rompuy was appointed. His nomination should not have been a surprise, not even for the British Eurosceptics who later said of him that he had the charisma of a wet rag.

But a point of equilibrium had to be found on the visibility of the President of the European Council. He could not of course overshadow the heads of government. But neither was it a question of disappearing from the screens. The influence and the effectiveness of this type of function is partly due to the audience that it can have in the media. Without being the “President” of Europe, he must be one of the recognisable faces of the institutions. “He should not have a profile that is too low, nor should he have one that is too high” said Van Rompuy himself³.

Progressively, he found this point of equilibrium. His moderate manner, that is natural to him, was certainly

of help. His interventions and his press conferences were followed because it was known that he had extensive knowledge of the issues at hand, that he knew the complex twists and turns that had led to the end result, that he had, more often than not, provided conclusions and would have to apply them. No show, no bright lights, but understanding the debate and being understood.

A similar attitude will also be vital for his successor. Each with his own temperament, style and way of doing things. Knowledge of the various issues cannot be acquired in a day. But the contradictory requirements of the function are constant. They leave some room to manoeuvre, undoubtedly, but political reality and the interest of all participants limit its extent. The visibility of Donald Tusk’s role will be similar to that of his predecessor.

3. An agenda dominated by emergencies

These two preliminary reflections concern the modus operandi of the function, the way to proceed. It is now useful to move on to the subjects dealt with. Since its creation, the European Council has extensive powers over the activities of the European Union. According to the Treaty it must “...provide the Union with the necessary impetus for its development and ... define the general political directions and priorities thereof”⁴. But, over the past few years, we can note the predominance of two major issues, which, because of their duration and intensity, have mobilised the attention of heads of government: the euro area crisis and foreign relations.

The first European Council presided by Van Rompuy in 2010 was dominated by the Greek crisis; the last Council of his presidency was dominated by the same crisis. As he wrote, he spent five years at the bedside of the euro: “From crisis summit to crisis summit, we were rewriting the basic rules of monetary union”⁵. Such a major and taxing issue absorbed most of available energy and implicitly created the danger of tension between heads of government of the euro area and the others. The prospect of euro summit meetings was ruled out in 2008. Today it is accepted and quite common. Faced with this risk of internal tensions, Van Rompuy was asked to also chair the euro summits, confident that his personal role would pacify. It is welcome that the same responsibility has been given to Donald Tusk, which was not a matter of course.

A few months ago we could have hoped that a new presidency, less hurried by urgency, could widen its concerns. That was certainly Donald Tusk’s desire, and probably that of those who appointed him. But the euro has

remained at the centre of concerns. The crisis is far from being over and the new President will have to deal with it.

However, the context has changed somewhat. On the one hand, Mr. Tusk only knows the euro area from the outside. On the other, the President of the Commission, Mr. Juncker, is one of the rare active politicians who has known the euro saga since its early beginnings. He was also the President of Eurogroup for quite some time.

I would like to point out a detail to illustrate this new context. The European Council of 18 December last, the first one chaired by Donald Tusk, requested a report to be presented next June on the functioning of the Economic and Monetary Union. The task is entrusted to the “President of the Commission, in close cooperation with the President of the Euro Summit, the President of the Eurogroup and the President of the European Central Bank”. In the past (2010, 2011 and 2012) this familiar quartet has been regularly entrusted with reporting to the European Council on economic and monetary issues. But, during the previous five-year term, the chair was always given to the President of the European Council. This time Mr. Juncker chaired the group and Mr. Tusk appeared as “President of the Euro Summit”. Without granting too much importance to this detail, without falling into kremlinology, we can wonder if, in future, the President of the European Council will allow the President of the Commission to take leadership on issues relating to Economic and Monetary Union. Perhaps is this only the reflection of a transition period. Otherwise, it should be considered as a significant change.

In another major area, EU foreign relations, an attentive observer could also undoubtedly detect a shift in emphasis. For reasons we have already indicated, during his term of office, Herman Van Rompuy focused more on internal issues and especially the euro, than on foreign relations. He of course participated in uncountable international meetings. He convened the European Council on the fate of Libya. He closely followed the development of the Ukraine crisis. But when he spoke about his term of office before his last European Council, it was of course the euro area crisis that was at the heart of his appraisal.

Donald Tusk’s initial declarations seem to place foreign relations at the centre of his programme. Speaking for the first time before the European Council in December and the European Parliament in January, he stressed two priorities, one of which was Ukraine. Before that, he had spoken of “internal and external threats” that the

EU was facing. This is a new form of language. The former Polish Prime Minister is naturally concerned, more so than others, by the emergence of a civil war on the EU’s eastern border.

But, at this level, no politician can be sure of controlling the agenda. As Harold Macmillan put it, it is events that dominate the agenda. Based on available indications, it may be that the new President of the European Council will content himself with a “back-seat” approach to the euro, but wish to devote a lot of time to the external dimension, with particular watchfulness concerning Eastern Europe.

4. A sensitivity towards the concerns of member states

At this stage it may be useful to complete the description of the key objectives with some considerations for the means to be put in use.

Speaking in Paris on 25 November 2014, during a conference organised by the Jacques Delors Institute and Sciences Po⁶, Herman Van Rompuy said that he believed the specific responsibility of a President of the European Council was that of acting as a “guardian of trust” between the various actors. He mentioned specifically trust between countries, between institutions, and between leaders. This is how he believes he gave substance to the relatively general tasks that the Treaty entrusts to the President of the European Council. It is about trust between these entities, that he helped establish, but even more so the trust that the President of the Council inspires.

To understand this point, it is useful to begin by a historical recap⁷. The proposal to appoint a “permanent” President of the European Council was formulated during the Convention which, in 2003, negotiated a treaty that was hoped would become “constitutional”. For a while it was known as the “ABC proposal” as it had been proposed by Aznar, Blair and Chirac, representatives of three major countries. It was immediately rejected by the representatives of smaller countries, particularly by the Benelux countries, who, in a joint memorandum declared that they would “never” accept this proposal. And this position was supported by a large number of similar-sized countries, especially in Eastern Europe. The fear shared was that the permanent or semi-permanent president would be the instrument of intergovernmental reinforcement, and domination by the leaders of large countries over the functioning of the European

Council. Here, concerns were expressed (intergovernmentalism and a *directoire*) that had been expressed some thirty years before, especially in Brussels and The Hague, when the European Council was created under the impetus of Giscard and Schmidt. There was a certain tradition of mistrust! It is known that several months later the proposal was in fact accepted by the Convention as part of an overall compromise, and since then it has entered the Lisbon Treaty. This means that the function that Mr. Van Rompuy began to occupy in 2010, was born under a certain cloud of suspicion in a number of smaller countries. It is true that the appointment of a Belgian, known for his European Community convictions, reassured some. This may even have contributed to his being chosen. But it is important to see that trust between member states was not a foregone conclusion.

During his term of office, the President of the European Council, aware of existing fears, made a special effort to reassure the smaller countries. He underscored, at the time of his departure, that he had, each year, paid a visit to each of the members of the European Council in their capital city. From a distance, this may seem quite normal. But when someone is almost constantly in the rush of negotiations, meetings, differences to settle, trips and receptions, it is not so obvious. It requires will and good organisation to find the time to visit everyone, without any particular reason, without any urgent matter to deal with, basically to maintain the feeling that everyone counts, that nobody is ignored. In another context, the term “confidence-building measures” was used. And they were quite successful!

A recent example shows the importance of this concern. In the hours that followed the formation of a new Greek government, Athens complained that it had not been sufficiently consulted on the strengthening of European sanctions against Russia. I leave aside the question of whether the Greek government had a basis for complaint, or whether, in fact, it had other political objectives in mind than the procedure it was condemning. But the incident shows how quickly, and how strongly, a member state may be inclined to formulate the reproach that it has not been sufficiently associated to a European decision, to have been left aside or ignored.

The personal political background of President van Rompuy undoubtedly led to a particular sensitivity towards the concerns of smaller countries. Donald Tusk does not have the same reasons to share this sensitivity. But it can be hoped that he will recognise the relevance of his predecessor’s practice, which contributed to the

climate of consensus that, very fortunately, marked his term of office.

Another potential division between member states exists, between members of the euro area and those who do not belong to it. The euro area crisis, the measures that had to be taken to deal with it, and the very importance of the currency debate, frequently monopolising the European Council’s attention, may have aroused a degree of apprehension. Van Rompuy clearly said that the single currency had become the second heart of the Union⁸ along with the single market. It is quite natural that those who do not take part in the activity of this second heart wonder about the implications of this fact. The European Council tried to mitigate this apprehension by associating non-euro area countries in the currency debate to the extent that they desired. The appointment of Herman Van Rompuy, and now that of Donald Tusk, as President of the Euro Summits seems to guarantee good coordination and reassures those concerned. It is to be expected that the new President of the European Council, coming from a non-euro area country, will understand the concerns and know how to handle them.

5. Pacified inter-institutional relations

In addition to relations of trust between member countries, it is important to consider those that should exist between the institutions.

It would seem reasonable to believe that relations between institutions are regulated, in a state, by the Constitution, and, in a multi-nation body like the Union, by the founding treaty. And there would be good reason to believe this, given that the purpose of a Constitution, as of a founding treaty, is in fact to regulate the decision-making process, and in particular relations between the institutions.

Concerning the Union, the institutional innovations of the Lisbon Treaty are however, vague and general, particularly for the Presidency of the European Council. The description of his competences is “skeletal” Van Rompuy himself once said⁹. Before the entry into force of the Lisbon Treaty, European observers generally agreed on the significant risk of conflict between the Presidents of the European Council and the Commission, or, for foreign policy, with the High Representative. A collective study by three Brussels-based think tanks concluded in 2010 that the institutional provisions of the treaty reflected the contradictory views of its architects, their doubts, their hesitations and their ambiguities¹⁰.

In reality, over the past five years relations between these personalities have been non-confrontational. Breakfasts on Monday morning, involving the Presidents of both institutions, led to good understanding and adequate preparation of the matters at hand. The sharing of external competences with Catherine Ashton caused no problems. When the European Council entrusted a task to its President, as it often did, he ensured that the President of the Commission was closely involved. This attitude undoubtedly stemmed from his consensual character and his respect for EU institutions, but also from necessity. The President of the Commission has a vast administration that is technically competent concerning the economic and monetary issues that were at the heart of the debate. The President of the European Council, however, does not have his own administration. The interest of both in ensuring good cooperation was obvious, and this prevails. But its implementation implies, on both sides, a deliberate intent to seek good understanding. Initial indications are that this intention is shared by the new incumbents.

The relationship between the Parliament and the European Council deserves special attention. Everyone knows that over the past thirty years the European Treaties have increased the powers of the European Parliament in the inter-institutional balance. It increased its powers in relation to the Council through the co-decision procedure. It gradually increased its powers in relation to the Commission and, lastly, through the system of "*Spitzenkandidat*" that dominated the nomination of President Juncker. It had less success in trying to establish its authority in relation to the European Council, but some are thinking about it. A recent analysis by the Centre for European Reform in London noted: "The European Parliament is hungry for more influence. The European Council, and its deliberations on EU economic governance, is next on the menu."¹¹

The relationship between these two entities has always been uncongenial. For the Parliament, the European Council was, for a long time, seen like an external body, alien to the institutional structure of the Treaty of Rome. It was inspired by intergovernmental views, and therefore suspicious, and threatened the "Community method". For over twenty-five years, it has been acknowledged that the President of the Parliament presents the views of the assembly at the beginning of each European Council. Also longstanding is the fact that the President of the European Council gives indications to the Parliament on the results of each meeting. But these two exercises are often seen as simple formalities: they do

not affect the balance of power between the institutions. Since the Lisbon Treaty, which makes the European Council an EU institution, the Parliament would have liked to go further. It would have liked the President to "be accountable" to Parliament for the deliberations of the heads of government, rather than just limiting himself to an explanation. Martin Schulz even suggested that the President of the Parliament should attend the full European Council meetings. These innovations were dismissed, particularly because they were contrary to the Treaty. They are not accepted by the members of the European Council. The second suggestion, which mixes executive and legislative powers, has no basis in the constitutional practice of the member states. It is not to be expected that this position could change under the presidency of Donald Tusk. Arrangements might well be found to go a little further, perhaps in relations between the President of the European Council and the parliamentary commissions. But the room for manoeuvre is limited: the fact is that the heads of government do not wish to fall under the influence of the European Parliament, not even in appearance.

One of the criticisms made by the Parliament concerning the European Council is its intergovernmental nature: it is thought not to be sufficiently "Community-oriented". I believe that this debate, which has existed since the beginning of European integration, has aged quite a lot¹². The European Council is obviously intergovernmental as it gathers heads of government. But since the Lisbon Treaty, it is also an EU institution. Its president, who is not answerable to any government in particular, is not purely intergovernmental. The monetary crisis sometimes imposed intergovernmental tools, granted, but the measures taken, especially in budgetary matters, have considerably increased the powers of the Commission, a Community institution. There are many ambiguities and ambivalences in our institutions, many changes too, and the analysis categories of the 1950s are sometimes difficult to apply to reality. Relations between the EU institutions are complex and ambivalent, and sometimes changing. They cannot be analysed using simple and reductive formulas.

The word that was most used in the outgoing speeches of President Van Rompuy, was trust, confidence. He considers himself as, and really was, a "confidence builder": confidence among countries, institutions and leaders. "How can we restore trust? By meeting people, by listening to them, by taking their opinion into consideration... It is a way of showing that all countries are important within the European Union... All these efforts to build

confidence paid off when needed, in times of crisis. And we have had several times of crisis¹³. It is obvious that all forms of political management, diplomacy and trust are all based on personal relations. But for the outgoing President of the European Council, the intensive development of personal relations seems to have been a system. It was, in fact, the main instrument of a President whose competences were badly defined while working in a structure based on consensus.

In an interview given in 2013, at a time when the name of his successor was still unknown, Herman Van Rompuy said: "The role that my successor will play in the architecture of the Union will not be very different to mine"¹⁴.

Conclusion

This is a conclusion to be remembered. The exercise of the function of President of the European Council is subject to political and psychological constraints, that successive incumbents have to face as conditions of their success. The temperaments of people are different and they will be expressed in various manners, but within relatively narrow confines.

President Van Rompuy indicated, in the same interview of 2013, that his successor could hope to have greater international visibility. The modification of the diplomatic environment is a step in this direction. Europeans are discovering, with some surprise, that the unchallenged power exercised in Moscow considers the EU as an enemy. This is the term regularly used in Russia. It was not the case five years ago. Herman Van Rompuy's term of office was dominated by the euro area crisis. It is reasonable to believe that his successor will have to deal quite a lot with the EU's eastern border. His background as Polish political leader will contribute to that, and external pressure has always been a factor of European integration. We will perhaps find there an element of change in a continuum.

Finally, it must be said that it is too early to make an assessment. There are indications that we have tried to identify, but a lot of unknown elements remain. As Peter Ludlow has noted: "The Union is in uncharted waters"¹⁵.

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2. H. Van Rompuy, Speech at the *Klausurtagung* of the CSU-Landesgruppe Wildbad Kreuth, 7 January 2010.
3. H. Van Rompuy, "L'idée européenne : une convergence d'intérêts et de valeurs", *Revue des Deux Mondes*, September 2013.
4. Art. 15(1) TEU.
5. H. Van Rompuy, *Europe in the Storm. Promise and Prejudice*. Brussels, Davidsfonds, page 31.
6. Herman Van Rompuy, "Five years as president of the European Council", *Tribune*, Jacques Delors Institute, December 2014 and Claire Versini, "Five years as president of the European Council: lessons and challenges", *Synthesis*, Jacques Delors Institute, December 2014.
7. See Jean De Ruyt, *Leadership in the European Union*, Presses Universitaires de Louvain, 2014, pages 57-59.
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10. "The Treaty of Lisbon: A Second look at Institutional Innovations", Joint Study Egmont/CEPS/EPC, September 2010, page 192.
11. Anna Gostynska, "Learning from Herman: a handbook for the European Council president", CER, 21 August 2014.
12. Philippe de Schoutheete "The European Council and the Community Method", *Policy paper No. 56*, Notre Europe, July 2012.
13. Herman Van Rompuy, "Five years as president of the European Council", *op. cit.*
14. Herman. Van Rompuy, "L'idée européenne : une convergence d'intérêts et de valeurs", *Revue des Deux Mondes*, September 2013.
15. Peter Ludlow, "December 2014: A New Beginning?", *Eurocomment*, 2014/6.

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