

The European Council under the Lisbon Treaty

How has the institution evolved since 2009?

On 1 December 2009, with the coming into force of the Treaty of Lisbon, the European Council became a formal EU institution. Ten years later, the European Council is seen by many as representing the centre of gravity of the EU's institutional framework. However, was this development purely the result of the changes to the Treaties made with Lisbon or did it happen naturally over time?

This study analyses both the formal changes brought about by the Lisbon Treaty and the incremental evolution resulting from the institution's day-to-day practice, including the European Council's behaviour during the various crises of the last decade. It outlines the responsibilities envisaged for the European Council in the Treaty and the informal roles it has taken on over time. It explores the extent to which the Lisbon Treaty changed the functioning of the European Council, and how EU leaders themselves tried to optimise the working methods of their institution. Special attention is to the new position of full-time European Council President and the way in which the first two incumbents have interpreted their office.

The analysis concludes that, while the EU's various crises strongly contributed to the rise of the European Council, the Lisbon Treaty united two previously separate dimensions – the political and the legal, formally adding new competences to the role already performed by the EU Heads of State or Government. Many of these competences have yet to be fully exploited and represent a rich seam of unused Treaty potential for the future.

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The authors acknowledge the assistance of Fernando Hortal with data collection for this paper.

This study benefited from a number of interviews with representatives of the European institutions and/or participants at European Council meetings, which the authors carried out between August and November 2019. All interviews were carried out on the basis of anonymity.

This paper has been drawn up by the European Council Oversight Unit of the Directorate for Impact Assessment and European Added Value, within the Directorate-General for Parliamentary Research Services (EPRS) of the Secretariat of the European Parliament.

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LINGUISTIC VERSIONS

Original: EN

Translations: DE, FR

Manuscript completed in November 2019.

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PE 642.806
ISBN: 978-92-846-6045-2
DOI: 10.2861/999806
CAT: QA-02-19-931-EN-N

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Executive summary

With the entry into force of the Treaty of Lisbon on 1 December 2009, the European Council, until then an informal gathering of Heads of State or Government, became a formal EU institution. In addition to the formal establishment of the institution, further crucial changes to the functioning of the European Council were the creation of the office of permanent European Council President and the limitation of its format by removing European Council membership from foreign affairs ministers.

By establishing the European Council as a formal EU institution, the Lisbon Treaty thereby combined in the same body the political and legal dimensions previously carried out separately by EU leaders acting as both the European Council and as the Council, meeting in the format of EU Heads of State or government, respectively. The former composition allowed EU leaders to set out political guidelines, while the latter allowed them to take formal decisions, such as high-level appointments. While the Lisbon Treaty introduced other changes to the Treaties relating to the European Council, such as the prescription of the number of meetings, with four formal European Council meetings now to be held every year, and responsibility for defining the strategic guidelines for legislative and operational planning within the area of freedom, security and justice, these represented more a formalisation of ongoing practices than an increase in responsibilities. Nevertheless, the present study confirms an increase in the European Council's role in the decision-making process of the EU over the past 10 years. The analysis shows that the real 'game changer' for the European Council was the various successive crises, first and foremost the financial crisis, followed shortly after by the migration crisis.

The analysis shows that the European Council fulfils various roles in the EU's political system, the two main ones being that of agenda-setter for the entire Union and that of crisis manager, even though the latter is not specifically mentioned in the Treaties. The permanent state of crisis that the EU has been in since 2009 and 2016 has led the European Council to intensify its crisis-management actions with two consequences: i) the consolidation of its central role in the EU institutional architecture; and ii) reactive, as opposed to proactive, leadership.

The study confirms that, regarding the European Council, the creation of the office of European Council President was the main innovation of the Lisbon Treaty. It illustrates how crucial the office-holders to date have been in facilitating consensus, in particular during moments of crisis. The European Council President has played an essential role, notably following the Brexit referendum, in ensuring the messages coming from the European Council are consistent and based on unity, citizens and delivery, and this, despite a heavy rotation in EU Heads of State or Government in the European Council over recent years.

The findings also show that over the past 10 years, the European Council has adapted various elements of its working methods, including the length of its conclusions, type and format of its meetings as well as its follow-up to its decisions. The changes to the functioning of the European Council need to be seen as a continuous process rather than a watershed. That process began prior to the Lisbon Treaty, with the 2002 Seville European Council, and some of these changes were then codified in the Lisbon Treaty. They were subsequently further developed by the European Council Presidents and with various milestones over recent years, including the Bratislava Roadmap and the Leaders' Agenda.

The Lisbon Treaty introduced a series of clauses that were to enable the European Council to go beyond the existing status quo. Amongst these possibilities, few have been used, leaving a rich seam of unused potential for the European Council to explore, such as the shift from unanimity to qualified majority voting (QMV) in the Council in certain policy areas, and the possibility of setting up a European defence union or of extending the powers of the European Public Prosecutor's Office.

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Introduction

Ten years ago, on 1 December 2009, the Lisbon Treaty came into force, bringing to a close an EU reform process that had started with the Laeken Declaration in 2001, followed by the Convention on the Future of Europe in 2002-2003, and had led, after two failed referenda, to an intergovernmental conference in 2007. The outcome of this process was the Lisbon Treaty, which inter alia established the European Council, previously an informal gathering of Heads of State or Government as a formal European Union institution (Article 13 (1) of the Treaty on European Union – TEU). Since then, according to most commentators, the European Council has become central to the institutional architecture of the European Union. Observers and practitioners describe it as the 'apex of Europe's institutional machinery' (de Boissieu, 2015), 'the centre of political gravity' (Puetter, 2012) or 'the cornerstone of the EU's executive system' (Ludlow 2002).

The European Council brings together the Heads of State or Government of the EU Member States. It provides 'the Union with the necessary impetus for its development' and defines its 'general political directions and priorities'. It does not exercise legislative functions. The European Council has also a crisis management role, which has further developed over the last decade owing to a series of crises the EU has had to face, in particular the economic and financial crisis and the migration crisis, both triggered by external factors, with a severe domestic impact on the EU.

Ten years after it became an official institution, the European Council, the European Union and the world are very different. How has this assembly of EU Heads of State or Government come to be described as the 'apex of Europe's institutional machinery'? Was this solely linked to the changes brought about by the Lisbon Treaty or was it an incremental process both preceding and following these Treaty changes. Was it also the result of the EU's need to adjust to international developments, such as a more assertive China and a less reliable United States, while at the same time mastering its own internal transformation, including the rise of numerous populist and/or eurosceptic parties across Member States.

While the EU Treaties are generally seen as history-making moments in the EU integration process, they often formalise existing practices that were already used informally previously. Furthermore, the real significance of new Treaty provisions or competences often only materialises over time and depends significantly on how the main actors interpret and carry them out. Therefore this study will analyse both the formal changes brought about by the Lisbon Treaty and the incremental and informal changes resulting from the institution's day-to-day practice, including its behaviour during the crises.

In order to assess the significance of the Lisbon Treaty for the development of the European Council, Chapter 1 will examine the relevant Treaty articles. It will analyse the extent to which these were truly new, whether they were to some extent taken over from the previous Nice Treaty or whether they were a codification of already existing informal practices. Special focus will lie on the different roles of the European Council, on the office of European Council President and on the functioning of the European Council.

To see which aspects of the European Council in 2019 go beyond the blueprint for the institution laid out in the Lisbon Treaty, Chapter 2 will assess how the Lisbon Treaty was implemented and in which areas the European Council has expanded its role. Furthermore it will look at the way the office holders of the permanent European Council Presidency have understood and carried out their position, also influencing the development of the functioning of the European Council over the last 10 years; in that context it will assess whether the European Council has become more efficient and united. The chapter will also examine whether the potential of the Lisbon Treaty in relation to the European Council has been used to the full. Where relevant, the European Parliament's views on the European Council's activities in relation to its Treaty role will be outlined. This chapter will also

consider how interinstitutional relations and cooperation have developed over the past decade. It will draw attention to practices that have developed and indicate whether they have been maintained throughout the entire period or on the contrary reduced. It will assess whether the various crises the European Council has had to address confirm the predominant view in the literature that the European Council is at the centre of the EU's institutional architecture.

1. The Lisbon Treaty and the European Council

The Lisbon Treaty is seen as an important step for the institutional development of the EU, with many analysts (e.g. Monar, 2010) and actors (Interviews 4 and 7) considering the European Parliament to be the institutional winner following the quasi-generalisation of the ordinary legislative procedure. In this context, it is legitimate to question how significant the institutional reform was for the European Council, which began as informal gathering of Heads of State or Government in 1974, but was established as an institution by the Lisbon Treaty. In order to find the answer, it is important to examine the origin of the various Treaty provisions, the roles and functioning of the European Council as set out in the Treaty and, in particular, the new office of European Council President.

1.1. Treaty provisions on the European Council

This section presents an overview of the changes introduced by the Lisbon Treaty to the European Council, comparing them with the previous legal framework of the EU as set out in the Nice Treaty.

Old and new articles

When looking at the provisions of the Lisbon Treaty relating to the European Council, a distinction should be drawn between three types, as outlined in Table 1:

- 1) 'old' provisions that were already part of the Treaties before Lisbon. These provisions refer either directly to the European Council (indicated as 'old' in the table) or to 'the Council meeting in the composition of Heads of State or Government' (indicated as old+ in the table);
- 2) a number of 'codification' practices that developed in the period between the entry into force of the Nice Treaty and the adoption of the Lisbon Treaty, including the 2002 Seville European Council conclusions; and
- 3) 'new' provisions that either did not exist in the Treaties or were significantly changed; and that were not common practice prior to the Lisbon Treaty.

There are, in total, 40 provisions in 29 articles on the European Council in the Treaty of Lisbon. Out of these provisions, only nine already existed in the Nice Treaty (as either the European Council (six) or as 'the Council meeting in the composition of Heads of State or Government' (three)), six represent codification of existing practices, and 25 are new references. This highlights the fact that the Lisbon Treaty substantially altered the European Council's status in the Treaties.

Comparing the articles in the Nice Treaty mentioning the European Council with those in the Lisbon Treaty, a significant increase in the number of references to the European Council (or 'the Council meeting in the composition of Heads of State or Government') can be observed.

The increased influence of European political parties on the work and decisions of the European Council is another major change over the last 10 years, and one that did not originate in the Lisbon Treaties but that has developed incrementally over time. Two examples of this are the increasingly coordinated and influential meetings of European political parties just before European Council meetings, and the negotiations along party political lines for the package of high-level appointments.

Table 1 – Old and new provisions on the European Council in different Treaty articles

Article	Issue
Old provisions	
7 TEU	+ Breach by a Member State of EU values
17(7) TEU	+ Proposing the European Commission President and appointing Commission
283(2) TFEU	+ Appointment of ECB President, Vice-Presidents and members of executive board
15(1) TEU	Responsibility for setting general political directions and priorities
15(3) TEU	(Foreign) ministers joining European Council meeting
22(1) TEU	Strategic interest in foreign and security policy
42(2) TEU	Establish a common defence
121(2) TFEU	The European Council shall discuss a conclusion on the broad guidelines of the economic policies of the Member States and of the Union
148(1) TFEU	The European Council shall each year consider the employment situation in the Union and adopt conclusions
New provisions	
10 TEU	Member States are represented in the European Council by their Heads of State or Government
13(1) TEU	European Council as an institution
14 TEU	Power to decide on the composition of European Parliament
15(2) TEU	European Council members: Heads of State or Government, European Council President and European Commission President
15(6) TEU	European Council President
17(5) TEU	Size of Commission
18(1) TEU	Appointing and dismissing high representative
31(2) TEU	Change from unanimity to QMV in certain areas of foreign affairs
48(6) TEU	Power to amend all or part of Part Three of the Treaty on the Functioning of the European Union (TFEU) without a convention or intergovernmental conference (IGC)
48(7) TEU	Move from unanimity to qualified majority voting (QMV)
49 TEU	Agreeing on the conditions of eligibility for EU membership
50 TEU	A Member State that decides to withdraw shall notify the European Council of its intention. The European Council provides guidelines for the negotiations
48 TFEU	A draft legislative act affecting a Member State's social security system can be referred to the European Council
82(3) TFEU	Draft directives on criminal matters having a cross-border dimension affecting a Member State's criminal justice system, can be referred to the European Council
83(3) TFEU	Draft directives on serious crime with a cross-border dimension affecting a Member State's criminal justice system, can be referred to the European Council

86(1) TFEU	Member States may request that a draft regulation on a European Public Prosecutor's Office be referred to the European Council
86(4) TFEU	Power to extend the powers of European Public Prosecutor's Office
87(3) TFEU	Member States may request that draft measures [on policy cooperation] be referred to the European Council
235(3) TFEU	Rules of procedure
235(4) TFEU	The European Council shall be assisted by the General Secretariat of the Council
236 TFEU	Decision establishing the list of Council configurations and presidencies
244 TFEU	The European Council has to agree upon system of rotation of Member States representatives in the European Commission
263 TFEU	Under the jurisdiction of the Court of Justice (linked to Article 13(1))
312(2) TFEU	The European Council may unanimously adopt a decision authorising the Council to act by QMV when adopting the EU's annual budget
355(6) TFEU	Changing the territorial scope of the Treaties regarding certain overseas territories
Codification	
15(3) TEU	The European Council shall meet twice every six months
15(3) TEU	Power to convene a special European Council meeting
26(1) TEU	Extraordinary meeting of the European Council on common foreign and security policy (CFSP) matters
48(3) TEU	Calling a convention to amend the Treaties
68 TFEU	Power to define the strategic guidelines for legislative and operational planning within JHA
222(4) TFEU	The European Council shall regularly assess the threats facing the Union

Source: EPRS.

Old provisions

Responsibilities of the European Council, already mentioned in the Treaties before Lisbon, include provisions aimed at determining the existence of a serious and persistent breach by a Member State of the EU's values, setting the general political directions and priorities of the EU, considering the employment situation in the Union, discussing the broad guidelines of economic policies and deciding on EU high level appointments.

It is also interesting to note that one responsibility of the European Council deriving from the Nice Treaty, namely that it 'shall submit to the European Parliament ... a yearly written report on the progress achieved by the Union', was not carried over in the Lisbon Treaty.

Codification of existing practices

Many of the codifications relate to the functioning of the European Council (e.g. meetings or participants; this will be further examined in Section 1.4). Other examples of codifications are 1) the formal role of the European Council in the area of justice and home affairs, which EU Heads of State or Government had already played in the past since the Tampere European Council, and 2) the power to call for a convention to amend the Treaties.

Provisions newly introduced in the Lisbon Treaty

Most of the changes regarding the European Council brought about by the Lisbon Treaty were aimed generally at clarifying its legal nature, its role and its functioning, and at defining the new office of European Council President.

The Treaty of Lisbon transformed the European Council into a formal EU institution with a permanent president. These two changes, together with the absence of the foreign ministers from European Council meetings, are those most frequently mentioned in the academic literature (Höing and Wessels, 2013; Rittelmeyer, 2014) and seen as most significant by interviewees (Interviews 2 and 4). While Sections 1.2 and 1.3 will look at the roles envisaged for the European Council and the position of European Council President, the rest of the chapter will focus on the main consequences of the European Council becoming an institution.

The European Council as an EU institution

By making the European Council a fully fledged institution (Article 13(1) TEU), the Lisbon Treaty equipped it to master in a coherent manner both its political role as a guideline-setter and its legal decision-making power. Previously the activities of EU Heads of State or Government in the EU's political system were split in the EU Treaties between its political roles carried out as 'the European Council', such as discussing the employment situation, the economic guidelines or setting the overall strategic guidelines for the Union, while any legal decisions, such as first and foremost the EU's high-level appointments, were made in a distinct format as the 'Council meeting in the composition of Heads of State or Government'. This format provided a means to circumvent the European Council's lack of formal institutional character, and enable it to take decisions for the Union.

By making the European Council a formal EU institution, the Lisbon Treaty also brought it under the jurisdiction of the Court of Justice of the European Union, for cases where its acts are 'intended to produce legal effects vis-à-vis third parties' (see box on Article 263 TFEU). Academics argue that this is one of the main consequences of the European Council's change of legal status. However, this development has been less spectacular than expected. This is because the jurisdiction of the Court of Justice had been applicable ever since 'acts' adopted by Council 'meeting in the composition of the Heads of State or Government' had been 'intended to produce legal effects vis-à-vis third parties' (Article 230 Treaty Establishing the European Union). Chapter 2 will examine if and how the option of taking the European Council to court has been taken up.

Article 263 TFEU

The Court of Justice of the European Union shall review the legality of legislative acts, of acts of the Council, of the Commission and of the European Central Bank, other than recommendations and opinions, and of acts of the European Parliament and of the European Council intended to produce legal effects *vis-à-vis* third parties. It shall also review the legality of acts of bodies, offices or agencies of the Union intended to produce legal effects *vis-à-vis* third parties. It shall for this purpose have jurisdiction in actions brought by a Member State, the European Parliament, the Council or the Commission on grounds of lack of competence, infringement of an essential procedural requirement, infringement of the Treaties or of any rule of law relating to their application, or misuse of powers.

1.2. The role of the European Council

The European Council has three main roles deriving from the Lisbon Treaty, namely: 1) strategic agenda setter, 2) decision-maker and 3) arbiter (see Table 2). This section focuses on the Treaty dimension of the three roles.

Table 2 – Varying roles of the European Council in the Lisbon Treaty

Article	Issue
Decision-maker	
7 TEU	Determine the existence of a serious and persistent breach by a Member State of the EU values
14 TEU	Decide on the composition of European Parliament
17(5) TEU	Decide on the size of commission
17(7) TEU	Propose Commission President and appoint the Commission
18(1) TEU	Appoint and dismiss the High Representative
31(2) TEU	Change from unanimity to QMV in certain areas of foreign affairs
42(2) TEU	Establish a common defence
48(3) TEU	Call a Convention to amend Treaties
48(6) TEU	Amend all or part of Part Three TFEU without a convention or IGC
48(7) TEU	Move unanimity to QMV
49 TEU	Agree on the conditions of eligibility for EU membership
86(4) TFEU	Extend powers of European Public Prosecutor's Office
236 TFEU	Establish the list of Council configurations and presidencies
244 TFEU	Choose the system of rotation of Member States in the Commission
283(2) TFEU	Appoint ECB President, Vice-Presidents and executive board members
312(2) TFEU	Unanimously adopt a decision authorising the Council to act by a qualified majority when adopting the EU's annual budget
355(6) TFEU	Amend territorial status
Agenda-setter	
15(1) TEU	Set the general political directions and priorities of the Union
22(1) TEU	Strategic interest in foreign and security policy
50 TEU	A Member State that decides to withdraw shall notify the European Council of its intention. European Council provides guidelines for the negotiations
68 TFEU	Define the strategic guidelines for legislative and operational planning within JHA
121(2) TFEU	Discuss a conclusion on the broad guidelines of the economic policies of the Member States and of the Union
148(1) TFEU	Consider the employment situation in the Union and adopt conclusions each year

Arbiter	
48 TFEU	Draft legislative affecting Member States social security system can be referred to the European Council
82(3) TFEU	Draft legislative on criminal matters having a cross-border dimension affecting Member States criminal justice system, can be referred to the European Council
83(3) TFEU	Draft legislative on serious crime with a cross-border dimension affecting Member States criminal justice system, can be referred to the European Council
86(1) TFEU	Member States may request that a draft regulation on a European Public Prosecutor's Office be referred to the European Council
87(3) TFEU	Member States may request that the draft measures (on policy cooperation) be referred to the European Council

Source: EPRS.

1.2.1. The European Council as strategic agenda-setter

The European Council shall give the EU 'the necessary impetus for its development' and shall 'define the general political dimension and priorities' (Article 15(1) TEU). This provision covers all aspects of interest to the EU and its development, allowing the European Council to act as an executive and set the agenda for all EU policies at 'different levels of governance' (Fabbrini & Puetter, 2016). In several policy areas, including common foreign and security policy (CFSP), enlargement, and justice and home affairs, and areas traditionally within the realm of state sovereignty, the Treaty defined the role of the European Council as agenda-setter in more detail, while for other policy areas, such as climate and energy, no further specific reference was made.

As regards CFSP, including common security and defence policy (CSDP), the European Council identifies the strategic interests of the EU on the basis of a set of principles that include democracy, rule of law, respect for human rights and fundamental freedoms (Articles 21 and 22(1) TEU). The Foreign Affairs Council steers the EU's external action on the basis of the guidelines set by the European Council, while the High Representative of the Union for Foreign Affairs and Security Policy (hereinafter 'the High Representative') conducts the EU's foreign and security policy on the basis of European Council guidelines (Article 16 TEU). In addition to defining the EU's strategic interests, a prerogative that also existed in previous Treaties, the Lisbon Treaty codified the existing practice of conducting threat assessments and stipulated that the European Council 'shall regularly assess the threats facing the Union' to allow for joint 'effective action' of both the EU and its Member States (Article 222(4) TFEU).

With respect to enlargement, the agenda-setting role of the European Council lies in its capacity to set the 'conditions of eligibility' for states that wish to become EU members (Article 49 TEU). Several milestone European Council summits, including the Copenhagen Summit in 1992, the Thessaloniki Summit in 2003 and, more recently, the December 2006 European Council, [defined](#) the ground rules for enlargement, which were subsequently taken into consideration throughout the accession process.

In the area of justice and home affairs (JHA) the European Council has had an agenda-setting role, which it has developed outside of the Treaties' framework, since the 1999 [Tampere European Council](#). The Lisbon Treaty codified this development, stating that 'the European Council shall define the strategic guidelines for legislative and operational planning within the area of freedom, security and justice' (Article 68 TFEU).

1.2.2. The European Council as decision-maker

The European Council is perceived by academics as having [gained](#) in decision-making power with the Lisbon Treaty, namely in the area of CFSP, notably by introducing the possibility of moving certain decisions from unanimity to QMV.

Some European Council decisions are compulsory and occur periodically, mostly at the end of an institutional cycle, generally every five years. This is the case with appointments (see below). In other cases, European Council decisions are a consequence of a request from another actor, most often a Member State. This is the case for example with the withdrawal procedure set in Article 50 TEU which is triggered following the official notification by a Member State of its intention to withdraw from the European Union. It is also the case with the change of territory status defined in Article 355(6) TFEU. In a number of cases, the Treaty offers the European Council the possibility to proceed and take a decision, or to abstain from doing so. There are also cases where the Treaty offers the European Council the possibility to decide itself whether to take a decision that would lead to changes in certain EU policy areas, or to refrain. For example, the European Council may decide, by unanimity, on a 'common defence', intended as the ultimate stage of the 'progressive framing of a common Union defence policy' (Article 42(2) TEU).

Decisions taken by the European Council can be grouped into two main categories, institutional and constitutional. Decisions of an institutional nature are those that concern the size and composition of an institution, and also high-level appointments. Decisions of a constitutional nature introduce a change in the functioning and institutional architecture of the EU. Some decisions, as indicated in Table 2, may have a dual nature and are both institutional and constitutional, as is the case, for example, with decisions on the composition of the European Commission (Article 17(5) TEU).

The decision-making role of the European Council in institutional matters

The European Council decides on appointments and on the composition and size of other EU institutions. The election of the European Council's President is discussed in Section 1.3. As regards the European Commission, the European Council proposes its candidate for president of the institution to the European Parliament, and once the European Parliament has given its consent, it appoints the Commission as a college for a period of five years (Article 17(7) TEU). The European Council, in agreement with the President of the Commission, appoints the High Representative, for a period of five years, and may end the term of office using the same procedure (Article 18 TEU). It is also the prerogative of the European Council to appoint the President of the European Central Bank (ECB) for a period of eight years. It also appoints the ECB's Vice-Presidents and board members. In all these cases, there is a need for a qualified majority in the European Council.

With respect to the size and composition of the other institutions, the European Council may decide, by unanimity, to change the size of the Commission (Article 17(5) TEU). This decision goes hand in hand with a 'system of rotation' of Member States representatives that the European Council has to agree upon based on the principles of 'strict equality' between Member States, and demographic and geographical representation (Article 244 TFEU). The European Council also decides, by qualified majority, on the list of Council configurations, other than the General Affairs Council and the Foreign Affairs Council, as well as on the order in which different Member States will hold the rotating presidency of the Council of the EU. Here again the principle of 'equal rotation' must prevail (Articles 16(9) TEU and 236 TFEU).

As part of its decision-making role, the European Council decides, on the basis of Article 49 TEU, on the 'conditions of eligibility' of new Member States hoping to join the EU. In practice, the European Council already defined the conditions of eligibility prior to the Lisbon Treaty, which then codified this procedure. In the case of the withdrawal of a Member State, the European Council decides on the guidelines for negotiation (Article 50 TEU).

The European Council may also take other decisions of an institutional nature. This is the case for example for its own rules of procedure, which it adopts in accordance with Article 235(3) TFEU.

The decision-making role of the European Council in constitutional matters

The European Council decides on three constitutional matters: Treaty review, decision-making methods in the Council and expansion of the mandate of the European Public Prosecutor's Office (EPPO).

1) The Lisbon Treaty placed the European Council at the centre of the ordinary Treaty revision procedure by codifying the existing practice of using a convention and an intergovernmental conference to examine proposals for amending the Treaties. It also gave the EU leaders the possibility, as part of the newly introduced simplified Treaty revision procedure, to amend Part Three of the TFEU relating to 'the internal policies and action of the Union' in total or in part (Article 48 TEU) without a convention or an intergovernmental conference (IGC).

2) The European Council can decide to lower the majorities required for certain decisions to be taken in the Council, moving from unanimity to qualified majority (Article 48(7) TEU). This is the case for the multiannual financial framework (Article 312(2) TFEU) and for certain foreign-policy related decisions, except for decisions having military or defence implications (Articles 31(3) and 31(4) TEU).

3) The European Council can extend the powers of an institution, as is the case with EPPO (Article 86(4) TFEU). However, in the case of this newly introduced provision, the European Council cannot act unilaterally and first needs to consult the European Commission and obtain the consent of the European Parliament.

1.2.3. The European Council as an arbiter

The arbiter function allows a topic to be moved from the national level to the European level and/or from the Council level to the European Council level. This function is often also referred to as the 'elevator function' (Welle, 2016). Scholars have also considered that the European Council acts as 'an instance of last resort' when examining issues brought to its attention from lower decision-making levels. The decision taken by the European Council on an issue brought to its attention in its arbiter capacity is a political decision with no formal legislative authority, since the Treaty forbids the European Council from exercising 'legislative functions' (Article 15(1) TEU).

The Lisbon Treaty identifies a number of cases in which the European Council can act as an arbiter at the request of a Member State. One example is social security, where a Member State that considers that a 'draft legislative act' may affect their social security system, particularly the financial dimension, may ask that the matter be brought to the attention of the European Council (Article 48 TFEU). The request halts the legislative procedure while the European Council has four months to decide on the matter. The European Council can either refer the 'draft legislative act' back to the Council for the finalisation of the procedure, 'take no action' or ask the Commission for a new proposal.

Most of the cases in which the European Council can act as an arbiter pertain to the area of justice and home affairs. The referral mechanism in justice and home affairs (JHA) was already mentioned in the Treaties prior to the Lisbon Treaty, but it was made more specific with the entry into force of the Lisbon Treaty. Draft legislative acts on 'the mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters' and on 'the definition of criminal offences', both having a cross-border dimension, can now be referred to the European Council at the request of a Member State on grounds that they affect the criminal justice system of that Member State (Articles 82(3) and 83(3) TFEU).

Another case of possible referral in the area of JHA concerns the draft regulation on the European Public Prosecutors Office (Article 86(1) TFEU). The European Council may, following a request formulated by at least nine Member States, within four months, on the basis of a consensus, send the draft regulation back to the Council for adoption. However, in case of persisting divergence, a group of minimum nine Member States may 'wish to establish enhanced cooperation on the basis of the draft regulation concerned'. Similarly, referral to the European Council can occur for matters of police cooperation, where, in cases of persisting disagreement, enhanced cooperation can also be established by a minimum of nine Member States. This provision was already present prior to the entry into force of the Lisbon Treaty, with both the referral possibility and enhanced cooperation covering the entire spectrum of JHA issues.

1.3. The European Council President

The Lisbon Treaty introduced the office of a full-time President of the European Council in 2009. It replaced the previous rotating presidency of the European Council, held by the Head of State or Government of the Member State holding the presidency of the Council of the European Union (Council of Ministers), which still continues for most Council formations. The office of European Council President was created, among other reasons, to bring more continuity and coherence to the work of the European Council. It was probably the most innovative institutional change of the Lisbon Treaty regarding the European Council (Wessels, 2010; Dinan, 2013). At the same time, it was also one of the most difficult issues to agree on.

1.3.1. Origin

In the [Convention on the Future of Europe](#), which preceded the Lisbon Treaty, delegates [debated](#) the creation and competences of this office fiercely. The original idea, referred to as the 'ABC proposal' (named after the Prime Minister of Spain, José Maria Aznar, the Prime Minister of the United Kingdom, Tony Blair and the President of France, Jacques Chirac)¹ envisaged the European Council President as a full-time post, elected with a longer mandate that would completely replace the rotating President of the European Council. At one point, the President of the Convention, Valéry Giscard d'Estaing, even proposed the introduction of a vice-president of the European Council as well, as an additional request concerning the European Council President, which would have to be 'someone with at least two years' experience as a European Council member'.² Initially, the idea for a permanent President European Council faced strong opposition from [small and medium sized Member States](#), in particular the '[Benelux](#)' countries (Belgium, the Netherlands and Luxembourg), as well as from the European Commission and members of the European Parliament. They feared that this office would, on the one hand, strengthen the influence of larger Member States in the European Union and, on the other, diminish the role of the European Commission President. The position was eventually created as part of a wider [compromise](#) on the EU's institutional setting, but with more limited competences than some had called for and others feared. The compromise included the strengthening of the European Commission and the election of the Commission President by the European Parliament.

1.3.2. The office of European Council President in the Lisbon Treaty

The office of European Council President is described in Articles 15(5) and 15(6) TEU, and the term of office is limited to two and a half years, with the possibility of the same person being re-elected, but only once. The Treaty clearly states that the European Council President 'shall not hold a national

¹ See for example Peter Norman (2003), 'The Accidental Constitution'.

² Eurocomment Briefing Note, No.2.1.

office' (Article 15(6) TEU); however, it does not specify that it is forbidden to hold another European office. He³ is elected by qualified majority voting (QMV).

Role of the European Council President under the Lisbon Treaty

The tasks of the President are set out in Article 15(6) of the Treaty on European Union (TEU) and further described in the European Council's [rules of procedure](#) (RoP) of 2 December 2009. Based on the Lisbon Treaty and the RoP, the European Council President has the following formal roles:

- chair,
- agenda-setter,
- facilitator, and
- representative.

Chair of European Council meetings

Former European Commission President Jacques Delors said that the European Council President should be a 'chairman' rather than an 'executive president', as the latter would be a source of tension with Heads of State or Government.⁴ The Lisbon Treaty stipulates that the European Council President convenes and chairs European Council meetings and drives its work forward. The European Council's Rules of Procedure (RoP) also assign the President with the task of ensuring that discussions are conducted smoothly (Article 4(4) RoP).

Agenda-setter

According to the Lisbon Treaty, the European Council President ensures the 'preparation and continuity of the work of the European Council in cooperation with the President of the Commission, and on the basis of the work of the General Affairs Council'. He does so by preparing the draft agenda of European Council meetings, in close cooperation with the rotating Council presidency and the President of the Commission (Article 3 RoP). The European Council President's role is to set the agenda. He is also tasked with preparing the draft guidelines for European Council conclusions, as well as both the draft conclusions themselves and draft decisions of the European Council (Article 3(1) RoP). After the meeting, the President of the European Council also monitors how the follow-up to the agenda points is being carried out and identifies which topics need to be re-addressed at the next meeting.

He can also propose to hold 'meetings in the margins of the European Council' with representatives of third countries and international organisations (Article 4(2) RoP).

Facilitator

The Lisbon Treaty conferred on the European Council President the task of facilitating cohesion and consensus within the European Council. As the institution works mainly on the basis of consensus as a decision-making method, this role is crucial for its good functioning. Although the President signs all decisions adopted by the European Council (Rule 12(1)), he does not take part in its votes (Article 235(1) TFEU), underlining the role of [honest broker](#) between the Heads of State or Government.

Representative

The representation role of the European Council President is twofold: he represents the EU externally while also representing the European Council before the European Parliament.

³ As all office holders to date have been male we will use the male article throughout the paper.

⁴ See Riccardi (2010) quoted in Puetter (2012).

- External representation of the European Union

The Lisbon Treaty stipulates that the President of the European Council must also represent the EU externally on CFSP-related issues and at international summits. He shares the former role with the High Representative while the latter role is shared with the President of the European Commission.

When it comes to representation at international summits, prior to the entry into force of the Lisbon Treaty, the rotating presidency of the Council used to attend the G8/G7 and G20 summits. With the entry into force of the Lisbon Treaty, this prerogative transferred to the European Council President, the legal successor to the rotating presidency on this matter. This resulted into a repartition of roles between the Presidents of the European Council and of the European Commission (see Section 2.3).

As early as the Convention, the European Parliament expressed [concern](#) about 'unforeseeable consequences on the institutional balance of the Union' and thus called for the role of the President to be strictly limited 'to that of a chair in order to avoid possible conflicts with the President of the Commission or the Union Minister for Foreign Affairs and not to endanger their status or encroach in any way on the Commission's role in external representation, legislative initiative, executive implementation or administration'.

The division of competencies between the European Council President and the High Representative is less straight forward as both provide external representation in the area of CFSP (Article 15(6) TEU). The Treaty simply specifies that the European Council President shall fulfil his or her external representation obligations 'without prejudice to the powers of the High Representative', 'at his level and in that capacity', analysts [concluding](#) that the level envisaged was the level of the Heads of State or Government. Scholars feared that interinstitutional tensions might emerge once the Lisbon Treaty was implemented, owing due to the vagueness of the Treaty articles (Wessels, 2016; Puetter, 2014).

In any case, it is the European Council President who decides if the European Council should deal with a given international issue as he sets the agenda for the European Council. Furthermore, Article 26 TEU states that, if international developments so require, the President of the European Council must convene an extraordinary meeting of the European Council in order to define the strategic lines of the Union's policy in the face of such developments.

- Representation of the European Council before the European Parliament

The European Council President represents the European Council before the European Parliament. As part of this role, he is obliged to present a report to the European Parliament after each of the meetings of the European Council (Article 15 (6) d)) (for an in-depth analysis of this point see the EPRS study on [Relations between the European Council and the European Parliament](#)).

1.3.3. Differences with the situation before the Lisbon Treaty

While the office of European Council President was newly created with the Lisbon Treaty, many of its responsibilities, such as chairing the European Council (EUCO) meetings and reporting to the European Parliament after each formal meeting, already existed previously and were carried out by the rotating presidency (Dinan 2010). The three elements that have been identified by academics (e.g. Corbett, 2010) and participants (Interviews 1, 2 and 4) as truly new and significant in the Lisbon Treaty are the following:

- 1) The longer term of office, 2.5 years renewable once

Having a permanent European Council President was a big change compared to pre-Lisbon, where the presidency of the European Council was held for six months by the Head of State or Government

of the EU Member States holding the rotating Council presidency. This change promised to ensure more continuity in the work of the European Council.

2) A full-time position

In contrast to the situation before under the rotating presidency, the permanent European Council President can fully concentrate on this European role and does not have to share his time between this function and countless other responsibilities at national level.

These new elements – a longer and full time mandate – of the presidency of the European Council were designed to enable the European Council to provide more effectively for policy continuity and follow-up to its decisions and conclusions (see Section 2.4). Under the rotating presidency this was not guaranteed, as the incoming presidency often paid more attention to its own priorities than to the conclusions reached under the previous EU presidency. These new elements also provide the European Council President with more time (and less national pressure) to invest in his role as facilitator, a role which already existed informally under the rotating presidency.

3) Elected by peers:

Previously there was no choice for the members of the European Council as to who should hold the presidency, as it was automatically the Head of State or Government of the Member State holding the rotating presidency that did so. The change with Lisbon for the first time gave them the possibility to choose who they believed would be the most suitable person to hold this office. Consequently, this has also strengthened the standing of the European Council President as they can start their term in office knowing that the members of the European Council trust in their abilities.

The expectations were that this new office would lead to more continuity and efficiency in the work of the European Council. Whether this has been the case and how the office holders to date have understood and carried out their role, and maybe even extended it, will be examined in Section 2.3.

1.4. The functioning of the European Council

The original set-up of the European Council, following its creation in 1974, was informal and confidential around so called 'fireside chats' (Dinan, 2018; Puetter, 2014; Wessels, 2016). Over time the European Council became more and more formalised. Meetings became more frequent and regular, while preparations for and the conduct of the meetings developed their own protocol. The Lisbon Treaty continued this trend, making the European Council a formal EU institution, which as a direct consequence led to the adoption of the European Council [rules of procedures](#) (RoP) on 2 December 2009. Many elements of the European Council's functioning are described in the Lisbon Treaty, with the RoP replicating the relevant Treaty Articles, but going into more detail on some and adding a number of additional elements on others (see Table 3). Moreover they describe some procedural aspects (e.g. regarding the minutes of the European Council meetings, the language of documents or the signatory of decisions) which are not mentioned in specific Treaty articles. They also go into more detail on the role of the Secretary-General of the Council complementing one of the novelties of the Lisbon Treaty, whereby the European Council is to be formally assisted by the General Secretariat of the Council. Whereas Article 235(6) TFEU formally gives the General Secretariat of the Council the role of assisting the European Council, and therefore its President, this was in any case carried out in practice for the rotating presidency prior to 2009.

1.4.1. Comparing old and new working methods

This section assesses if and how the meetings, their preparation, their attendance, their output (i.e. conclusions) and their follow up really changed as a result of the Lisbon Treaty and the 2009 RoP, or whether they just codified existing practices. In doing so, the working methods described in the Lisbon Treaty and the new RoP are compared with the Nice Treaty and the previous 'rules for organising the proceedings of the European Council' (adopted by the Seville European Council of 21-22 June 2002) (see Table 3).

Table 3 – Continuity and changes to the main working methods introduced by the Lisbon Treaty and the 2009 RoP

Rules/task		Seville 2002	2009 Rules of Procedure
Meeting agenda and preparations	In charge of preparing European Council meetings	General Affairs and External Relations Council based on presidency proposal	<i>As per Lisbon Treaty: European Council President, in cooperation with European Commission President based on the work of General Affairs Council</i>
	In charge of preparing the agenda	General Affairs and External Relations Council	<i>As per Lisbon Treaty: European Council President in close cooperation with the Member of the European Council representing the rotating presidency</i>
	Draft agenda	4 weeks prior to the meeting	4 weeks prior to the meeting
Meetings	Number of meetings	Twice every six months (i.e. four times a year)	Twice every six months (i.e. four times a year)
	Convening extra ordinary meetings	Yes, in exceptional circumstances	<i>As per Lisbon Treaty: Yes, when the situation so requires</i>
	Venue of meetings	N/A	<i>As per Lisbon Treaty: In exceptional circumstances the meetings can take place outside of Brussels</i>
	Duration	In principle, 1 day preceded by one day of restricted format meetings	In principle, a 2-day meeting
Participants at EUCO meetings	Attendance of foreign ministers	Day one with heads and European Commission President only and day two including foreign affairs ministers	<i>As per Lisbon Treaty: Only Heads of State or Government, European Council and European Commission Presidents and the High Representative</i> <i>The members of the European Council may decide each to be assisted by a minister</i>

	Attendance of European Parliament President	The second day's meeting 'shall be preceded by an exchange of views with the President of the European Parliament'	<i>As per Lisbon Treaty: The President of the European Parliament may be invited to be heard by the European Council.</i> Such exchange of views shall be held at the start of the meeting of the European Council'
Conclusions	Objective of the conclusions	To 'set out policy guidelines and decisions reached by the European Council, placing them briefly in their context and indicating the stages of the procedure to follow on from them'	N/A
Decision-making		N/A	<i>As per Lisbon Treaty: Except where the Treaties provide otherwise, decisions of the European Council shall be taken' by consensus</i>
		N/A	Written procedure
Follow-up	In charge of follow-up to European Council meetings	N/A	<i>As per Lisbon Treaty: GAC in liaison with European Council President</i>
	Reporting on the work of the Council	N/A	The member of the European Council representing the Member State holding the presidency of the Council shall report to the European Council, in consultation with its President, on the work of the Council.

Source: EPRS.

1.4.2. Agenda and preparation of the meeting

Through the creation of the office of permanent President, many of the tasks relating to the European Council, notably the setting of the agenda and the preparation of the meetings, previously the responsibility of the rotating presidency and/or the GAC, now lie predominantly with the European Council President.

When it comes to the practical preparation of the meetings, there has been little change. For ordinary meetings of the European Council, the President needs to submit an annotated draft agenda to the General Affairs Council four weeks in advance; this was already described in the Seville European Council conclusions. However, the 2009 RoP introduced the issuing of draft guidelines for the conclusions, drafted by the President of the European Council, which are then discussed at the General Affairs Council, and later adopted at the European Council meeting. Another element in the

preparatory process is the President's invitation letter, which was already used in practice prior to the Lisbon Treaty but has never been formalised as part of the RoP.

1.4.3. Meetings

Since the entry into force of the Lisbon Treaty, the European Council has been required to meet at least four times a year (twice every six months). Under the previous Nice Treaty, the European Council had to meet only twice a year. However, in reality, the European Council met more often (see Section 2.4) and the Seville European Council had already established the practice of meeting four times a year. Thus, in this respect all the Lisbon Treaty did was to codify existing practices.

Another aspect regarding European Council meetings that the Lisbon Treaty codified was the possibility to hold special and extraordinary meetings. This possibility was already mentioned in the Seville conclusions. However, extraordinary meetings could be used for any reason, while the Lisbon Treaty now distinguishes between 'special meetings', which can be convened for any reason, and 'extraordinary meetings', which are convened in connection with pressing international developments.

1.4.4. Participants

The Lisbon Treaty ended the routine attendance of foreign affairs ministers, who up until then had been present at European Council meetings to assist their Heads of State or Government. However, the Seville European Council had already acknowledged a distinction, foreseeing that the one day the European Council would be 'preceded the day before by a meeting restricted to Heads of State or Government and the President of the Commission'.

The Lisbon Treaty codified the informal practice of having an exchange of views with the President of the European Parliament at the beginning of a European Council meeting. However, it diminished the more compulsory nature of this encounter by changing the text from 'shall', which was used in the Seville document, to 'may' be invited.

1.4.5. Conclusions

The European Council has always used the conclusions of its formal meetings to exercise its role at the different stages of the [policy cycle](#) and to give political guidance for EU policy orientations. It comments on ongoing (legislative) dossiers and asks other EU institutions and actors to carry out certain tasks or activities (e.g. invites the Commission to come up with a proposal on a certain issue, calls on co-legislators to speed up their deliberations on a given file or instructs the High Representative to report on a certain issue before the next European Council meeting). With the Lisbon Treaty, the conclusions changed from 'conclusions of the Presidency' to 'conclusions of the European Council'; this change in denomination was only an informal practical consequence of other Treaty changes, it was not described in the Treaties or the RoP, and does not modify the status of the conclusions.

The conclusions are actually an example where the level of depth in the description of notably the purpose and objectives of the conclusions was reduced between pre-Lisbon and the Lisbon Treaty and the 2009 RoP. The Seville rules of procedure stated that the conclusions 'shall set out policy guidelines and decisions reached by the European Council, placing them briefly in their context and indicating the stages of the procedure to follow on from them'. This kind of description is totally absent from both the Lisbon Treaty and the 2009 RoP.

With the 2009 RoP, the preparation of the European Council meeting and the drafting process of the conclusions have become more formalised as described in the preparation process above.

1.4.6. Decision-making

The Lisbon Treaty and the 2009 RoP stress that, except where the Treaties provide otherwise, decisions of the European Council shall be taken by consensus. Although these were the first formal mentions of it, this had been the way of working between EU Heads of State or Government since the creation of the European Council in 1974. Although the consensus-based approach was pursued under the Lisbon Treaty, the latter also expanded the legal possibility of using QMV in more areas than before,⁵ mostly regarding appointments. While some of these cases apply to the appointments of newly created positions such as the High Representative, there was also a shift from 'common accord' to QMV for the appointment of the ECB President and the ECB Vice-Presidents.

The 2009 RoP also introduced the use of a 'written procedure' for the work of the European Council, whereby EU Heads of State or Government could adopt decisions without having to meet physically.

1.4.7. Follow-up

The concrete rules for follow-up were rather limited before, but did not get a lot more specific with the Lisbon Treaty or the 2009 RoP. They indicate only who the person responsible is, but not how this should concretely be carried out.

The above comparison shows that the Lisbon Treaty and the RoP were another step in the on-going formalisation of proceedings in the European Council. While many elements had been already developed over time and mentioned in the Seville conclusions, they were then codified with the Lisbon Treaty and sometimes further detailed in the new RoP. The introduction of the office of European Council President shifted some responsibilities for the functioning of the European Council away from the rotating Council presidency and the GAC to the new permanent President. At the same time, the analysis shows that in some respects (e.g. the European Council conclusions), the 2009 RoP became less specific than before, or more restrictive (e.g. attendance of the European Parliament President).

⁵ The Treaty of Nice envisaged only one case where the use of QMV for EU Heads of State or Government was possible, namely the election of the European Commission President.

2. 2009-2019: A decade of change for the EU and the European Council

Ten years after the European Council became a formal EU institution the world, the European Union and the European Council are very different places. Old alliances, such as with the US, are not as [reliable](#) as they used to be. Frictions, reminders of the cold war period, have remerged, and other countries – first and foremost China, which is on its way to becoming a world power – are being more assertive on the world stage. In this context, the EU is faced with a double challenge. The EU must adjust to international developments while at the same time mastering its own internal transformation, under way as result of the growing domestic problems of the past decade.

The two existential crises spanning the majority of these ten years, financial and migration, have left their mark not only on the EU's economic situation, but also on its policies and on the political party landscape across Europe. The decade has seen the rise of numerous populist and/or eurosceptic parties across Member States, focusing on the effects of one or the other crisis, or both. This has also led to certain groups challenging the benefits of EU membership. While Croatia has joined the EU, the UK has been on its way out of the EU for four years (if David Cameron's attempts to reform the EU are included); this because a majority of the UK electorate believed views according to which their country would be better off outside of the EU, and voting accordingly in the Brexit referendum.

Both internal and external developments have required the European Council to adapt to the situation through its policy responses and guidelines but also by renewing its working methods. Since the Brexit referendum, the EU Heads of State or Government have worked hard to achieve and keep unity between the Member States and show EU citizens that the EU takes their concerns into account and delivers. A growing party political dimension is also visible, with party politics becoming more prominent within the European Council. Equally the main political parties represented in the European Council (i.e. the EPP, S&D and Renew Europe) have strengthened their internal coordination activities for European Council summits over the last decade. At these meetings the various political families have the opportunity to coordinate their positions before meeting in the European Council (Interview 3).

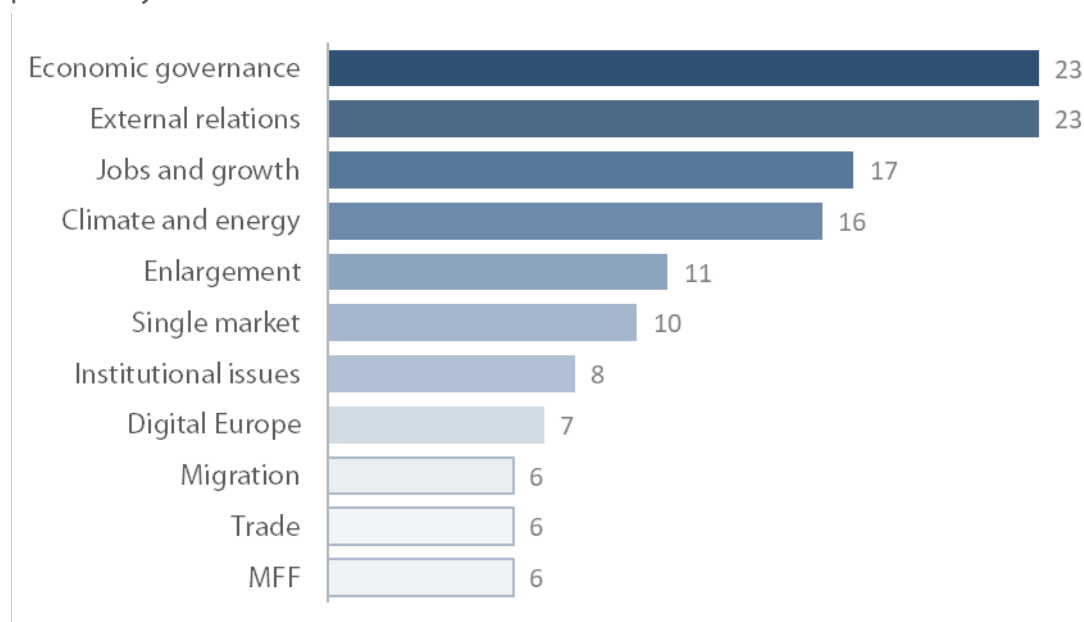
2.1. The European Council's attention to various policy topics

Examining the overall period and notably the European Council conclusions, significant differences can be observed between the five-year period under the first President of the European Council, Herman Van Rompuy, and the subsequent period, under President Donald Tusk, owing to the different crises the EU has had to face. A distinction must be drawn between how often different policy topics were part of a European Council meeting and how much attention was dedicated to them individually (i.e. amount/length of conclusions).

2.1.1. Policy attention during Herman Van Rompuy's presidency

Under Herman Van Rompuy's presidency, the topics most often addressed by the European Council were economic governance and external relations (both addressed at 23 of the 26 meetings that took place in that period). They were followed by jobs and growth (17 meetings), and climate and energy (16 meetings). In comparison, topics less often on the agenda were migration, trade and the multiannual financial framework (each discussed at six different meetings).

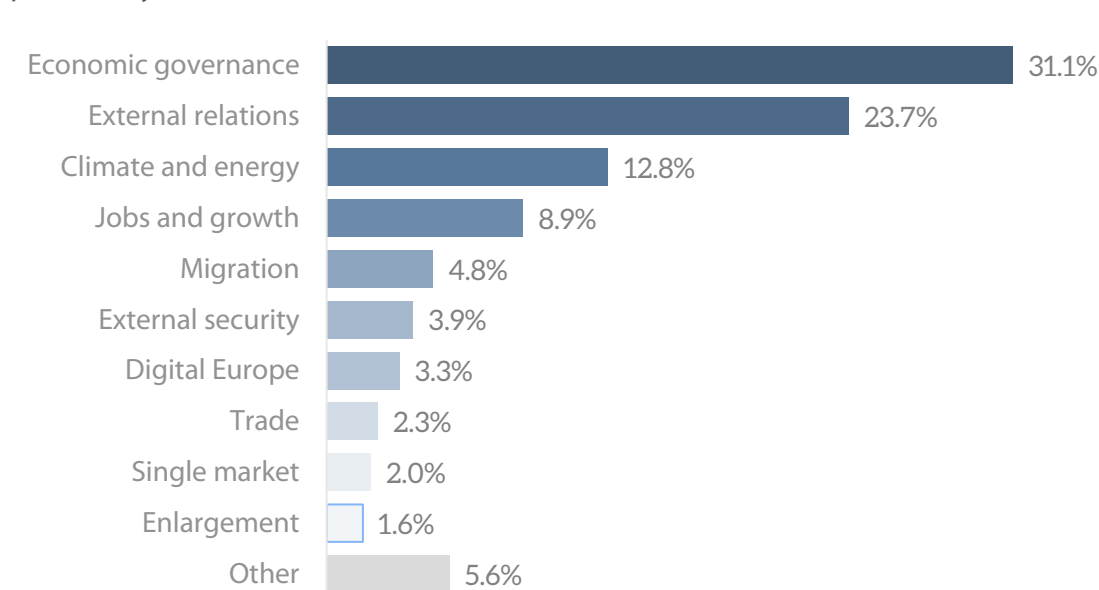
Figure 1 – Top 11 topics of the European Council conclusions during Herman Van Rompuy's presidency



Source: EPRS.

When looking at the total attention in the conclusions, economic governance and external relations were also the main issues, but economic governance received a lot more attention (31 %) in comparison to external relations (24 %). Regarding the average attention for the next two topics, jobs and growth and climate and energy, the ranking is the same but in the reverse order, climate and energy being third and jobs and growth being fourth (see Figures 1 and 2).

Figure 2 – European Council conclusions by topic during the Herman Van Rompuy presidency

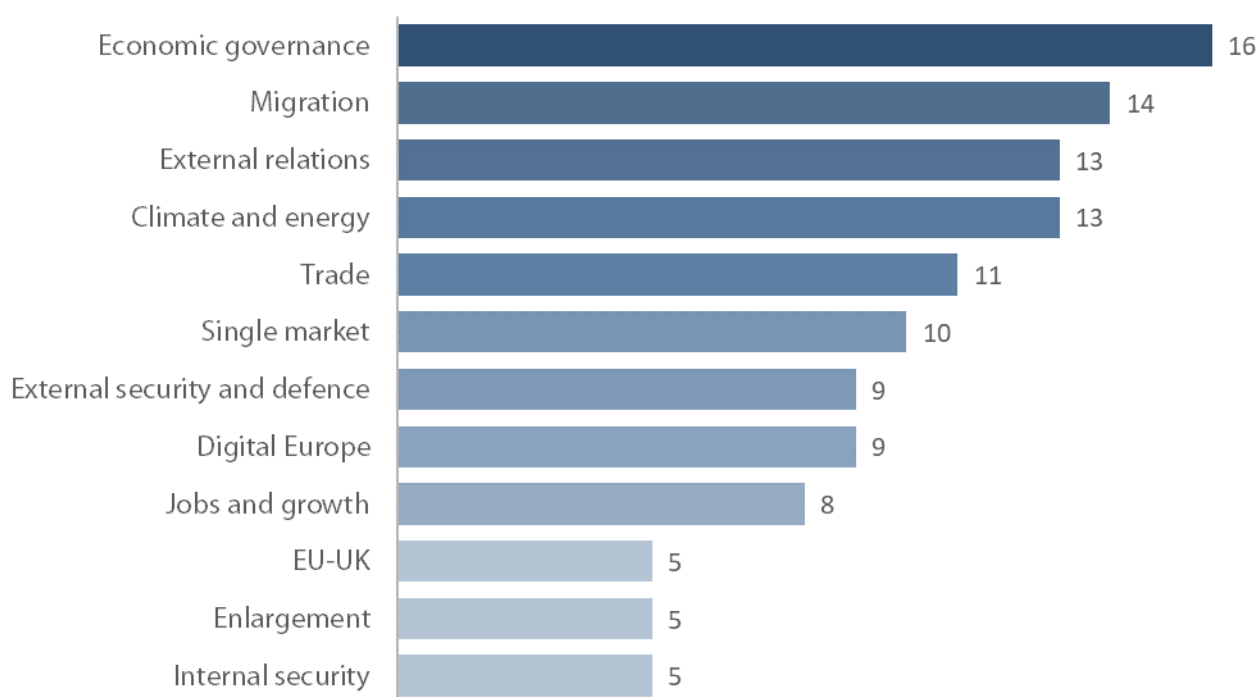


Source: EPRS.

2.1.2. Policy attention during Donald Tusk's presidency

During Donald Tusk's presidency, the issues discussed most often by the European Council were economic governance (16 of the 22 meetings over this period), migration (14 meetings), external relations (13 meetings) and climate and energy (13 meetings) (see Figure 3). By comparison less attention was given to enlargement, internal security and UK-EU relations: all three featured five times on formal European Council agendas. Relations with the UK took up a lot of attention during the formal European Council meetings in the years 2015 and 2016. This topic was then shifted to other formats of the EU Heads of State or Government, notably informal meetings and European Council Article 50 meetings where they could concentrate on this issue alone.

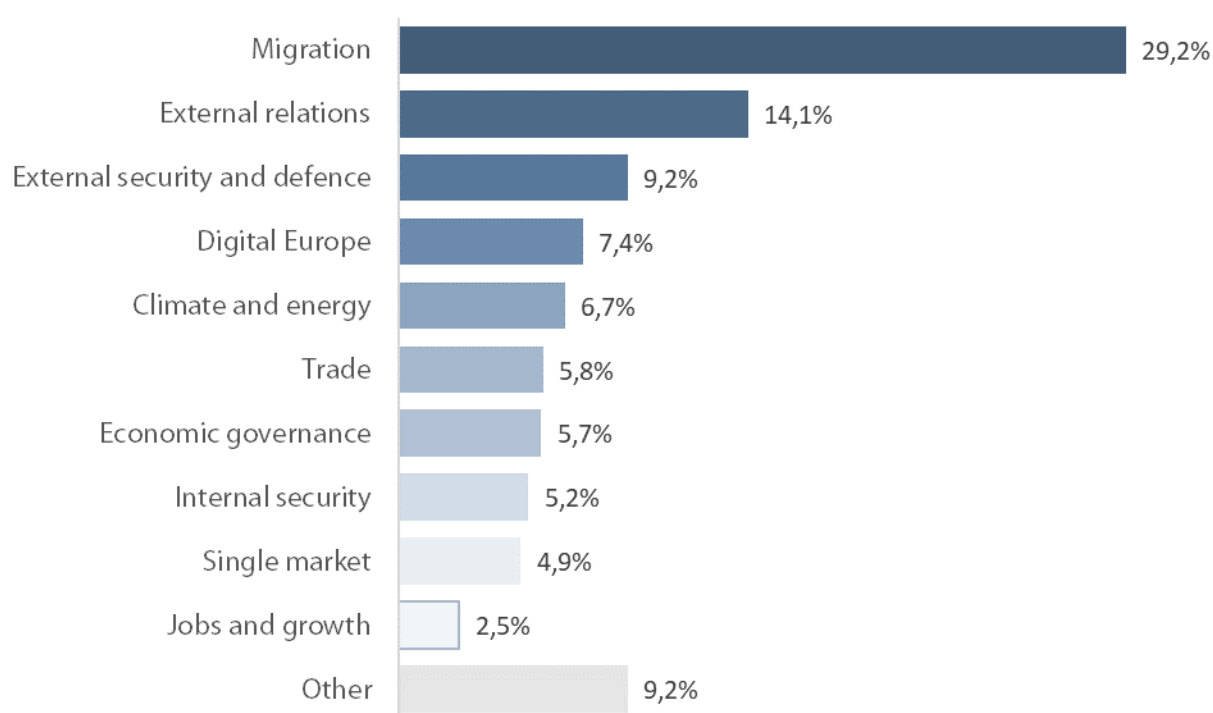
Figure 3 – Topics in European Council conclusions during Donald Tusk's presidency



Source: EPRS.

When looking at the average attention dedicated to each topic, there is striking difference in the order of priorities, with namely migration having significantly lengthier conclusions (29 %), ahead of external relations (14 %), external security and defence (9 %), and digital Europe (7 %).

Figure 4 – Percentage of words per topic in European Council conclusions during the Donald Tusk presidency



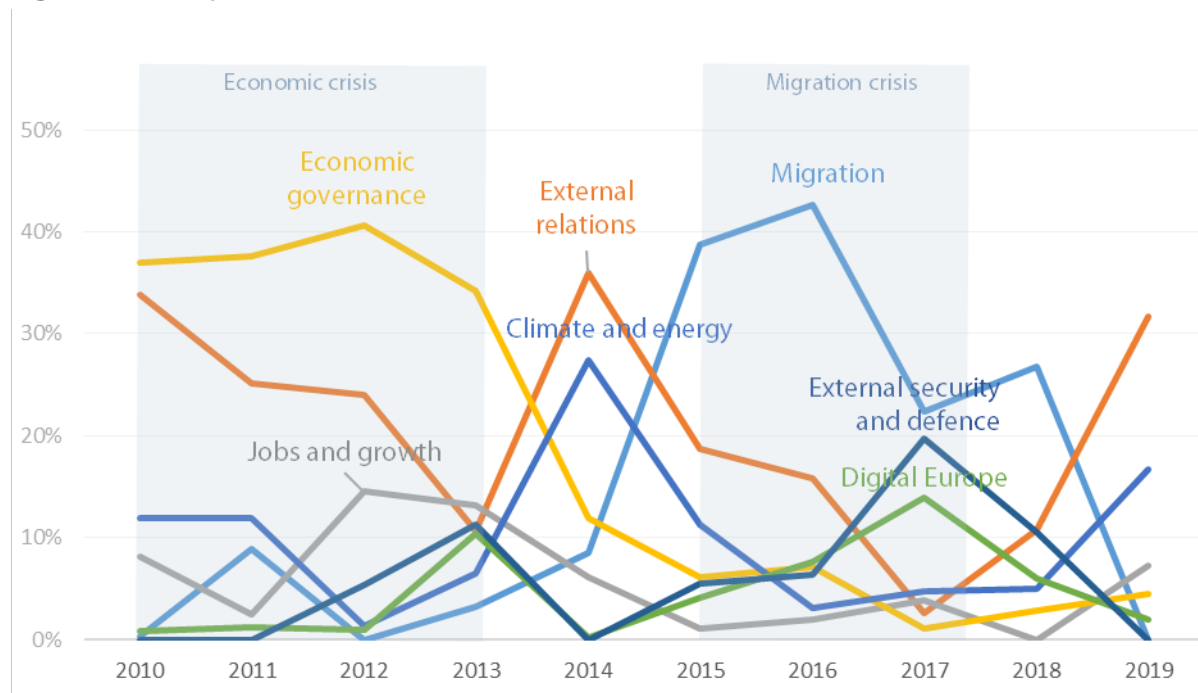
Source: EPRS.

In general, there was less correlation during the Tusk presidency between topics being discussed most often at meetings and the average attention they received.

2.1.3. Comparing policy attention over two European Council presidencies

When looking at the conclusions of the European Council on the different policy topics the EU had to deal with over these years, the impact of the two crises – the economic and financial crisis, followed by the migration crisis – on the work of the European Council is clear (Figure 5).

Figure 5 – European Council conclusions, 2009-2019



Source: EPRS.

When examining the 10-year period since the institutionalisation of the European Council overall, a number of telling trends can be identified, highlighting the development of the EU and the European Council over this time period:

- **External relations** were on the agenda of the vast majority of European Council meetings, but less prominent in the conclusions (20 %). Figure 5 clearly shows the moments when external relations crises required more attention than normal, as was the case in 2011 when the Libyan and Syrian crises attracted the EU leaders' attention, and in 2014 at the peak of the Ukrainian crisis.
- **Economic governance**, the main issue during the Van Rompuy years, nearly disappeared from the European Council conclusions during the Tusk presidency. This can be explained, on the one hand, by the end of the economic and financial crisis, and on the other hand, by the establishment of the previously informal Euro summit in 2012, which took over most of the work on these issues.
- **Jobs and growth** received a lot more attention during the first half of the decade than later, owing to the improving employment situation across Europe over recent years and also because previously adopted initiatives were now in the implementation phase in the legislative cycle.
- **Migration**, a previously relatively little discussed issue, became the dominant topic over the latter part of the decade on account of the crisis.
- **Other topics** that received on average significantly more attention over the latter five years than in the previous five years were internal security, trade, and the single market. While the increased focus on internal security is clearly [linked](#) to the number of terrorist attacks across Europe since 2015, the attention devoted to the latter two subjects reflects changes in global economic relations and the rise of the digital economy (digital single market).
- **Climate and energy** saw a big spike in attention around 2014 (27 %) when energy was the focus, and has experienced another steady increase over recent years with

climate issues coming to the forefront of attention with the need to implement the 2017 Paris agreements.

- The data for **external security and defence** shows two peaks, one in 2013 when the European Council set out its main security and defence guidelines, and another in 2017 when permanent structured cooperation (PESCO) was launched. The graph also shows that whenever attention to external relations is declining, there is a peak in attention to external security and defence.
- Issues such as **social** affairs (0.5 %), **education** (0.3 %) and **enlargement** (1.4 %) received little attention overall, although they were discussed a couple of times towards the end of the period, following the 2017 Social Summit in [Gothenburg](#) and 2018 EU-Western Balkans Summit in [Sofia](#).

2.2. The European Council's diverse roles in practice

The formal roles – agenda-setter, decision-maker and arbiter – of the European Council set out in the Treaty were described in Section 1.2. This section examines how the European Council has fulfilled these roles in practice over the past 10 years. In addition, it identifies and examines four other roles that the European Council fulfils in practice but that are mostly absent from the Treaty, namely those of policy formulator, crisis manager, provider of political support and scrutiniser of implementation. Table 4 lists the various European Council roles and indicates whether or not they originate in the Treaty.

Table 4 – European Council roles based on the EU Treaties

Role	Treaty basis
Agenda-setter	yes
Decision-maker	
Arbiter	
Policy formulator	no
Crisis manager	
Provider of political support	limited
Scrutiniser of implementation	

Source: EPRS.

2.2.1. The European Council as agenda-setter

The European Council sets the main guidelines for the EU's development. This is a horizontal competence spanning the entire spectrum of EU policies, although in some policy areas, including CFSP/CSDP, enlargement or JHA, the European Council's agenda-setting role is clearly mentioned in the Treaty (see Section 1.2). In setting the agenda, scholars have [considered](#) that the European Council was 'acting as the "political executive" in the EU's intergovernmental regime', calling it 'the

new centre of EU politics'. One of the interviewees even said that the European Council's de facto role 'is to give energy to the European Union' calling it 'a main driver of policy' (Interviewee 3).

One example of documents adopted by the European Council with the aim of setting overall guidelines across a wide range of policy areas is the 2014-2019 strategic agenda. More recently, in June 2019, the European Council adopted a new strategic agenda for the 2019-2024 period. While there is much continuity between the old and the new strategic agendas, the new agenda gives increased attention to certain policy areas, including climate and Europe's role in the world, providing an indication that these areas might be in the spotlight for the next five years (see EPRS [Assessing the Leader's Agenda](#)).

In addition to adopting the successive strategic agendas, the European Council has adopted three other documents – the Bratislava, Rome and Sibiu Declarations – where it has set guidelines across policy areas. While the Bratislava declaration was, by its purpose, focused on providing a short-term vision and plan for three key policy areas – the economy, migration and (internal/external) security – the other two declarations provided long-term visions for nearly all of the policy areas covered by the successive strategic agendas (see EPRS [From Bratislava to Rome](#)).

In its agenda-setting role, the European Council sets main guidelines not only across policy areas but also within specific policy areas. In order to assess the European Council's role as agenda-setter it is important to give some examples and see whether it had a predominant or a less developed role. The past decade saw the European Council define the main guidelines for a series of policies. This was the case with climate and energy for example, for which the European Council defined a set of guidelines in October 2014. These are now being followed and a new set of guidelines, this time more climate-focussed, is expected for December 2019. Another example is defence. The European Council defined a set of guidelines as early as 2012/2013, which are still being implemented at present. These guidelines led to the initiation of a strategic review process in the 2013-2015 period, which resulted in the 'presentation' of the EU Global Strategy in 2016. The European Council did not formally [endorse](#) the document, given various national sensitivities persistent at the time, but asked that it be implemented.

In other policy areas, the European Council agenda-setter role has been less prominent. This is the case with migration, for which the European Council has over time assembled the elements of a comprehensive migration strategy; this seems to indicate that it was working in its crisis-manager mode rather than as an agenda-setter, and that its leadership in this area was more reactive than forward looking. The same applies in the economics field, where the crisis-manager role prevailed over the agenda-setter one during the economic and financial crisis. In both cases, as soon as the crisis lessened, the incentive for the European Council to provide leadership diminished.

Another example of a policy area where the agenda-setter role has not been fully carried out by the European Council is foreign policy. The European Council acts less as an agenda-setter and more as a punctual commentator of international developments or, when the international situation so requires, as in the cases of Libya, Syria and Ukraine, as a crisis manager (Interviewee 2) (see the section below on crisis-management). It has thus taken a reactive rather than an active stance, the latter being the stance that should be expected of an agenda-setter. Furthermore, the two occasions when the European Council held strategic debates, on relations with Russia, in October 2016, and on relations with China, in March 2019, did not end with the adoption of conclusions or with the provision of clear guidelines on future action.

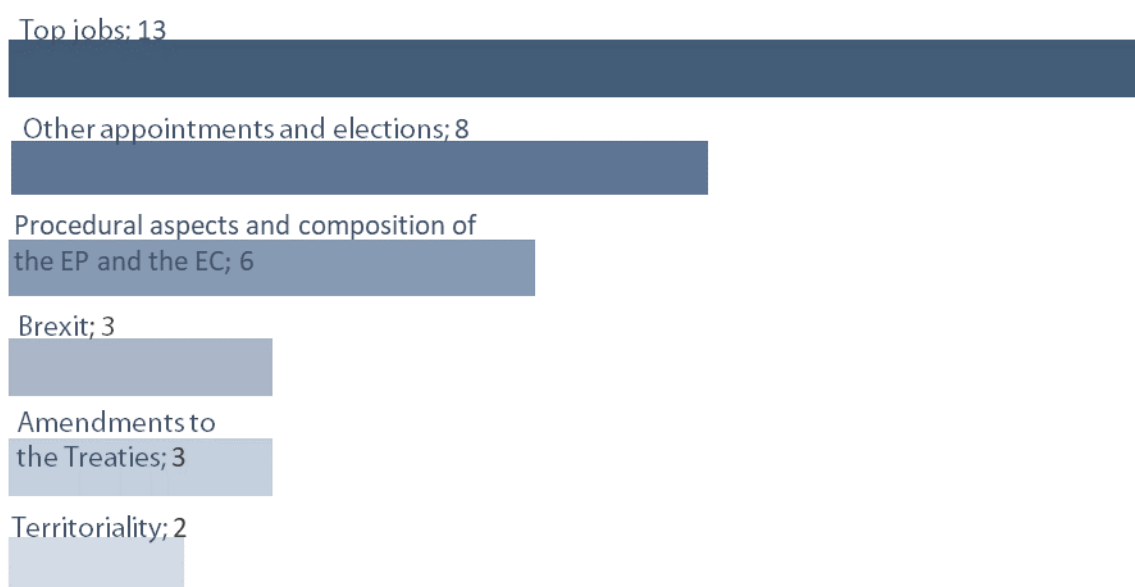
2.2.2. The European Council as decision-maker

Section 1.2 outlined that one of the European Council's Treaty roles is to act as a decision-maker, a role strengthened by the Lisbon Treaty. However, this decision-making competence could be further optimised by making use of the still unused potential of the Lisbon Treaty (see Section 2.5).

During the past decade, the European Council has taken 35 decisions on institutional and constitutional issues (see Figure 6). Most of these decisions were of an institutional nature (24 out of 35). During the period examined, the European Council took 16 decisions aimed at appointing high-level officials or other officials, such as the Vice-Presidents and the executive board members of the ECB, and are subject to the QMV procedure. However, in practice, there were only two cases when EU leaders voted on high-level appointments: in 2014 when Jean-Claude Juncker was proposed as candidate for the European Commission presidency, and in 2017 when Donald Tusk was re-elected as President of the European Council (see also Section 2.4). More recently, the European Council decided unanimously to propose Ursula von der Leyen as candidate for the function of European Commission President, while the German Chancellor, Angela Merkel, abstained (see also Section 2.4).

In accordance with the Lisbon Treaty provisions, the European Council decides on the composition and size of other EU institutions (see Section 1.2). This has been the case on four occasions. The European Council has decided twice – in [2013](#) and in [2018](#) – on the composition of the European Parliament, once – in [2013](#) – on the number of members of the European Commission and once – in [2010](#) – on an amended list of Council configurations.

Figure 6 – Types of European Council decision, 2009-2019



Source: EPRS.

The European Council can take decisions within the framework of the withdrawal procedure set out in Article 50 TEU. On three occasions, it has decided in agreement with the United Kingdom to extend the period under Article 50(3) TEU.

Decisions of a constitutional nature have been less numerous (5 out of 35). The European Council has used these provisions twice, in 2010 and in 2012, both times at the request of France, Article 355(6) TFEU to amend the status of Mayotte and Saint-Barthélemy. It has also taken three decisions opening the way to Treaty revision. Two of these decisions were taken in [2010](#) and [2012](#), in accordance with Article 43(3), under the ordinary revision procedure. They led to the establishment of conferences of representatives mandated to examine the proposed amendments to the Protocol on transitional provisions regarding the composition of the European Parliament and to the Protocol on the concerns of the Irish people on the Treaty of Lisbon, respectively. In both

cases the European Council concluded that the scale of the matter did not justify calling for a Convention under Article 48(2) TEU. In 2011, the European Council decided to amend Article 136 TFEU, enabling the creation of a stability mechanism for the eurozone, using the simplified treaty provision in Article 48(6) (see also Section 2.5).

2.2.3. The European Council as arbiter

In the area of JHA in particular, Lisbon introduced many possibilities for the European Council to act as the arbiter in cases of a blockage in Council. For instance, the Treaty allows the European Council to act as an arbiter on police and judicial cooperation legislative files (see Section 1.2). In practice, this procedure [has been used](#) in other areas of JHA, notably as regards the Dublin Regulation and the common European asylum system (CEAS), where no such referral is envisaged. The European Parliament has disagreed with the Council's approach to referring legislative matters to the European Council, given that the latter has an obligation to refrain from 'exercising legislative functions' (Article 15(1) TEU) and that the referral of police and judicial cooperation legislative files represents a circumscribed exception to the general rule. Opening the October 2018 European Council, European Parliament President Antonio Tajani [expressed](#) the European Parliament's discontent with the practice, asking 'why the Council does not apply the qualified majority rule, but continues to insist on seeking a consensus instead'.

Likewise, during the economic and financial crisis, EU leaders played an active part in the negotiation of the European Financial Stability Facility (EFSF) and the European Stability Mechanism (ESM), two 'negotiating acts' that were not of a legislative nature under EU law but that had 'a similar status or function' (Puetter, 2014). In doing so, the European Council has reduced the negotiating role of the Council, decreasing it to a technical support.

More recently, in October 2019, the European Council attempted to play an arbiter role in the enlargement field, when it discussed on whether or not to open accession negotiations with North Macedonia and Albania. EU leaders [did not reach consensus](#) and will return to the matter at one of their next meetings in early 2020.

2.2.4. The European Council as crisis manager

Leading experts on the European Council argue that 'the original *raison d'être*' of the European Council was as a crisis management body (Dinan, 2011, [2012](#)). However, this important role of the European Council has developed outside of the Treaty. The urgency of responding to successive and sometimes overlapping crises from 2008 until 2016 has made the crisis management role the dominant function of the European Council over the last 10 years. During that period, the EU was in a permanent state of crisis (Interviewee 4). Although there are different points of view as to what constitutes a crisis, the majority of the interviewees concur that Brexit was not a crisis for the EU, in contrast to the existential crises on economics and migration (Interviews 1, 2, 3, 4, and 8).

Different in nature, all these crises – ranging from the economic and financial crisis to foreign policy crises (Libya, Syria and Ukraine) and the migration crisis – had external roots. Yet, their domestic impact was substantial, in particular the economic and financial crisis and the migration crisis. Although the Libyan and the Syrian crises remained external, they eventually became intertwined with the migration crisis.

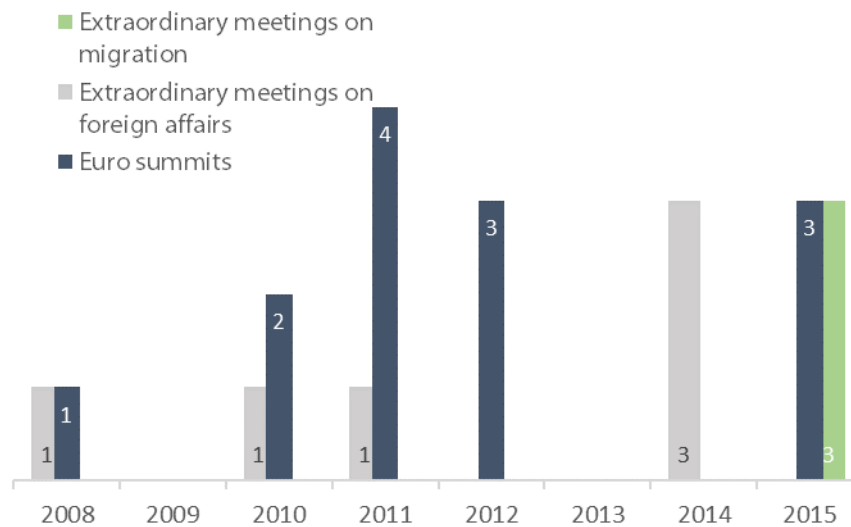
The common denominator of all of the above-mentioned crises was that the EU had to take swift and united decisions, differing from 'normal' decision-making during business as usual times. The European Council was best equipped to respond to the challenges, as only Heads of State or Government have the power to engage their nations and decide rapidly on a wide range of issues (Interviewees 1, 4 and 8). This was the case for example in the sovereign debt crisis, on which EU leaders took '[far-reaching decisions](#)', on the EFSF and the ESM, in order to address the initial design flaws revealed by the crisis regarding economic and monetary union (EMU). Similarly, in the

Ukrainian crisis, EU leaders agreed politically to impose sanctions on Russia following its illegal annexation of Crimea. This was a major political decision that needed political consensus and approval at the highest political level, namely the level of the Heads of State or Government – and not at the level of their ministers, who legally speaking were authorised to take such a decision. In retaliation, Russia imposed [counter-sanctions](#) that had a negative influence on EU exports.

In both cases – the economic and financial crisis and the Ukrainian crisis – the unity forged at the very beginning of the crises has not been shattered. The migration crisis was significantly different in this respect. The unity forged in the early moments focused on the need to save lives at sea. Later on in the crisis, disagreements grew with respect to the method and content of the different proposals put forward to address the crisis. Such disagreements persist to date, despite the fact that the migration crisis has been solved in part and the migration problem [reduced](#) (Interview 3). Examples of measures that helped to address the crisis were initiatives aimed at strengthening the external borders, such as the [creation](#) and upgrade of the European Border and Coast Guard as well as the EU-Turkey agreement. An example of disagreement is the asylum pack, which continues to be blocked owing to Member States' persisting sensitivities on the revision of the Dublin Regulation. One of the interviewees stressed that this disagreement has the potential to lead to a crisis, because, contrary to the economic and financial crisis, the EU has so far not managed to build the necessary instruments that would allow it to tackle a new migration crisis of the same magnitude in a serene way (Interview 2).

The European Council was successful in overcoming the economic and financial crisis and keeping Greece in the eurozone. Some of the interviewees doubt that this success would have been achievable should the European Council have been operating under the pre-Lisbon legal framework (Interviews 1, 3 and 4). The main strengths of the post-Lisbon setting lies in the stability and continuity offered by the presence of a permanent European Council President, making it possible to stick to the agreed objectives instead of redefining them every six months. The mechanisms set in place during the economic and financial crisis equipped the EU to respond better to future crises. The European Parliament has acknowledged this development, but has heavily [criticised](#) the fact that Parliament was not associated closely in the process and that the EU leaders opted to push for intergovernmental solutions outside the EU Treaty, such as with the [Treaty on Stability, Coordination and Growth](#) (TSCG or Fiscal Compact) in the EMU, the [Euro Plus Pact](#) or the EFSF and ESM.

Figure 7 – Number of extraordinary meetings of the European Council and Euro Summits dealing with crisis management since 2005⁶



The urgency factor embedded in all these crises led to a multiplication of extraordinary meetings of the European Council and of Euro Summits to deal with the most imminent problems, such as the risk of default of a Member State.

Source: EPRS.

EU leaders met 'with unprecedented frequency' from early 2010 onwards and for the entire period of the sovereign debt crisis (Wessels, 2016). As shown in Figure 7, the same applies for the years 2014 to 2015, when the Ukrainian crisis, the migration crisis and the third Greek programme led EU leaders meet in crisis mode in European Council or Euro Summit format.

As of 2016 the European Council stopped using extraordinary meetings on migration and foreign affairs. The frequent use of Euro Summits only remerged from 2018 onwards, with the EU leaders focussing on non-crisis related issues.

The fact that the European Council grew as the centre of power during the different crises affected interinstitutional relations. Its relationship with the Council as well as with the European Parliament was heavily altered by both the economic and financial crisis and the migration crisis. The economic and financial crisis 'put the European Council front and centre of the EU', (Dinan, 2012). The migration crisis consolidated the centrality of the European Council at the heart of the EU institutional set-up and saw it carrying out its arbiter role (Interview 4).

2.2.5. The European Council and policy formulation

The theoretical role of the European Council as defined by the Treaty is to set out the main orientations in the different EU policy areas, but it has no role to play in the formulation of policies. In practice, outside the framework of the Treaty, the European Council has engaged substantively in policy formulation over the last decade, at all stages of the [policy cycle](#).

The European Council, in its conclusions, has regularly invited the European Commission to draft legislative proposals, thus influencing the European Commission's Treaty-based right of initiative. This was for example the case in [June 2017](#) when the European Council asked the European Commission 'to prepare, as soon as possible, draft legislation enacting the proposals made by the High-level Expert Group on interoperability'. Also through its conclusions, the European Council often asked the European Commission and/or the High Representative to present policy strategies, thus influencing the early stages of policy formulation. Examples include the [invitation](#) addressed

⁶ Libya and Syria were also considered in two out of three extraordinary meetings on migration in 2015.

to the European Commission 'to put forward a European approach to artificial intelligence by early 2018' or the [invitation](#) extended to the High Representative to produce 'in consultation with Member States and the Commission, a [Civilian CSDP Compact](#) in 2018'. Many other similar requests were made in the areas of economics and migration during the crises, when the European Council was operating in crisis-manager mode (see section above).

The European Council was in [some cases](#) interfering in the legislative process, although the Treaty strictly forbids this, undermining the co-legislators' action and, in particular, the Council's role and negotiating position. One example of 'legislative trespassing' is the draft regulation on the European patent, on which the European Parliament, in an opinion from the Committee on Legal Affairs (JURI), has stressed that the European Council had decided 'to remove specific elements from texts already agreed by Parliament and Council' (Dinan 2018). Another example is the multiannual financial framework (MFF), on which, during the previous round of negotiations conducted in 2013, the European Council adopted detailed conclusions, including ceilings and financial envelopes across all policy areas. The European Parliament [expressed](#) its disagreement and stressed that 'the European Council MFF agreement of 8 February 2013 contained a significant number of legislative elements that should have been decided upon under the ordinary legislative procedure'.

2.2.6. The European Council as provider of political support

One of the roles developed by the European Council outside the framework of the Treaty is that of provider of political support. Indeed, the European Council often uses its conclusions to endorse documents and initiatives in different policy areas. In doing so, EU leaders do not only show their commitment to the endorsed initiative, but also put political pressure on the other EU institutions and/or the Member States to continue to deliver on that initiative.

Migration is an area where, owing to the crisis, the European Council has particularly looked to provide political support by endorsing several documents and initiatives. In October 2015, at the midst of the migration crisis, it welcomed the Joint Action Plan with Turkey. Nearly a year into the crisis, in June 2016, it welcomed 'the political agreement between the European Parliament and the Council on the European Border and Coast Guard proposal', a proposal that was supported by the European Council already in its earlier [conclusions](#) from October 2015. As the crisis lessened, in October 2017, the EU leaders welcomed the progress made in reforming the common European asylum system and called 'for further convergence towards an agreement which strikes the right balance between responsibility and solidarity and ensures resilience to future crises'; yet, at the end of 2019, this still remains to be completed.

Another example of an area where the European Council wished to provide political support is defence. It called for the establishment of the European Defence Fund and PESCO, including the lead programme on military mobility. Similarly, in the area of economic policies, the European Council has endorsed the integrated country-specific recommendations as well as the policy priorities of the Annual Growth Survey on a regular basis. As regards energy policy, the European Council has expressed its support for the main initiatives, including, in 2016, the Commission's package on energy security, and, prior to this, in [2014](#), a 'fully functioning and connected internal energy market'.

In addition to the above, the European Council usually welcomes preparations made with a view to major international summits and/or their outcome. This was the case for the past five years with the annual United Nations Climate Change Conference, and sometimes with the preparatory summits preceding the conference, including in 2019 the UN Secretary General's Climate Action Summit held in New York.

2.2.7. The European Council as scrutiniser of implementation

Another role the European Council has developed in practice, mainly outside the Treaty framework, is that of scrutiniser of implementation. The European Council is permanently monitoring the implementation of EU policies, hence playing an important scrutiny role and keeping political pressure on the other EU institutions when it comes to policy delivery. It is by now an established formal working method that the Head of State or Government of the Member State holding the rotating presidency of the Council of the EU reports to the European Council on the status of the implementation of commitments undertaken in conclusions at the previous European Council meeting (see Section 2.4).

On a regular basis, the European Council asks the other EU institutions – the Council, the European Commission or the High Representative – to provide implementation reports on different policies (e.g. EU-Turkey deal; relocation and resettlement). In the same vein, but with a longer-term perspective, EU leaders may assess the implementation of multiannual strategies, such as for example the 'strategic guidelines for legislative and operational planning' [adopted](#) by the European Council in June 2014. EU leaders also consider in their conclusions whether EU legislation has been transposed and implemented at national level, often calling for the procedure and/or implementation to be sped up, as was the case with 'the implementation of the existing relocation and resettlement schemes'.

The European Council often commits itself to return to particular issues that have attracted its attention but that have not been solved in the interim. In doing so, it sets deadlines for itself. The European Council has been rather good at keeping to these deadlines. An exception to this occurred in 2015 when the European Council announced in [March](#) that it would, in the context of the review of European Neighbourhood policy, discuss the Southern Neighbourhood at its October meeting. Given the peak of the migration crisis that year, the European Council chose to focus on the external dimension of migration and consider Libya and Syria and not to hold an overall debate on the Southern Neighbourhood at its [October 2015](#) meeting.

2.3. The European Council President: From theory to practice

In the 10 years since the creation of the office, two individuals, Herman Van Rompuy and Donald Tusk, have held the position of European Council President, each for two terms of two and a half years. In July 2019, Charles Michel was elected by the European Council, to be the third permanent President of the European Council, starting his mandate on 1 December 2019.

While both Herman Van Rompuy and Donald Tusk have very different characters and backgrounds, applying their own styles as European Council President they filled the office with life and introduced methods and mechanisms to fulfil the role(s) provided for in the Treaty. Herman Van Rompuy concentrated on establishing and maintaining informal communication channels with the European Commission, the European Parliament and Coreper. Donald Tusk has been known to be a 'more political' animal (Interviews 1, 2, 3 and 5), using an active communication style to fulfil his role.

Recalling that the origin of the position of European Council President was not uncontested, it was to be expected that Herman Van Rompuy, as first office holder, would face a lot of scepticism, not towards him personally, but regarding the office he was holding. Therefore, it is worth underlining that both Presidents to date have managed, both in their own way, to disarm the critics of their office, and even to reverse the situation, with small Member States now the biggest supporters of the role of the European Council President. (Interview 5). Moreover there are a number of parallels between their terms in office: 1) In both cases a fight against an existential crisis for the EU dominated the first part of their five years in office. 2) Both coincidentally possessed the expertise and /or interest in the policy areas that would dominate most of their presidencies, economics for

Herman Van Rompuy, and migration issues and Eastern Europe for Tusk, making them the right leader at the right time for the European Council. 3) As the crises became less acute during their second mandate, they were able to focus more on long-term agenda-setting and on improving the functioning of the European Council.

2.3.1. The roles of the European Council President

The Treaties do not provide the President with a lot of power. Part of his authority, besides being directly elected by his peers, originates from his previous national political experience as prime minister of a Member State, and as such as being a member of the club, and from the trust he has established with the other EU leaders in the framework of EU summits. Nonetheless, the European Council President always has to walk a very fine line between providing leadership (i.e. promoting his views) and not going against the views of the other members of the European Council (Interview 1). Academics and practitioners concur that the Treaty defined the functions of the President in a rather vague manner (de Schoutheete, 2015) due to the compromise between those in favour of creating this office and those against it (Eggermont, 2012). This gave the office holders a lot of room to interpret the office according to their own understanding. Herman Van Rompuy, the first President of the European Council, [acknowledged](#) that 'the job description and formal competences of [the European Council] President are rather vague, even meagre. A lot therefore depends on what you do with it or make of it! I can put it differently: everything what was not foreseen formally, had to be created informally'.

Section 1.3 outlined how the Lisbon Treaty created the office of a permanent European Council President, stipulating its role, including chair, agenda-setter, facilitator and external representative. However, already in 2010 Wolfgang Wessels considered that with regard to the office of the European Council President, 'the legal words of the treaty provisions do not determinate the factual behaviour of the office holder in the real world'. It is therefore necessary to look at how the two first office holders have interpreted and carried out the office and the various roles.

Chair

Experience of the two European Council Presidents has shown that they carried out their role as chair of the institution as envisaged by the Lisbon Treaty. It is the European Council President who decides whether and when to hold a meeting. While normally he would not refuse a strong request by Members of the European Council, there have been occasions on which both Presidents used their privilege of choosing to hold a meeting (Interview 4). One example was that, despite numerous requests from the Greek prime minister at the time, Alexis Tsipras, Donald Tusk preferred that the Greek issue be treated at Eurogroup level rather than reaching the level of Heads of State or Government, whether in European Council or Euro Summit format. Another example was when Tusk was not consulted on the announcement by the President of the European Commission that the European Council was to meet in Sibiu to discuss the future of Europe, he changed the date announced by President Juncker, to show who was responsible for setting the dates of European Council meetings (See EPRS [From Rome to Sibiu](#)).

Herman Van Rompuy argued from the beginning of his mandate that the European Council needed to hold more meetings. However, rather than trying to increase the importance of his office, as suspected by some, he wanted to demystify the European Council meetings. By having them regularly on a regular basis, the feeling of urgency is removed (i.e. the need to come up with a milestone decision at every meeting) (Interview 4).

In addition to the capacity to call a meeting, the European Council President also has the power to decide to interrupt meetings. One example was Tusk's refusal to break for the day without having an agreement on Greece, although the leaders of France, Germany and Greece preferred to

postpone the discussion (Interview 5). An important recent example of a [suspension](#) of a meeting by the European Council President, was June 2019 European Council, which was to [decide](#) on the package of candidates for the EU high-level positions.

An increase in efficiency was one of the expected consequences of the creation of the European Council President office. Both Presidents managed to fulfil this expectation. Both Herman Van Rompuy and Donald Tusk's philosophy was to try to hold shorter European Council meetings than were the norm before 2009, with a rather more focused agenda and shorter conclusions, and to ensure more systematic follow-up to points agreed (see Section 2.4).

Donald Tusk's aim was to make European Council meetings even more efficient and focused. Despite the departure of the foreign ministers, there were still 30 Members in the room, all whom could potentially take the floor. In such a situation, even the smallest topic could lead to a two- to three-hour discussion, which would affect the number of topics that could be addressed at each meeting. He constantly reminded European Council Members at the beginning of each meeting that they were not obliged to take the floor on every point, thereby reducing the time spent on each topic, leaving more room for political discussion on more controversial topics (Interview 5).

Agenda-setter

Agenda-management represents a powerful tool allowing the European Council President to set the framework for debate and steer the process. Interviewees stressed that the European Council President's most important power is the agenda-setting power (Interviews 1 and 4). In the early years of Herman Van Rompuy's presidency, observers had already noted that he was not a simple chairman of the European Council but that he influenced the preparations, the discussions and the Conclusions of the European Council (de Schoutete, 2012b). Furthermore, President Van Rompuy convened several European Council meetings on thematic issues– such as energy policy or defence, – even if sometimes, the pressure of economic or international events made it difficult to keep to the planned agendas. He also sought to hold 'orientation debates' at informal European Council meetings, to build awareness on certain topics and foster consensus between the Heads of State or Government in advance of formal positions being taken in formal European Council meetings.

Donald Tusk also fulfilled his role as agenda-setter, bringing forward some topics and refusing others. (Interviewee 5). Both Presidents managed to find the right balance, considering the fact that organising the European Council's agenda too often in contradiction with the views of the other members would not support his role as a facilitator and honest broker. An example of Herman Van Rompuy using his agenda-setting role very decisively was at his last meeting as European Council President, when he pushed through the EU climate goals (Interviewee 1). On several occasions, Donald Tusk also shaped the agenda beyond the views of all the European Council members, for instance regarding the invitation of the then President of Ukraine, Petro Poroshenko, to attend European Council meetings (Interview 5) and by [getting](#) EU leaders to reaffirm 'the European perspective of the Western Balkans' at a time when the European Council was not inclined to consider enlargement. How effective this agenda-setting power can be, becomes apparent when considering the absence of any discussion on Nord Stream 2 in the European Council during Donald Tusk's mandate (Interview 1).

The agenda-setting role of the President does not reside solely in putting an issue on the agenda or not, but also in the way the discussion on it is framed. The invitation letters sent to the Heads of State or Government ahead of each meeting represent his most tangible contribution to steering the debate. The invitation letter allows the President to give his personal political take on things, while the conclusions in comparison are a consensus document of the whole European Council,

deriving from a formal approval process in Coreper and in the European Council (Interview 5).⁷ President Tusk, during his mandates, has further refined the use of the invitation letter, as well as other communication tools, to set out the framework and the tone for the discussions. He was at times, considered by observers to be rather outspoken, which he himself [recognised](#). More often than not, the results of meetings have mirrored significantly the ideas the President had put forward in his invitation letter.⁸

During the [migration crisis](#) President Tusk [stressed](#) from the beginning that the EU should concentrate on securing its external border, a position which over time became the main line of the European Council on migration. Regarding Brexit, his influence on the European Council's position was more ambivalent. While on the one hand, he contributed to securing a united stance on Brexit, he regularly [expressed](#) his personal feelings, which did not always represent the agreed or majority view of the European Council. For instance, in his remarks ahead of the June 2017 European Council he [imagined](#) 'an outcome where the UK stays part of the EU' and in February 2019 he [wondered](#) 'what that special place in hell looks like, for those who promoted Brexit, without even a sketch of a plan how to carry it out safely'.

Later, following the introduction of the Leaders' Agenda, another tool for the European Council President to shape the discussions, were the leaders' notes drafted by Donald Tusk to steer the discussions (and decisions) of the European Council. The critical reaction of some Member States and EU institutions to some of these Leader's Notes confirmed a [tendency](#) on President Tusk's part to express personal views on policy issues rather than being solely a chairman of the European Council. Moreover, given that no formal conclusions are issued after informal European Council meetings and Leaders' Agenda meetings, the remarks of the European Council President carry additional weight in interpreting the results of a discussion.

Facilitator

In order to succeed in a political environment based mainly on consensus, the role of the European Council President as facilitator is of the utmost importance. Herman Van Rompuy [stated](#) himself that 'the Permanent President of the European Council has to be a facilitator and a builder of consensus in an institution that can only work by finding the necessary and sufficiently ambitious compromises'.

For Van Rompuy, [building trust](#) was perhaps the most important task of a European Council President. In order to achieve that, it was necessary to meet people, listen to them, take their views into account, and make sure that the deliberations turned into results for everyone. The facilitator role applied within the European Council, but also between EU institutions (see below). One method carried out by Herman Van Rompuy to foster the trust of European Council Members in his office and in him as a person was by visiting every one of them at least once a year in their country. Tusk also regularly visited the other members of the European Council in their countries, but only when there were important political issues to discuss (Interview 5). However, Tusk, in his [own way](#), has also invested a lot of effort in creating trust among the other members of the European Council, in him and his office, and achieving unity. For example he always supported small Member States' interests against those of the larger ones (Interview 5).

The increased use of informal meetings (see Section 2.4) can also partially be explained by the two Presidents trying to create an atmosphere conducive to fostering consensus building on divisive

⁷ The only time Donald Tusk did not avail of this opportunity, was for the October 2019 European Council. This was mainly owing to the uncertainty until the last minute regarding the Brexit negotiations.

⁸ See Eurocomment's Pre-summit Briefing 2017/1.

topics. During his term in office, Herman Van Rompuy held several 'orientation debates' at informal European Council meetings in order to foster consensus between the Heads of State or Government. Donald Tusk introduced the informal Leaders' meetings and the leaders' notes, [aimed](#) at enabling EU Leaders 'to hold a serious, political discussion' (see Section 2.4).

As seen in Section 2.2, the European Council also carries out the (informal) role of crisis manager. A large part of both presidencies was dominated by crisis management. During crisis times, the President's role as facilitator is even more significant than normal. Experts conclude that without the permanent Presidency, the European Council and the EU as a whole would have fared a lot worse during recent times of crisis.⁹ Some interviewees share this view and believe that Greece would no longer be in the euro area had there still been a rotating European Council presidency (Interviews 1 and 4).

External representation of the European Union

The European Council President's external representation role consists of participating in international summits, meetings with foreign Heads of State or Government and visits abroad. Both Presidents Van Rompuy and Tusk have represented the EU at the G8/G7 and G20 summits and at the UN General Assembly meetings. They also chaired EU summits with third countries, such as for example the EU-Ukraine summit, summits organised with groups of countries, such as the annual EU-Community of Latin American and Caribbean States (CELAC) summit, or with regional organisations, such as for example the EU-League of Arab States summit [organised](#) at the initiative of the European Council in February 2019.

The approaches taken by Presidents Herman Van Rompuy and Donald Tusk to foreign policy differed. President Van Rompuy [identified](#) foreign policy as a key area for action early in his mandate but ended up concentrating more on the economic and financial crisis, on account of its magnitude and implications for the euro area and the EU as a whole. Conversely, President Tusk was rather active internationally and sometimes expressed his position vocally. This was the case in May 2018 when transatlantic trade tensions were at a peak and President Tusk [stressed](#) that it was important to protect the 'transatlantic bond' but that the EU 'must be prepared for those scenarios, where [it] will have to act on [its] own'. More recently, he [expressed](#) his obsession with unity on Ukraine and expressed the view that 'Russia is not our "strategic partner" but our "strategic problem"'. The European Council President shares many of those external representation functions with other actors, an aspect that will be examined in detail in the section below.

2.3.2. Relations of the European Council President with the other institutions

When looking at the relationship between the European Council President and other institutions it is necessary to look at the evolution of relations between the various office holders of the European Council Presidency and the various office holders of the European Commission Presidency, the European Parliament Presidency and the High Representative office. Over the past decade, attempts to formalise relations have coexisted with the development of informal practices.

Relations between the Presidents of the European Council and the European Commission

President Van Rompuy had a good relationship with the President of the European Commission at the time, José Manuel Durão Barroso, whom he met weekly to discuss pending dossiers. His chairmanship of the taskforce on economic governance in 2010 during the sovereign debt crisis helped to unite the EU institutions on the principles required to improve the EU's economic governance and foster closer interinstitutional cooperation not only with the Commission but also

⁹ Desmond Dinan, 'EU Governance and Institutions: Stresses Above and Below the Waterline', *Journal of Common Market Studies*, Volume 51, Annual Review, 2013, pp. 89–102.

with the ECB and the Eurogroup Presidents. In the second half of the period, Presidents Tusk and Juncker did not meet with the same regularity. They publicly displayed differences in views on how to tackle the migration crisis, the main challenge of their mandates, with President Tusk being opposed to relocation quotas, while President Juncker had proposed this approach.

As regards external representation, the roles of the Presidents of the European Council and European Commission are clearly divided, with the former ensuring external representation when CFSP matters are at stake and the latter whenever other external relations matters than CFSP are at stake (Article 17(1) TEU). In practice, relations between the Presidents of the European Council and of the European Commission during the time in office of Herman Van Rompuy and José Manuel Durão Barroso settled in a smooth way, enabling the external representation mandate of each of them to be defined in an [agreement](#) signed by the two presidents in March 2010. This agreement notably settled the question of representation at the G8/G7 on the basis of previously existing practices and Treaty competencies, thus having both presidents attend such meetings (see also Section 1.3). In practice, the European Commission President took the lead whenever the discussion was on matters of competence of the Commission. The only exception to this rule concerned the euro area, a topic that both Presidents addressed with their counterparts when and as required within their specific portfolios (Interview 4). This exception reflected the role played by the European Council President, Herman Van Rompuy, in steering the workings of the taskforce on economic governance, and allowed him to touch upon euro-area matters when exchanging views with his counterparts, a particularly important aspect given the depth of the economic and financial crisis the EU was confronted with at the time. The arrangements made then have remained in place since, with both Presidents Tusk and Juncker attending G7 and G20 summits jointly during their mandates.

In this respect, the choreography put in place to share the respective roles at the ceremony of acceptance of the Nobel Prize in 2012 reflected the different competencies of the Presidents of European Council and of the European Commission in external representation as set out in the Lisbon Treaty (Interview 4). This resulted in having the European Council President, at the time Herman Van Rompuy, deliver the first speech whilst the President of the European Commission, at the time José Manuel Durão Barroso, gave the second speech.

In his 2017 speech on the State of the Union, President Juncker went on [to suggest](#) that the offices of the President of the European Council and of the European Commission should be merged. No Treaty provision forbids the holder of the European Council Presidency from simultaneously [holding](#) another European office and, in practice, both Herman Van Rompuy and Donald Tusk served each simultaneously as Presidents of the European Council and of the Euro Summit. However, the merging of the European Council President office with that of the European Commission would have far more reaching consequences than holding the European Council and Euro Summit presidencies simultaneously. In a [resolution](#) from 2017, the European Parliament acknowledged that 'although not in the interest of the European Parliament it would possible to merge the function of President of the European Council with that of President of the Commission'.

Relations between the European Council President and the High Representative

As seen in Section 1.3 the relationship between these two offices was in theory less straightforward. In practice, relations between the first President of the European Council, Herman Van Rompuy, and the first High Representative, Catherine Ashton, [ran 'smoothly'](#). This can be explained in part by the fact that foreign policy was not featuring high on the agenda of the European Council for most of President Van Rompuy's mandate, as the attention was on solving the economic and financial crisis. Moreover Catherine Ashton, herself, interpreted her role as High Representative in a less comprehensive way, attending only those parts of the European Council meetings that were

dedicated to foreign policy (Interview 1). The two did not meet regularly and their meetings have been [qualified](#) as 'ad hoc' and event driven.

President Tusk [expressed](#) 'more ambition to shape the debate' on foreign policy, although analysts [stress](#) that both himself and the High Representative, Federica Mogherini, played more of a 'supportive role' in helping to solve the Ukrainian crisis, where the leading role was played by France and Germany. Furthermore, neither set up a system of regular meetings between each other to [coordinate](#) their activities better (Interview 1). Consequently, scholars [argue](#) that 'the potential for cooperation has not been fully used so far by both sides'. This unused cooperation potential has been mainly visible in the lack of coordination between the two when undertaking external visits to different regions or countries (Interviews 1 and 5). It will from now on be up to the new holders of the posts of European Council President and High Representative, Charles Michel and Josep Borrell Fontenelles, to find ways to achieve more cooperation and coordination on external visits.

Contrary to her predecessor, Federica Mogherini, chose to attend all European Council meetings showing a horizontal understanding of her High Representative mandate. Prior to taking office, she [clarified](#) her horizontal understanding of her mandate during her hearing in the European Parliament. She stated that there was a 'need to coordinate all actions and all policies that have an external impact' mentioning inter alia migration and climate, policies that have been on the European Council agenda regularly during her mandate.

Relations between the European Council President and the European Parliament

In the European Parliament, the main interlocutor of the European Council President is obviously the President of the Parliament. President Van Rompuy met his counterparts regularly, initially Jerzy Buzek and later Martin Schultz. These meetings were part of the style and method developed by President Van Rompuy, who also regularly met with representatives of other EU institutions, including, for example, the presidents of the European Commission and the ECB (Puetter, 2015). President Tusk's style differed and the practice established by his predecessor was discontinued (Interviews 1, 3 and 5).

There have also been occasions where other Members of the European Parliament have interacted with the European Council President, primarily as part of the regular reporting exercise conducted in plenary after each European Council meeting. Both Presidents, Van Rompuy and Tusk, fulfilled their formal reporting obligations. Of the two, Van Rompuy was more inclined to and successful in also establishing informal contacts with the Parliament, outside of the Treaty framework. He came [quite regularly](#) to Parliament for visits to the Conference of Presidents or to the political groups, but was cautious not to create precedents, that would allow Parliament to gain power, since his accountability was, according to the Treaties, only to the Heads of State or Government. Over time, the practice of informal visits has been reduced and, in certain cases, as with post-European Council visits to the Conference of Presidents has even been discontinued, as it did not prove to provide added value for either of the two institutions (Interviews 4, 6 and 7). More recently, during his term in office Donald Tusk displayed a different leadership style, where the use of informal mechanisms became occasional, as he only sporadically met for example with the political groups and their leaders during his term in office (Interviews 4 and 5). He has [chosen](#) to continue to answer written questions addressed to him in connection to his own activity as European Council President, but followed the understanding established under his predecessor that he would not answer questions relating to the activity of the European Council as an institution.

The two most [contentious](#) issues that have marked European Council-European Parliament relations over the past decade have been legislative trespassing and the *Spitzenkandidaten* process. The European Parliament stated on several occasions that the European Council was abusing its arbiter role by stepping into the legislative process (see also Section 2.2). Analysts (Dinan, 2018) argue that the European Parliament was the winner of the high-level appointments exercise in 2014,

as it brought the European Council to respect the *Spitzenkandidaten* principle, when proposing Jean-Claude Juncker as candidate for the European Commission Presidency. Recently the relationship has become strained again, with the European Council first rejecting the [automatic nature](#) of the *Spitzenkandidaten* principle in 2018 and then confirming its position in July 2019, when it decided to propose Ursula von der Leyen as candidate for the European Commission Presidency. At the same time, the European Parliament and the *Spitzenkandidaten* process did have a significant impact, as it forced party politicisation upon the European Council. EU political parties had a stronger role than previously in choosing the EU's institutional leadership (Interview 1). Consequently, EU Heads of State or Government had to interrupt the European Council meeting and meet in political families, which had never happened before at a European Council meeting (Interview 6).

2.4. Development of the European Council's working methods

Section 1.4 examined how the Lisbon Treaty and the new rules of procedure further formalised the functioning of the European Council. Building on findings, this section looks at how the working methods of the European Council have been further developed in practice over the last ten years, in particular examining the meetings, their preparation, their participants, their conclusions, the decision-making, and the follow up. It also looks at the role played by the President when developing and adapting the working methods of the European Council.

2.4.1. Milestones impacting on the European Council working methods over the last 10 years

Many of the changes to the working methods of the European Council developed incrementally and informally on individual aspects. Additionally, a number of milestones can be identified over the past 10 years, which impacted on several aspects of the working methods at the same time and formalised some of the informal procedures (see Table 5).

Table 5 – Changes to the working methods of the European Council over the last 10 years

Year	Occasion	Change
2012	Start of Herman Van Rompuy's second mandate	Work programme
		Emphasis on follow-up
2016	Bratislava Declaration and Roadmap	Reporting by rotating presidency
		Work programme
		Press conference before dinner
		Informal meeting in rotating presidency countries
2017	Leaders' Agenda	Work programme
		Additional informal meetings
		Orientation debates and way of preparing conclusions

Source: EPRS.

Already back in December 2007, the European Council [called](#) for a 'work programme' to be presented by the incoming President of the European Council. Owing to the economic crisis, Herman Van Rompuy could only outline a [tentative work programme](#) for the European Council in June 2012, at the beginning of his second mandate, which would guide the work of the institution

until 2014. He distinguished between 'recurrent themes', including the MFF, EMU, growth and jobs, and enlargement; and 'specific themes' such as strategic partners, energy and defence, arguing that, in order to achieve this work programme 'the intention [was] to convene, as a rule, six meetings of the European Council each year'. As part of the work programme Herman Van Rompuy [wanted](#) to devote some time, at one of the last European Council meetings under his Presidency, to a joint reflection on the future of the European idea, however this never materialised.

Later, with the adoption of the [Bratislava Declaration and Roadmap](#) in September 2016, the European Council had a roadmap for the next six months, indicating which topics would be addressed at subsequent meetings in the run-up to the Rome summit in March 2017. This was the first attempt by Donald Tusk to establish a medium-term work programme for the European Council. Subsequently, in October 2017, he proposed the Leaders' Agenda, providing a work programme for the next 20 months. Under the Leaders' Agenda, the President planned to hold at least 13 meetings between October 2017 and June 2019, to discuss core topics for the future of Europe, either in formal or in informal European Councils, as EU-27 or as EU-28, in Euro Summits or in other formats such as the Social Summit in November 2017. Agenda items would include, inter alia, defence, EMU, institutional issues and the MFF. Consequently, the Leaders' agenda touched upon different aspects relevant to the European Council's working methods: numbers and types of meetings, (agreeing on) conclusions, (presenting) a long-term work programme.

When comparing the items on the Van Rompuy's work programme with Tusk's Leaders' Agenda, a significant overlap can be observed (see Table 6). This is particularly the case with migration, internal security, defence, the economy, topics that have been regularly in the focus of European Council, forming its 'rolling agenda of policy priorities' (see EPRS [Origins of the 2019-24 EU Strategic Agenda](#)). There are nonetheless policy areas where the Leaders' agenda took a broader approach than the earlier programme adopted under Van Rompuy, for instance with regard to case of climate and energy, and it also added new issues such as Brexit.

Table 6 – Similarities and differences between Herman Van Rompuy's work programme and Donald Tusk's Leaders' Agenda

Main topics		
Herman Van Rompuy's work programme	Common topics	Donald Tusk's Leaders' Agenda
G8/G20	Climate and energy	Brexit
Neighbourhood	Defence	Culture and education
	Digital and innovation	Institutional issues
	Growth and employment, internal market ¹⁰	
	EMU	
	Enlargement	
	Freedom, security and justice ¹¹	
	MFF	
	Trade	

Source: EPRS.

¹⁰ In the Leaders' Agenda the topics were named social and single market strategies.

¹¹ Migration and Internal security are the two main pillars under the policy cluster Freedom security and justice.

2.4.2. Preparation of the meeting

The preparatory steps for holding a European Council meeting, which have become slightly more formalised (i.e. annotated draft agenda, guidelines and draft conclusions), have nevertheless not changed substantially over the last 10 years (Interviews 1 and 2). While formally, the annotated draft agenda needs to be provided four weeks in advance, in practice this already happens often six weeks prior to the meeting.

As the office of the European Council President was new, and the President is responsible for preparing the meetings in cooperation with the Commission President and setting the agenda in cooperation with the Member of the European Council representing the rotating presidency, informal practices were set up for coordination purposes. These included close and constant exchanges between the European Council President and the Commission President as well as the Head of State of Government of the current rotating Council presidency. Moreover, the informal practice of weekly meetings between the European Council President, the Secretary General of the Council and the President of Coreper was established.

Another small change, which grew organically over time as a consequence of the financial crisis, has been the increasing involvement of the Sherpa, which often meet together with Coreper to help prepare meetings (Interview 1).

As part of a recent [initiative](#) of the Finnish Council Presidency to increase efficiency in delivering EU objectives by reflecting on the Council's working methods, Member States are reflecting on ways for Coreper and the General Affairs Council (GAC) to further enhance the preparation for European Council meetings (Interview 2).

2.4.3. Meetings

EU summits are the core activity of the European Council. Changes over the last 10 years concern mainly the number and types of meetings.

- Number of meetings

When, at the beginning of his first mandate, Herman Van Rompuy proposed that the European Council should meet once a month, the proposal was not received with a lot of enthusiasm, because people assumed he was trying to 'invent' an agenda for himself. However, the idea behind the proposal was to de-dramatise the meetings of the European Council, not being 'summits' any more, just ordinary 'meetings' (Interviewee 4) (see Section 2.2).

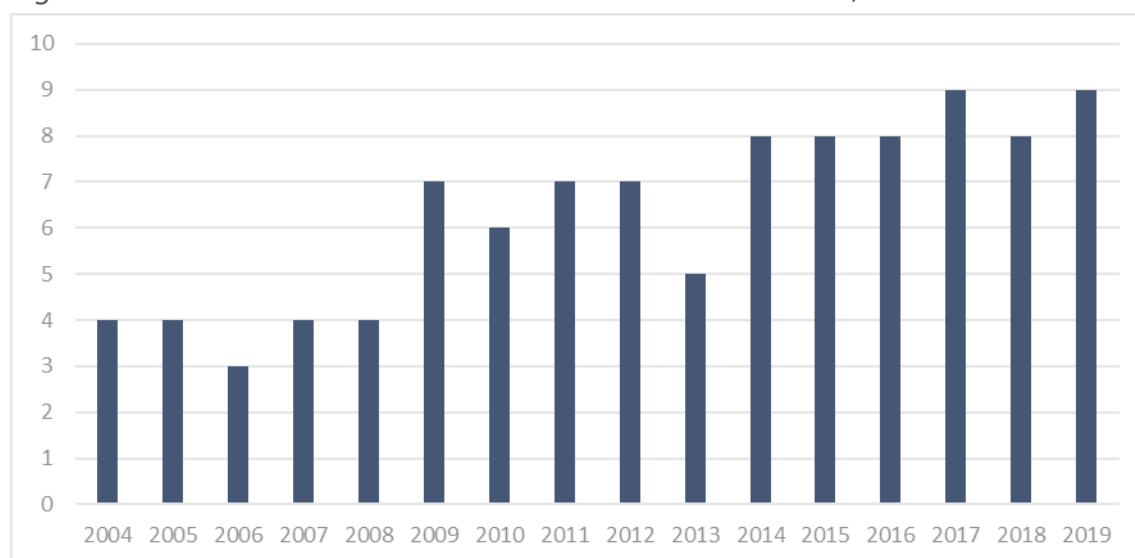
When examining the European Council meetings in the five-year period before the introduction of the office of European Council President with the mandates of Herman Van Rompuy and Donald Tusk, an increase in the total number of summits¹² of EU Heads of State or Government can be observed (see Figure 8).

At the beginning of his second mandate, Van Rompuy stated his intention 'to convene, as a rule, six meetings...', a number that would be required in order to achieve his work programme (see below). When looking at the numbers of meetings EU leaders had during his mandate, the average was 6.3 a year, and that number has further increased since then. While, on the one hand, this can be

¹²A summit can potentially include numerous meetings in different formats, such as formal European Councils, informal meetings, Leaders' Agenda meetings or Article 50 TEU meetings. This overview counts how often EU leaders met for summits but not the different formats they meet in while being together.

explained by times of crisis, it also shows that the European Council is getting involved in more and more issues, beyond the traditional history-making events and crisis meetings.

Figure 8 – Annual summits of EU Heads of State or Government, 2004-2019¹³



Source: EPRS.

- Type of meetings

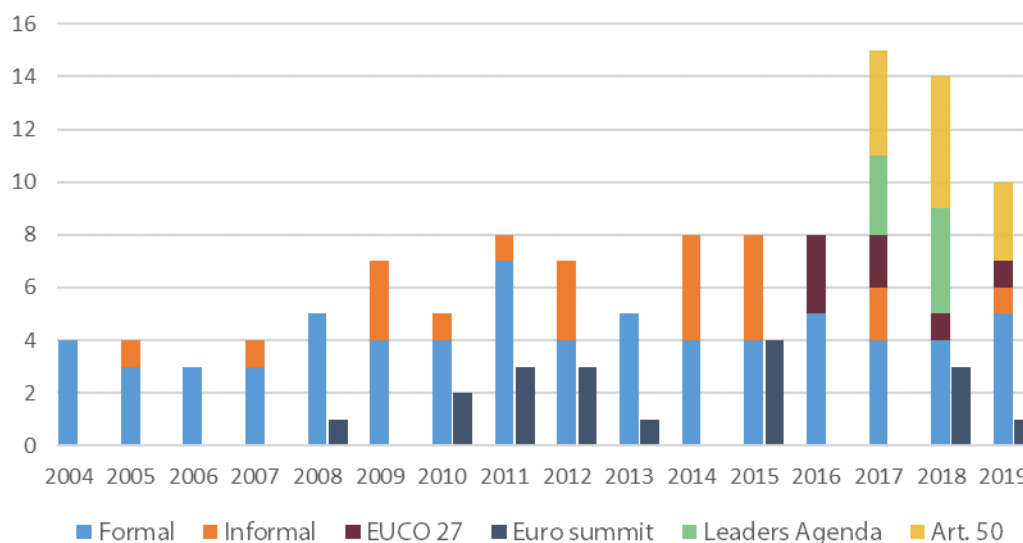
The Treaty only refers to (formal) meetings, special meetings and extraordinary meetings (on common foreign and security policy-related topics), all of which are convened by the European Council President.¹⁴ Since the 1990s, EU Heads of State or Government had already been making use of informal meetings.¹⁵ The main differences between formal and informal meetings are, on the one hand, the formality of the preparations (i.e. annotated draft agenda, guidelines, draft conclusions), and on the other, the expected result (i.e. the need to adopt a formal decision). Yet, for informal and formal meetings, the nature of the discussions does not differ (Interviews 1 and 2).

Over the last 10 years, the types and formats of meetings of EU Heads of State or Government, have increased, often taking place consecutively (see Figure 9). The multiplication of formats has developed to a situation in which EU Heads of State, when meeting for two days in Brussels, actually participate in up to five types of meeting – some of which also having a different level of formality or membership. These meetings can include a formal European Council session, an informal dinner of Heads of State or Government, a Leaders' Agenda session, a meeting of the European Council (Article 50) at 27 and a meeting of the Euro Summit including either 28, 27 or 19 EU Heads of State or Government. European Council (Article 50) meetings and Euro summits are formal meetings, while Leaders' agenda meetings are of an informal nature.

¹⁴ The European Council has not always used the categories special and extraordinary in a coherent manner and changed them. This is understandable as in other EU languages such as DE, FR, ES, RO there is no differentiation and both are referred to in the Treaties as extraordinary meetings.

¹⁵ According to de Schoutheete the first informal meeting was in September 1995, called under the Spanish rotating Council presidency.

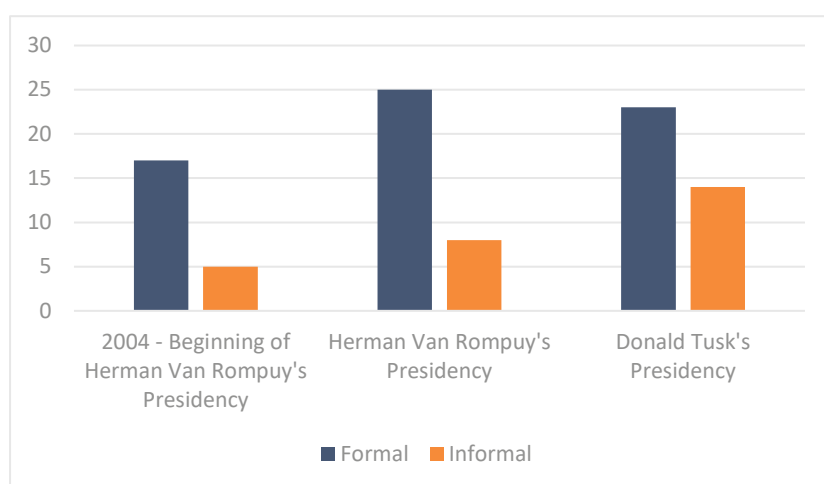
Figure 9 – Different types and formats of EU Heads of State or Government meetings



Source: EPRS.

While informal meetings have been used sporadically in the 1990s and the early 2000s, this format has seen a substantial increase in frequency since the entry into force of the Lisbon Treaty and the creation of the office of European Council President.

Figure 10 – Number of formal and informal European Council meetings, 2004-2019



While in the five years preceding the institutionalisation of the European Council, informal meetings made up about 10 % of all summits of EU Heads of State or Government, during the mandate of Herman Van Rompuy this rose to around 30 % and during the period under Donald Tusk they reached 40 % (see Figure 10).¹⁶

Source: EPRS.

This trend is expected to continue, as Charles Michel has already [indicated](#) that he would 'like to have more informal moments with and among leaders'.

There are two explanations for this phenomenon. On the one hand, many informal meetings are reactions to international events and/or to crises, such as the [special meeting of the European Council on migration of 23 April 2015](#) or the [extraordinary meeting of EU Heads of State or Government on Ukraine of 6 March 2014](#). In these cases, there is no time to go through the formal

¹⁶ This calculation does not include Article 50 meetings, Leaders' Agenda meetings or informal meetings excluding the UK.

steps (i.e. annotated draft agenda six weeks before the meeting, etc.) (Interviews 1 and 2). On the other hand, over the years, the European Union in general, and the European Council in particular, has been more and more involved in policies addressing the core of Member States' competences and identity. As the European Council is based on consensus, this requires the EU Heads of State or Government to discuss more (i.e. more meetings) and return to the same controversial topics several times. Additionally, the informality of a meeting reduces the pressure to achieve concrete results (i.e. the need to provide formal decisions at the end of the meeting), which can enable progress on difficult files over a longer period. In the view of some of those involved, it is sometimes clearly 'more important to agree on the ideas than on the text' (Interviewee 1). The results of this informal discussion need then to be acknowledged and formalised at a later European Council meeting.

This interplay between formal and informal meetings of EU Heads of State has been systematised in the Leaders' Agenda by the introduction of the Leaders' meeting format. The [idea](#) behind the Leaders' meetings is that, instead of striving to find a consensus on draft conclusions regarding highly charged issues, leaders first discuss the topic in an open, free-flowing debate, and then return to the topic at a subsequent European Council meeting, with the adoption of formal conclusions.

This change has not only strengthened the link between informal and subsequent formal discussions on the same topic, but it has also led to the permanent division of formal and informal parts of the gatherings of EU Heads of State or Governments. While there has always been the dinner, where mostly foreign policy-related or controversial issues are debated, now, in addition to this, there are Leaders' agenda meetings of an informal character. This can also be seen in the light of gains of efficiency (not having to hold two separate meetings at different dates) and the effectiveness (preparing the ground for easier adoption of an issue).

Another development regarding the meetings, and which goes hand in hand with the rise of informal meetings, is the more frequent use of meetings outside of Brussels. While until 2003, it was common practice to hold European Council meetings mainly in the country of the rotating presidency, since October 2003, all formal European Council meetings have taken place in Brussels as stated in the 22nd declaration of the Treaty of Nice. However, at the informal meeting of 27 EU Heads of State or Government in Bratislava in September 2016, EU leaders informally agreed¹⁷ that during each rotating Council presidency one informal meeting of EU Heads of State in the country of the presidency could be organised. In addition to the Finnish presidency, all rotating presidencies since then have availed of this possibility.

2.4.4. Participants

Many describe the European Council as a very exclusive club, which has led to a 'club feeling' (Interviews 1, 2 and 3). This feeling was further strengthened, on the one hand, by the limitation of the participants in European Council meetings to the EU Heads of State or Government, European Council and European Commission Presidents, and on the other hand, by the increased frequency at which EU Heads of State meet each other. The impact of the absence of the foreign ministers is significant, as it has led to better and more political discussions; this reduction of the composition is considered by many observers as one of the most crucial changes regarding the European Council deriving from the Lisbon Treaty (Interviews 1, 2, 3, 4 and 6). This assessment is based on practical and political criteria.

- Practical change: in practice a meeting with 30 participants has a very different atmosphere and group dynamic from a meeting with 60 participants. In the limited format, all participants are on a first name basis, which further increases the informal nature of European Council meetings.

¹⁷ See Eurocomment 'European Council Briefing Note 2016/4-5'.

- Political change: as many national governments are based on a coalition of parties, the foreign minister often comes from a different political party than the Head of Government. The absence of their foreign minister at the meeting increases the room for manoeuvre (Interview 6) of the Head of Government in the discussion. However, while the EU Head of State or Government, representing a coalition government, might have a little bit more of leeway in the meeting with the absence of their coalition partner, he or she cannot ignore their views completely. A [publicly](#) known example of an EU Head of State having to abstain during a vote in the European Council, owing to a differing view held by their coalition partner, was the German Chancellor, Angela Merkel, in relation with the nomination of Ursula von der Leyen, for European Commission President. There have also been examples in the past where, for the sake of consensus, an EU Head of State or Government has accepted a decision at a European Council meeting, which consequently led to the break-up of the national coalition government, such as the Slovakian government in 2012 (Interview 4).

On one occasion, at the European Council meeting of 16 September 2010 on external relations, EU leaders did make use of the possibility provided in Article 15(3) TEU and 'decide(d) to be assisted by a minister' at a European Council meeting, in that case foreign affairs ministers. Participants recall this meeting as 'a disaster' and the common view was that this exercise would not to be repeated any time soon (Interviews 1, 2 and 5).

Over the last 10 years, paradoxically a both very stable and very fluctuating membership of the European Council has been observed. Elements of stability have been:

- the European Council President: the first two Presidents each spent five years at the helm, which was decisive for the European Council in times of crisis (see Sections 2.1 and 2.2);
- membership has not depended on European election results, therefore the work of the European Council could continue smoothly when the membership of other institutions changed;
- high attendance of EU Heads of State or Government at all European Council meetings. Although an absent Head of State can be replaced – albeit only by another Member of the European Council¹⁸, absences have been very rare.

The main indicator for fluctuation was the frequent change of members. During the period between 1 January 2015 and 1 December 2019, an EU Head of State or Government changed every 2.2 months. In the period between June 2016 and June 2019, 16 Heads of State or Government were replaced; the European Council managed nevertheless to keep the core messages (i.e. the need for unity, the priority given to EU citizens and the focus on (policy) delivery) almost identical. This constancy in the discourse of the European Council is a sign of coherence and consistency. It also shows that once the European Council members agree on certain issues, the European Council, as an institution, develops and maintains an internal dynamic that is not easily altered by new members joining it (see EPRS [Origins of the 2019-24 EU Strategic Agenda](#)). However, in order to achieve this the role of the European Council President is crucial (see Section 2.3).

¹⁸ Whether a Member State is represented by its Head of State or its Head of Government is decided at national level, and there have been some discussions on this in the past, also sometimes involving a change in the office-holder attending European Council meetings.

2.4.5. Conclusions

In Section 1.4, it was outlined that the European Council has always used conclusions to give political guidance in the different stages of the policy cycle. Jim Cloos, the Deputy Secretary General of the Council, has [described](#) the nature of the European Council as "government" by conclusions "giving political instructions" to the Council and other institutions, launching new ideas, and commenting developments in Europe and the world'.

The use of conclusions

The last 10 years have shown that the European Council uses its conclusions not only to provide general guidance, but also sometimes to influence policies in great detail. For example, during the [negotiations on the 2014-2020 multiannual financial framework \(MFF\)](#), EU Heads of State or Government adopted detailed 48-page conclusions, setting out the precise figures to be inserted in the entire MFF legislative package – an involvement that many in the European Parliament considered as going against the letter of the Treaty, as expressed for example in the Parliament [resolution](#) of 15 April 2014 on negotiations on the 2014-2020 MFF.

On account of time limitations at European Council meetings, conclusions are in practice often prepared to such a degree by the previous levels, mainly Coreper (i.e. meetings of ambassadors) and Sherpa (i.e. personal representatives of the EU Heads of State or Government), that EU leaders often adopt them with little or no discussion. On some occasions, they really negotiate on elements of them, depending on the topic (Interview 5). Whether or not a discussion was held on the conclusions, participants indicate that 95 % of the conclusions do not change during the meetings, even if the European Council discussed them (Interview 2).

Previous EPRS publications have shown that the European Council often uses its conclusions to invite the European Commission to draft policy strategies or legislative proposals, thereby influencing its right of (legislative) initiative. Particularly in crisis situations, these invitations have a high degree of precision, as was the case when the European Council, through its specific task force, influenced the Commission's 'six-pack' and 'two-pack' sets of legislative proposals. Later on in the legislative process, its conclusions were also used to influence the speed of adoption of the legislation that was being reviewed by, or negotiated, between the co-legislators (i.e. the European Parliament and the Council of the EU) e.g. inviting them 'to agree, before the end of the current legislature, on as many of the pending proposals relevant for the Single Market as possible'; or asking EU legislators 'urgently [to] adopt a strong and effective European Passenger Name Records directive with solid data protection safeguards'.

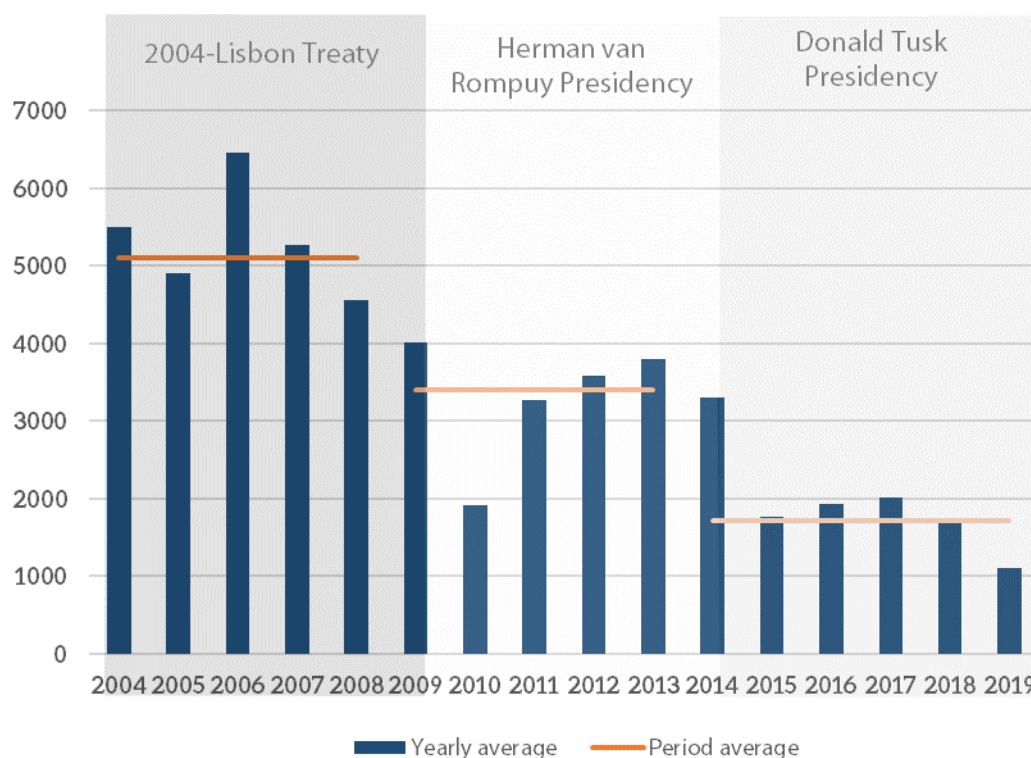
As pointed out in 1.1, the European Council is subject to the jurisdiction of the European Court of Justice (ECJ). Over the last 10 years, the ECJ has had to examine the legal nature of the European Council conclusions and decide whether or not they were legally binding for the co-legislators (the Council and the European Parliament) in two cases, [Joined Cases C-643/15 & C-647/15 Slovakia & Hungary v Council](#) and [Case C-5/16 Poland v EP & Council](#). In both cases, the ECJ decided that European Council conclusions were not legally binding for the co-legislators and that they only provided political impetus and gave main political directions. The Court has thus ruled out any attempt to limit the co-legislators' legislative freedom by reducing their role to 'rubber-stamping' European Council conclusions. It has also recalled the principle set out in Article 15(1) TEU, which excludes the European Council from exerting legislative functions.

Length

Although the 2002 Seville rules of procedure had already set the aim for the conclusions to 'be as concise as possible', this was only really implemented with the arrival of the permanent president. Figure 11 shows that the conclusions have become on average shorter over the last 10 years

compared to before, with individual exceptions due to crisis moments. Both Presidents have made efforts to ensure shorter and more compact conclusions (see Section 2.3.). As a result, President Van Rompuy reduced the length of the conclusions by 33 % on average compared to the average length of the conclusions under the rotating presidency of the European Council in the five-year period before the coming into force of the Lisbon Treaty. During his terms in office, Donald Tusk reduced the conclusions by a further 50 % compared to the average of the previous five years.

Figure 11 – Word count of European Council conclusions (yearly average), 2004-2019¹⁹



Source: EPRS.

Part of the reduction can be explained by the move from the rotating European Council presidency to the permanent European Council President. Generally, under the rotating presidencies a notable share of the conclusions addressed the work carried out during the specific presidency. This part has disappeared when the rotating presidency was abolished (Interview 2).

Conclusions helping to achieve unity

European Council conclusions, which are adopted by consensus, have also proven to be a tool to achieve and maintain unity between the European Council members. Despite some challenging [moments](#), where some Members reserved their agreement on the overall conclusions until a specific topic was addressed in their favour, over the December 2009 to December 2019 period the European Council managed to agree jointly on conclusions every time, with the exception of the [meeting](#) of 9 March 2017.²⁰ At that occasion the European Council meeting ended with 'Conclusions by the President of the European Council', as opposed to the normal European Council

¹⁹ The word count does not take into account annexes to conclusions.

²⁰ Also in the period prior to 2009, the European Council always managed to have commonly agreed conclusions. De Schoutheete (2012a) recalls the one exception to this being the summit in Athens in 1983.

conclusions. This was due to the [refusal](#) by the Polish Prime Minister at the time, Beata Szydło, to agree to the European Council conclusions – a decision that was not related to their content, but motivated by the re-election of Donald Tusk as President.

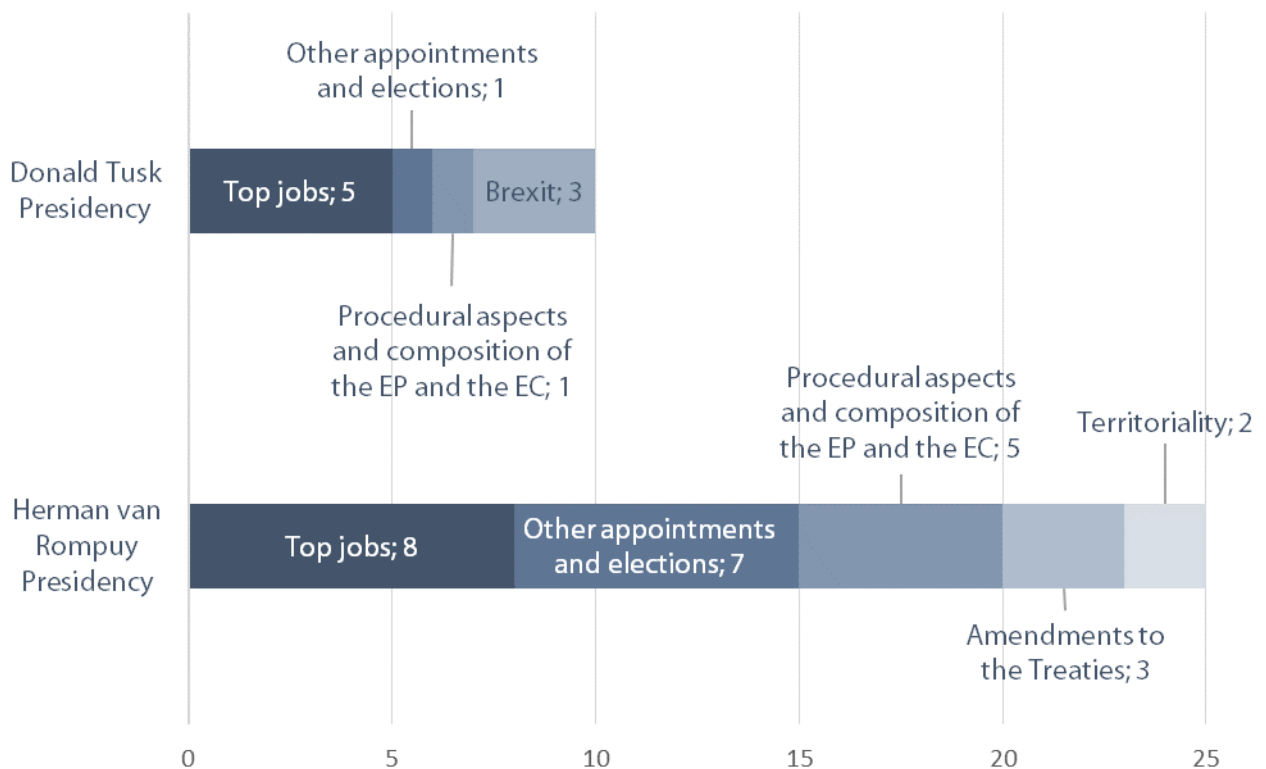
2.4.6. Decision-making

Concerning decision-making in the European Council, Section 1.4 outlined that the Lisbon Treaty did two things: 1) increase the areas where a formal decision was required, and 2) expand the use of qualified majority voting. This section examines whether or not this has made a practical difference over the last 10 years.

Formal decisions

An examination of the formal decisions taken by the European Council over the last decade shows that the European Council has taken 35 formal decisions (see Figure 12 and Section 2.2).

Figure 12 – Number and type of EUCO decisions, by presidency



Source: EPRS.

Over a period of 10 years, this does not amount to many decisions: less than four a year. When comparing the five years under Herman Van Rompuy and under Donald Tusk, a certain imbalance between these two periods can be identified, with 25 decisions taken in the first five years and only ten in the second five. The difference between these two periods can be explained partially by the fact that the first came just after the entry into force of the Lisbon Treaty, which required a number of decisions to be taken, such as the size of the European Commission or the adoption of rules of procedure, this being a one-off exercise, as opposed to others decisions, such as appointments, which take place on a recurring basis.

Qualified majority voting

When examining the last 10 years, it becomes apparent that the European Council still prefers to base their decisions on consensus rather than on qualified majority voting (QMV.) Consequently, only a couple of decisions of the European Council have been effectively voted on. One being the election of Jean-Claude Juncker as European Commission President, where two European Council Members (i.e. David Cameron and Viktor Orbán) voted against, and the re-election of Donald Tusk as European Council President, where his own Member State, Poland, voted against his re-election. The fact that the use of QMV has become an acceptable option in the context of appointments is shown by President Tusk's comments concerning the nominations for the new EU leadership in 2019. He [stressed](#) that these decisions were to be taken by consensus, if possible, but that he 'would not shy away from putting [them] to the vote' if needed. In the end, the President of the European Council, Donald Tusk [underlined](#) that, although Germany abstained on the candidate for Commission President, the package of EU high-level positions was agreed upon without a dissenting vote.

2.4.7. Follow-up and implementation

The follow-up to European Council conclusions has been continually enhanced over the last ten years. Numerous interviewees (1, 2 and 5) point out that, by creating the office of European Council President, thereby relieving the rotating Council presidency of responsibilities with respect to the European Council, the direct link between the latter and the Council system had been broken. This however is a determining factor for the follow-up and implementation of the European Council conclusions. In order to strengthen this link, the informal practice was established whereby the President of Coreper (i.e. the ambassador of the Member State holding the rotating Council presidency) would also sit in European Council meetings in order to be directly aware of the necessary follow-ups. While historically, the President of Coreper was always in the room at European Council meetings, as part of the Presidency delegation chairing the meeting, it was decided to keep him or her in the room even after the entry into force of the Lisbon Treaty and the creation of the office of the European Council President (Interviews 1 and 2).

Tracking the results of European Council meetings and monitoring their implementation has been a permanent process of improvement. At the beginning of his second mandate, Herman Van Rompuy expressed his intention 'to promote the monitoring, and follow up of decisions on a more regular basis'. He produced reports for the European Council outlining areas where implementation was lagging behind, and personally contacted Member States whose ministers had not followed through on agreements of their Heads of State or Government in the European Council (de Boissieu et al, 2015).

The call for better implementation of European Council conclusions was a message also expressed by Donald Tusk at the beginning of his mandate. In January 2016, in relation to the European Council conclusions on migration, he [identified](#) a 'clear delivery deficit on many fronts, from hotspots and security screening in frontline countries to relocation and returns'. Later that year, at the [informal meeting](#) of 27-EU Heads of State or Government in Bratislava, EU leaders [agreed](#) to 'strengthen the mechanism for reviewing the implementation of decisions taken'. The idea was that the Head of State or Government of every country holding the presidency would report on progress at every ordinary meeting of the European Council. This builds upon – and expands – the rule of procedure introduced in 2009, according to which 'The member of the European Council representing the Member State holding the presidency of the Council shall report to the European Council, in consultation with its President, on the work of the Council'. This working method on the follow up to the European Council was further strengthened with the adoption of the Leaders' Agenda, 'by ensuring that the reports are clearer and provide a better basis for us to draw political conclusions for our work', as [outlined](#) by Donald Tusk.

2.5. (Unused) Lisbon potential

The previous sections have examined the way in which the European Council has used the Treaty competences over the last decade and also shown where and how other informal roles and working methods have been added. To complete the picture, it appears necessary to look at parts of the Lisbon Treaty that have not yet been used by the European Council.

Section 1.2 showed that, as far as the decision-making competences of the European Council are concerned, a distinction needs to be made between: 1) decisions that are automatic and occur periodically, mostly at the end of an institutional cycle, 2) decisions that are a consequence of a request of another actor, most often a Member State, and 3) decisions that are at the discretion of the European Council, and can thus be taken or not. For this exercise, the use of the third category is of particular relevance and will be examined below.

Table 7 – Use of constitutional competences of the European Council since 2009

Article		Decision	
Used			
15(3) TEU	(Foreign) ministers joining European Council meeting		
16(9) TEU	List of Council configurations		
17(5)TEU	Change size of Commission		
48(6)) TEU	Can amend all or part of Part Three TFEU without a convention or IGC		
235(3) TFEU	Rules of procedure		
Not used			
31(2) TEU	Move from unanimity to QMV in some areas of CFSP		
42(2) TEU	Establish a common defence		
48(3) TEU	Call a convention to amend Treaties		
48(7) TEU	Move from unanimity to QMV		
49 TEU	Define the conditions of eligibility’ of new Member States		
312(2) TFEU	Authorise the Council to act by qualified majority when adopting the EU’s annual budget.		
86(4) TFEU	Extend the powers of the European Public Prosecutor’s Office		Not yet
244 TFEU	System of rotation of Member States representatives the European Council has to agree upon based on the principles of ‘strict equality’ between Member States, demographic and geographical representation		No, because Article 17(5) was used

Source: EPRS.

Table 7 shows that, so far, most of the potential decision-making provisions in the Lisbon Treaty have not been used by the European Council.

2.5.1. Used Lisbon potential

During the financial crisis, the European Council used the simplified Treaty revision procedure set out in Article 48(6) TEU to amend Article 136 TFEU with regard to a stability mechanism for Member States whose currency is the euro. This European Council [decision](#) was later challenged before the ECJ on grounds that it was taken in breach of the simplified Treaty revision procedure set in Article 48(6) TEU. The Court [dismissed](#) this allegation and confirmed the validity of the European Council's decision.

Other Treaty provisions used by the EU Heads of State or Government were the possibilities to invite foreign ministers and to adopt the list of Council formations. They also made use of the option to amend the size of the Commission, however this was a reaction to a request by the Irish government following the result of the Irish referendum on the Lisbon Treaty. As a result the decision was taken to stay with 28 commissioners and not follow the idea of having a smaller college of Commissioners, thereby providing all citizens with a #national# Commissioner they could identify with.

Another decision the European Council took was to adopt of its rules of procedure. However, this was a decision that needed to be taken to enable the European Council, which had become a formal EU institution, to act and carry out its activities. After 10 years, and at the start of a new European Council Presidency, it could be a good moment to update these rules and maybe incorporate some of the informal processes that have developed over time concerning the functioning of the European Council, in particular regarding the use of informal meetings or the different forms of follow-up to the work of the European Council (see Section 2.4). Furthermore, this would indicate not only that the European Council invites the other institutions to revisit their working methods – which it did in the last section of its new Strategic Agenda – but also that it leads by example in this respect, and launch the reform of its own rules of procedure by integrating some of the informal practices developed during the past years under the Leader's Agenda.

2.5.2. Unused Lisbon potential

A completely underused area of potential of the Lisbon Treaty is the possibility to change the decision-making method in the Council in different policy areas, moving issues from unanimity to qualified majority voting. On several occasions, the European Commission President has [called](#) for the *passerelle* clauses included in the Treaties (i.e. Article 48(7) TEU, but also 31(2) TEU and 312(2) TFEU) and which allow for a move from unanimity to QMV in certain policy areas, to be used more often. Although this call has also been made by various individual Members of the European Council, such as the Irish Taoiseach, Leo Varadkar, as part of the [Future of Europe debate in the European Parliament](#), the European Council as an institution has not been able to agree on any such move so far. More unexploited potential lies in the area of security and defence, where the European Council could decide to activate the clause in Article 42(2) TEU and decide on a 'common defence'.

The extension of the powers of the European Public Prosecutor's Office (EPPO) represents yet another area of unused Lisbon potential for the European Council that could be used in the foreseeable future. The European Commission has [proposed](#) this already. The European Parliament, at its April 2019 plenary session, fully [supported](#) this extension of EPPO's powers, and, at its October 2018 meeting, the European Council stated that the Commission initiative to extend the competences of EPPO to cross-border terrorist crimes should be examined.

Another unused Lisbon provision, which has recently been discussed, is the possibility for the European Council to modify enlargement conditions or initiate Treaty revision. The European Council has not availed itself of the prerogative introduced by the Lisbon Treaty to define the grand rules applicable to enlargement. The last time this exercise was carried out on was in [December 2006](#), when the EU leaders decided, on the basis of the Commission Enlargement

Strategy that they had [commissioned](#) earlier that year, to strengthen conditionality and to request that 'administrative and judicial reforms and the fight against corruption' be addressed earlier in the accession process. However, recently, in October 2019, the EU Heads of State or Government debate on enlargement led to a stalemate, with the President of France, Emmanuel Macron, calling for the deepening of the EU prior to its widening, and for a review of the accession procedure. If conducted, such a review would allow the European Council to play its Treaty role to the full and once again set the 'conditions for eligibility' of the new members.

Similarly, the EU Heads of State or Government have not make use of Article 48(2) TEU, which enables them to call in a convention to amend the Treaties. It is easily understandable that, following the difficult ratification of the Lisbon Treaty and rising euroscepticism in some EU Member States there has been no appetite for grand-scale Treaty reform over the last decade. Yet, in recent years, several voices, including that of the French President, Macron, have hinted at the option of calling for a [European Convention](#) aimed at reconsidering the foundations of the European project. Speaking to the European Parliament, the president of the European Commission, Ursula von der Leyen, has [promised](#) to hold a conference on the future of Europe. This would, possibly, lead to the initiation of a full ordinary Treaty revision procedure.

Conclusion

Now 10 years after the entry into force of the Lisbon Treaty, a period frequently marked by crisis and emergency situations, an EU without an institutionalised European Council at its helm is almost unimaginable.

Having examined the provisions in the Lisbon Treaty relating to the European Council, and the day-to-day functioning of the European Council, it can be concluded that the strengthened role of the European Council in 2019 in comparison with 2009 is mainly due to developments during the multiple crises. Nevertheless, the Lisbon Treaty did introduce numerous changes and initiated critical developments in the European Council's internal functioning. The Lisbon Treaty was crucial, because it turned the European Council into a formal institution, thereby uniting two until then separate dimensions of the European Council's sphere of power, namely the political and the legal. Politically, since its creation in 1974, the European Council has always played an important role in the European integration process, which until Lisbon was not reflected in its legal status. Yet, while the Lisbon Treaty merged the political and legal dimensions, it is worth underlining that this synergy was then, to a certain extent, again disentangled in practice with the introduction of more informality through the Leaders' Agenda meetings and the increase of other informal setting, which actually tend to reflect to a greater extent the role of the European Council prior to Lisbon.

The analysis shows that the European Council carries out various roles in the EU's political system, some being Treaty-based and others the result of practice and of the political and economic situation over time. The two main roles are those of agenda-setter and crisis manager. The latter, which is rightly argued by some to be the European Council's main role, is not to be found in the Treaties. This supports the study's finding that the true power of the European Council rests mainly not in Treaty articles but in de facto decision-making when the situation so requires. Nevertheless, the European Council has played a reactive rather than a proactive role in identifying the EU's challenges.

The creation of the office of European Council President can be regarded as the major innovation of the Lisbon Treaty in relation to that institution. Although the European Council President did not become President of the EU, as some wanted and others feared, the office holders to date have managed to raise the profile of this office, to create more continuity in the work of the European Council and to significantly contribute to the consistency of the European Council's messages. Moreover, it is generally assumed that the EU would have fared far worse during the crisis if it had not had a President of the European Council to provide continuity and stability. While both Presidents to date have had very different styles in carrying out the office, both emphasised their role as facilitator and worked hard on establishing the necessary trust needed to comply with this role, helping to achieve unity within the European Council. Donald Tusk [recognised](#) that unity has been 'a leitmotif, a task, almost [his] obsession, from the very beginning'. Both presidents have also adjusted the working methods with the aim of increasing the efficiency of the European Council and the follow-up to its conclusions.

The analysis shows that, over the past 10 years, the working methods of the European Council have been further developed and fine-tuned. The changes to the functioning of the European Council need to be seen as a continuing process rather than considering the Lisbon Treaty to be a watershed. Indeed, the latter confirmed and further developed practices that were already ongoing prior to the Lisbon Treaty, such as the increased number of formal meetings. While the Lisbon Treaty and the RoP formalised many already existing practices, the European Council remains a very informal place. The analysis suggests that the demand for informality has further increased in recent years as confirmed by the increased number of informal meetings of EU Heads of State or Government,

notably under the Leaders' Agenda, thus reinforcing the club atmosphere in the European Council. This trend is expected to continue as [indicated](#) by the new European Council President, Charles Michel. What other changes the new President of the European Council will bring, remain to be seen.

Informality is not only the *modus operandi* in the European Council, but also its way of approaching its relations with other institutions. While there are very few formal contacts between the European Council and the European Parliament, although more so than before Lisbon, the institutions, notably through their Presidents, have created several informal processes to exchange views and inform each other about their respective activities. The intensity and exact arrangements have differed depending on who has been at the helm in each institution. A possible improvement in the future could be to further optimise interinstitutional cooperation by building on each other's strengths and complementing each other. This would be particularly useful in times of crisis, as a lot of bad blood was created between the European Council and other EU institutions, the Parliament in particular, during the economic and financial crisis. An interinstitutional agreement including the European Council could provide a 'playbook' for such situations. One aspect of such an agreement could also be better coordination of the follow-up to and fulfilment of major priorities set by the European Council for the EU and its citizens. Another notable area of improvement would be better cooperation and coordination on external affairs between the European Council President and the High Representative.

The Lisbon Treaty introduced a series of new competences that enabled the European Council to go beyond the existing status quo, although many of them remain unused. It is therefore also possible to speak of unused Lisbon potential for the European Council, including a shift from unanimity to qualified majority voting (QMV) in certain policy areas, setting up a European defence union or extending the powers of the European Public Prosecutor's Office. Some of these possibilities could be on the agenda in the near future, given the proposals [put forward](#) by the new President of European Commission, which include a suggestion to call for a convention to revise the Treaties.

One important development regarding the European Council over the past 10 years, which relates neither to the Lisbon Treaty nor to the crises, but which has developed incrementally over time, is the increased influence of European political parties over the work and decisions of the European Council. Two examples of this are the increasingly well-coordinated and influential meetings of European political parties immediately before European Council meetings, and the negotiations along party political lines for the nomination of the next European Commission president. It remains to be seen how significantly this recent development will impact on the functioning of the European Council in the years to come, and if more coordination within and between the different political families on issues discussed at the European Council will be the new norm.

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