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New Institutionalist Leadership – how the new European Council-dominated crisis governance paradoxically strengthened the role of EU institutions

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ABSTRACT
This article explores the impact that the rise of a new, European Council-dominated Union has had for role of EU institutions in the most important issues of the past decade. Building on rational institutionalist theories of leadership, we first develop a New Institutionalist Leadership model that helps us understand the political leadership tasks performed by the European Council and the instrumental leadership tasks that are informally delegated to EU institutions, who then deliver them in the ‘the machine room’ where broad political guidelines are translated into actual binding reforms. The article then traces the empirical evolution of New Institutionalist Leadership in two parallel processes: dealing with concrete reforms such as the Fiscal Compact, and in managing the longer-term reform agenda in what became termed the Leaders’ Agenda. Our findings point to the need for EU scholars to pay closer attention to what is going on beneath the headline-dominating activities of the European Council.

KEYWORDS
Economic and Monetary Union; EU institutions; European integration; leadership; principal-agent theory

1. Introduction
This article explores the impact that the rise of a new, European Council-dominated Union has had for role of EU institutions in the most important issues on the agenda of the past decade. On 28 September 2017, at an informal European Council Summit held in Tallinn, the heads of state and government (HOSG) asked European Council President Donald Tusk informally whether he would draft a work program to structure their ongoing work on the most salient issues facing the Union that included revamping the EU’s asylum and immigration system and finishing eurozone reforms. This led to the creation of the Leaders’ Agenda (now Strategic Agenda), which marked the preliminary culmination of a fast-paced evolution of European Council-dominated management of the response to the three major crises afflicting the Union in the past decade: the eurozone crisis, the refugee crisis, and the British membership crisis.

While day-to-day EU decision-making is centered on the supranational triangle of European Commission, Council of Ministers, and the European Parliament, when dealing
with the major reforms of the EU to tackle the crises, the issues are so politically sensitive that they have to be managed by the very highest political level – amongst the heads of state and government within the intergovernmental European Council. Not surprisingly, these types of issue are referred to as *Chefsache*.

Many scholars contend that the role of EU institutions has been diminished in this new, European Council-dominated Union.¹ Many scholars have acknowledged that the EU institutions had to adapt to a ‘constraining environment’, in which EU negotiations are highly salient in many member states, and touch upon ‘core state powers’ (Genschel and Jachtenfuchs 2014). Some of the early literature spoke in terms of competition between the intergovernmental and Community method and a decline of the Commission in particular, now operating under the shadow of the European Council (Chang 2013; Mény 2014; Hodson 2013; Bickerton, Hodson, and Puetter 2015; Puetter and Fabbrini 2016). Others framed it in terms of a shift from classic entrepreneurship to policy management (Bauer and Becker 2014; Bocquillon and Dobbels 2014; Nugent and Rhinard 2016), noting that the loss of influence that EU institutions had in the reform negotiations was compensated for by increased competences in the implementation and evaluation of fiscal and economic policies.

However, a key point that has been overlooked in the literature is that the need for the heads to be intimately involved in dealing with *Chefsache*, and the informal and isolated character of decision-making at the European Council level, paradoxically, created more instead of less *dependence* on EU institutions to translate the broad political priorities of the heads into actual legally binding reforms. We contend that existing academic research has neglected to probe who actually is doing the *heavy-lifting* in drafting deals and managing reform processes, focusing instead on headline-dominating political leadership at the highest level performed by individual leaders like Angela Merkel. As a result, the literature has overlooked the critical leadership roles played by informal networks of institutional actors in the machine room, who through careful process management and drafting have enabled more effective and ambitious reforms to be achieved. We term the new institutionalist leadership in this article. The strengthened role played by the European Council in *Chefsache* is therefore *not a zero-sum game*, but has paradoxically also strengthened the role of EU institutions when they participate in informal institutional collaborative networks that link the control and machine room, and that provides instrumental leadership in the machine room.

In this article, we first develop a new institutionalist leadership (NIL) theory that explains what leadership tasks are required in crisis reform negotiations, differentiating between political leadership in the European Council (what we term the ‘control room’), and lower-level instrumental leadership in what we term the ‘machine room’. The NIL theory explains why the heads, facing a crisis, would choose to informally delegate leadership tasks to EU institutional actors.

The core of the article is a detailed reconstruction of the evolution of new procedures for dealing with *Chefsache* in the past decade, exploring who provided leadership, at what level, and what type in the course of the development of NIL. We show that a new modus operandi developed in which the heads had their hands on the tiller both as regards the broader reform agenda and specific reforms, but where effective instrumental leadership was provided by collaborative, high-level networks of EU institutional actors in the machine room. We focus both on overall process management that has centered on
activities such as the Four (and later Five) Presidents reports and later the broader Leaders Agenda, but also delve more specifically into the role played by the institutional network in the management of specific crisis reforms like the Fiscal Compact and British renegotiation. Our analysis finds that EU institutions came to play a key but overlooked role in linking the heads with machine room proceedings, and in supplying instrumental leadership in the machine room.

2. Theory – crisis leadership where we would least expect it

Reforms do not magically appear. Given the complexity of the issues and the difficulties when engaging in multilateral negotiations between many parties in sensitive issues during crisis, there are severe collective action problems associated with finding and negotiating a mutually acceptable reform solution (Young 1991, 285; Tallberg 2006, 17–39). Overcoming these problems requires the provision of leadership, in which tasks are delegated to an agent or agents that can help the parties overcome collective action problems, including agenda management powers, building political momentum, representation, and process management in guiding an issue through the decision-making machinery, thereby enabling binding reforms to be achieved (Young 1991, 293; Tallberg 2006).

In our new institutionalist leadership (NIL) theory, the European Council can be thought of as the control room, shaping the broad contours of agreements. It is at this level that political leadership is required, including agenda-setting, provision of political momentum, and brokerage to ensure consensus on the final deal is reached. Given the stakes, we should not expect that significant political leadership tasks will be delegated beyond the already formally delegated process management tasks entrusted to the European Council President. Political leadership instead can be expected to be supplied by governments.

However, the control room is formally isolated from the rest of the EU’s machinery. For obvious reasons, the heads cannot themselves negotiate major EU reforms, while the chair – the European Council President – has formally only a small cabinet in support. Instead, the substance is negotiated at lower levels using the existing institutional framework from daily EU law-making (although often with ad hoc procedures) – in what we term the machine room. Existing research on major reforms in the EU has overlooked this fact because it has focused primarily on the political leadership tasks performed in the control room (e.g. Ross and Jenson 2017; Tömmel 2017; Peterson 2015).

The machine room is composed of the Council (ministerial – ambassadors – experts), the Council Secretariat, and the European Commission (and sometimes the European Parliament). It would of course be possible for the heads to construct an ad hoc institutional framework that is custom-built for a given negotiation. However, during a crisis there would not be time to do this, and developing an ad hoc institution that had the requisite process and substantive expertise would be exceedingly difficult, resulting in the existing institutional framework being used.

In the machine room there is another set of collective action problems that have to be resolved through the delegation of a different type of leadership tasks – what we term instrumental leadership, which include exploration of issues, drafting, and process management. For example, there is a strong demand for process management to avoid
agenda cycling and lowest-common-denominator dynamics that can hinder parties securing a mutually acceptable, binding reform (Tallberg 2006, 21–24).

Why then would instrumental leadership tasks be informally delegated to EU institutions? The short answer is because there are no viable alternatives. When dealing with sensitive Chefsache, it would be impossible for a national government to provide all of the drafting and process management required in the machine room. Large governments like Germany might have the requisite legal expertise, but would not be trusted by other actors to draft texts, and they do not have the process management experience that Council Secretariat officials have. While a national Presidency might be able to supply some of the tasks, they lack the requisite legal and substantive expertise to provide these tasks. In contrast, EU institutions have strong comparative advantages in providing instrumental leadership, both in terms of legal, process and substantive expertise gained from their roles in daily EU law-making. Therefore, we expect that governments in the control room might accept and or acquiesce to the informal delegation of instrumental leadership tasks to EU institutions to ‘get the job done’.

Why do EU institutions have to collaborate with each other? The reasons is that no single EU institutional actor is able to provide all of the instrumental leadership tasks required in crisis reform negotiations. For instance, the Council Secretariat has considerable process expertise and legal expertise in drafting intergovernmental agreements, but does not have the substantive expertise of the Commission. Because of this, EU institutions are forced to collaborate with each other when supplying instrumental leadership.

3. The evolution of European Council-dominated governance in the crisis decade

How then has European Council-dominated governance and NIL developed when dealing with the three major crises of the past decade: the eurozone crisis, the refugee crisis, and the British membership crisis? Before the euro-crisis, major reforms of the EU had been dealt with primarily through formal processes involving Intergovernmental Conferences (IGC’s), often preceded by some form of intergovernmental preparatory group. Political leadership at the highest level (the heads of state and government in the European Council, i.e. the ‘control room’) – including agenda-setting, provision of political momentum, and brokerage – was provided by the rotating national Presidency and individual political leaders. Most of the actual work in translating the vague priorities of the heads into legal texts was done in the machine room. Linkage between the control and machine room was provided by the rotating Presidency, which also chaired most formations in the machine room. Instrumental leadership in the machine room was typically provided by the national presidency in collaboration with the Council Secretariat (Beach 2004; Tallberg 2006, 21–24).

When the euro-crisis erupted, convening formal reform processes were never seriously considered. As a result, new more informal methods for engaging in major reforms had to be developed. Yet this raised significant challenges. Given the sensitivity of the issues involved and the form the fixes took (intergovernmental agreements (IA’s) as in the Fiscal Compact, and/or the use of far-reaching legislative packages that pushed the legal
bounds of the treaties, as in Banking Union), the heads in the control room had to closely steer the negotiations – the reason that these issues are referred to as *Chefsache*.

However, the European Council is formally isolated from the rest of the EU’s machinery. In order to avoid creating a completely new institutional framework, the substance of both IA’s and legislative packages was therefore negotiated in the machine room using the existing institutional framework from daily EU law-making, but adapted to a European Council-dominated format using informal, ad hoc procedures that were critically dependent on informal collaboration between institutions to provide instrumental leadership in the machine room (see below).

In this rest of this section, we chronicle the development of a relatively effective NIL model of interaction between the control and machine rooms. The development of NIL was an incremental learning process that took place in two parallel processes that eventually merged: one dealing with specific reforms (Fiscal Compact, Banking Union) in which informal collaboration developed between institutions that was used to link the control and machine rooms together, and to provide effective instrumental leadership in the machine room that enabled ambitious reforms to be achieved, and the other track dealing with the management of the longer-term reform agenda that resulted in the development of new forms of institutional collaboration. Eventually they merged into the Leader’s Agenda, where political leadership in the control room was supplied by the heads, but where responsibility for the longer-term reform agenda rested with the European Council President and his institutional collaborators. At the same time, actual reforms were only possible when an effective machine room process was coupled to control room decisions, requiring extensive informal delegation of drafting and process management tasks to EU institutions working in an informal collaborative fashion.

### 3.1. Phase I – the heads go it alone and institutional rivalry in the machine room

In the first acute crisis phase, from 2009 until mid 2011, the focus was on short-term fixes to immediate existential threats to the eurozone, including the first Greek rescue packages and the European Financial Stability Facility (EFSF). Given the sensitivity of the issues involved, the heads had to be closely involved in most of the decisions, which was possible when they were relatively simple deals such as the first Greek rescue in May 2010 that was effectively negotiated between the heads (Merkel and Sarkozy in particular) (Bastasin 2012, 166–168). The EFSF was a Commission proposal that was then endorsed by the heads. Due to a combination of its simplicity and time pressures, it did not require an extensive machine room process to flesh out (Bastasin 2012, 195–199; Ludlow 2010, 31–34). In contrast, the much more complex six-pack reform package that was put forward in late 2010 and negotiated in 2011 was a Commission initiative that triggered a set of (relatively) normal EU legislative process (see though Bressanelli and Chelotti 2016).

When the heads attempted to negotiate more complex reforms – such as measures for economic governance in the Euro Plus Pact in February-March 2011 – on their own without any meaningful process in the machine room, the results were predictable. The Pact originated from German ideas about enhancing fiscal discipline and inducing structural reforms that were then supported by the Sarkozy government of France. In a joint Franco-German letter to other EU leaders on the 4th of February, 2011,³ the two leaders
called for a ‘competitiveness pact’ to be achieved by introducing ‘concrete commitments more than already decided’, to be adopted at the national level. While officials in the European Council President’s cabinet and the Council Secretariat did provide some support in drafting and process management to the extent they were asked to do so, particularly in preparing for the Eurozone summit of 11 March 2011, the Commission did not warm up to the idea of more binding commitments at the national level. In their view, the Pact could only replicate what they were already doing, as part of the monitoring cycle of the European Semester.

This reticence on the part of the Commission then led Merkel and Sarkozy to attempt to push the reforms through the European Council without real assistance from EU institutions. Instead of a full preparatory process in the machine room (as with the six-pack), Merkel and Sarkozy tried to craft an agreement amongst the heads themselves, showing up at a European Council summit asking for strengthened structural reform measures. The result was not surprisingly merely a set of vague and non-binding measures that were forgotten almost before the ink had dried.

Relatively early in the euro-crisis, the heads began to recognize that more far-reaching reforms would be eventually necessary to fix the euro, and that they would not be able to manage this process amongst themselves. Therefore, at the same March 2010 summit in which the first Greek rescue package was agreed, the new European Council President was provided with a mandate to set up a taskforce to discuss longer-term reforms of EMU.

We ask the President of the European Council to establish, in cooperation with the Commission, a taskforce with representatives of Member States, the rotating presidency and the ECB, to present to the Council, before the end of this year, the measures needed to reach this aim, exploring all options to reinforce the legal framework.

According to insiders, the idea of a taskforce had been decided by the same leaders who had been in charge of intergovernmental crisis management in the 2008–09 period: Chancellor Merkel and President Sarkozy in particular, assisted by the European Council President (Ludlow 2010). The Commission and Community-minded member states were not enthusiastic about the idea.

There was no clear format available for the taskforce. The regular meetings of the European Council and the preparations of them were at the time dominated by the crisis in Greece. As a result, the initiative was given to the European Council president to set up a separate forum for discussions. Up until that point, Euro crisis management had been solely the prerogative of the heads, while day-to-day economic governance (i.e. fiscal and economic policy coordination) in the machine room was dealt with at the civil servant level by the Economic and Financial Committee (EFC), and at the ministerial level in Ecofin. While the EFC had been discussing issues like financing options for Greece since the winter of 2009, they lacked the political authority to meaningfully discuss more fundamental EMU reforms.

President Van Rompuy thus came up with an ad hoc working format in which the taskforce would center on ministers in the Ecofin Council, chaired by Van Rompuy, and with participation by the Commission. The preparatory level of the taskforce would be the EFC, chaired by the right hand of Eurogroup president Juncker, Thomas Wieser. With regard to the working methods, the member states and the Commission were invited to present their contributions to the reform debate (only) within the framework of the
taskforce. The European Council presidency would combine these contributions and report back to the heads. In preparing these reports, the European Council president sought to get the endorsement of the heads for the directions taken by the taskforce. In preparing for discussions with the heads about the taskforce work, Van Rompuy for instance made extensive use of confessionals.

Within the taskforce, new patterns of informal inter-institutional cooperation were being established that would develop significantly in the coming years:

The cooperation between the four presidents, and their cabinets, was already established in 2010. At the time, this was still an informal format. There were regular meetings in the run-up to each European Council or Euro Area Summit, in which the presidents coordinated their strategy. This was not yet on the basis of a formal mandate. That mandate came only in 2011.12

Most importantly, the role of the European Council President created a precedence for him acting as the key conduit through which the priorities of the heads could be coupled to machine room processes. However, effective institutional collaboration that could actually deliver reforms by coupling the political will of the heads with effective machine room processes had not come into existence yet. One of the reasons for this is that despite some cooperation in the taskforce, broader collaboration between institutions was marred by turf battles between Commission President Barroso, who tried to act as ‘the sole true champion of the community method’, and the European Council President (Ludlow 2010, 53–55). For example, instead of contributing significantly to the taskforce, the Commission tried to provide a sense of direction to the EMU reform process on its own, for example through its communication in May 2010 on: ‘reinforcing economic policy coordination’ which suggested amongst many other reforms besides the setting up of a European Semester.13 While the Commission was pushing for a more fundamental overhaul of the EMU’s institutional architecture, the European Council president instead decided to stay closer to the preferences of key member states. In the six meetings of the taskforce, the institutional (or ‘economic governance’) dimension would largely be ignored. The taskforce was first and foremost meant to suggest measures to strengthen the Stability and Growth Pact (SGP), anchor the crisis mechanisms (EFSF and later ESM) in the broader framework of the eurozone, and set up the macro economic imbalances procedure (MIP).14

For insiders and outsiders alike, the significance of this new institutional collaboration was therefore not immediately apparent.15 Perhaps most noteworthy, there was no real follow up to the taskforce report. After Van Rompuy presented the final report to the October 2010 European Council, the taskforce was disbanded. The Commission had instead pre-empted the taskforce report by presenting its six-pack legislative proposals already in September 2010. For the next eight months, EMU deepening would take the shape of an ‘ordinary’ legislative process in the machine room, resulting in the first significant reforms of EMU (see above). Additionally, for the next year, overall crisis management would remain with the heads.

Nevertheless, this first phase was important in shaping patterns of informal collaboration between cabinet-level officials in the institutions that would play a vital role in achieving later reforms because implicitly, general leadership over the reform process was handed to Van Rompuy, who could subsequently decide whom to cooperate with.
3.2. Phase II – the first steps of a new collaborative modus operandi for Chefsache

The second phase lasted from mid-2011 until the refugee crisis exploded during the summer of 2015. During this phase, more effective collaborative institutional leadership patterns evolved for dealing with specific reforms like the European Stability Mechanism (ESM), the Fiscal Compact and Banking Union, and the overarching reform discussion, enabling the bridging of divides between the intergovernmental and Community pillars, and across levels (control and machine room).

New informal modalities were developed to deal with several specific reforms during 2011 and 2012, including in the negotiation of the ESM and the Fiscal Compact. In both reforms, the complexity of the reforms required extensive preparatory work and negotiation in the machine room. Both issues were dealt with through intergovernmental agreements (IA’s) outside of the normal Community decision-making framework. At the same time, the sensitivity of the issues meant that the heads had to be very closely involved, setting the processes apart from ‘normal’ Community business.

In both cases, the heads endorsed a set of vaguely defined ideas and provided political momentum to negotiations that took place in the machine room. In both cases, extensive informal cooperation developed between the European Council President (and cabinet) and key high-level officials in the Council Secretariat and Commission in drafting texts and managing the process in a way that shielded them from ‘normal’ intergovernmental, lowest-common-denominator dynamics that occur when national negotiators engage in line-by-line haggling over details (Smeets and Beach 2020; Smeets, Jaschke, and Beach 2019). However, in both cases, more effective collaboration was still marred by institutional rivalries. For example, as a direct response to the initial work on what would become the Fiscal Compact, the Commission hastily came up with the two-pack proposal in the fall of 2011, which focused on anchoring the crisis management mechanisms and enhancing fiscal discipline. Commission president Barroso again proved himself unwilling to join forces with his intergovernmental counterparts, let alone take a step back.¹⁶

Turning our attention to management of the broader reform process, a window of opportunity opened during the difficult negotiations in the period leading up to the July 2011 Euro Summit about the second program for Greece, in which private sector involvement was the key issue. Not much attention was therefore paid to the final paragraph of the statement, presented under the heading of economic governance:

We invite the President of the European Council, in close cooperation with the President of the Commission and the President of the Eurogroup, to make concrete proposals by October on how to improve working methods and enhance crisis management in the euro area.¹⁷

This marked the formal beginning of the ‘presidents club’ format, where reform ideas were prepared through collaboration between the institutions, managed by the European Council President and his cabinet. The immediate result of the discussions was ten suggested measures to improve Euro area governance of October 2011. In terms of substance, the institutions did not dare to stray too far from the preferences of the heads at this point, and therefore the ten measures closely reflected ideas expressed in a Franco-German letter from August 2011,¹⁸ with French sounding ideas about ‘gouvernment économique’, and German priorities such as a proposing a further strengthening of the budgetary rules – what came to be the Fiscal Compact (see above).¹⁹
However, informal connections between the institutions were again strengthened, especially at higher-levels. The institutions also acknowledged the possibility for the president of the ECB to join in the regular consultations of the other three presidents. Under the anything but ambiguous heading ‘further integration’, the Euro Summit statement in October 2011 read:

We will strengthen the economic union to make it commensurate with the monetary union. We ask the President of the European Council, in close cooperation with the President of the Commission and the President of the Eurogroup, to identify possible steps to reach this end . . . An interim report will be presented in December 2011 so as to agree on the first orientations. It will include a roadmap on how to proceed in full respect of the prerogatives of the institutions. A report on how to implement the agreed measures will be finalised by March 2012.20

This conclusion served to shift the course of the wider EMU reform process. In what can be considered a small but significant reinterpretation of the original mandate of ‘strengthening economic governance’, ‘deepening economic union’ was now mentioned explicitly as the overarching goal. The requested ‘interim report, Towards a stronger Economic Union, was presented to Coreper at 6 December 2011 (Ludlow 2011), but not much would become of the ‘final report’ tabled in March 2012, with the ideas for further reforms politely discussed and then forgotten (Ludlow 2012a).

However, in the spring of 2012 there was renewed momentum for reforms created by the dire situation of Spanish banks, which were in need of (direct) recapitalization. Van Rompuy made use of this momentum to dust off the presidents club format. At the informal meeting in May 2012, the heads authorized the European Council president to make a statement (Ludlow 2012b). Insiders note the significance of this move:

An informal Council does not lead to formal conclusions, which need to be drafted and negotiated, but only to a statement by the Presidency. After the Summit, Van Rompuy announced his intention to start working on a report on the future of EMU, in cooperation with the three other presidents. He did not ask for a mandate, but rather informed the Heads of State and Government about the project.21

A first draft of the report was presented already at the June 2012 European Council summit. The European Council presidency and the ECB in particular joined hands to deliver a draft version of what EMU deepening should entail to the heads, focussing in particular on the rough outlines for an ‘integrated financial framework’ to fix the systemic ‘vicious circle’ problem that had been diagnosed as the cause of the Irish collapse in 2010 and was now threatening Spain. It is here that cooperation between the four institutions really got off the ground in pushing forward much more ambitious outcomes than governments left to themselves would have agreed.

The heads in their June 2012 meetings discussed the Spanish banking crisis. Many government favored using a temporary mechanism to recapitalize the distressed Spanish banking sector, but Merkel preferred a permanent structure involving the ESM that would involve creating a single supervisory mechanism to avoid future problems (Nielsen and Smeets 2018). As a result, the heads agreed to mandate the Commission to bring forward concrete proposals under Article 127 to create a supervisory mechanism by the end of 2012. The heads at this point had not agreed to create ‘banking union’ (Nielsen and Smeets 2018).
It is here that institutional collaboration, in particular between the Commission and the ECB, transformed this narrow mandate into a broader reform process – what would become Banking Union. In the first instance, extensive informal collaboration took place between the ECB and Commission in quickly and jointly drafting the proposal for a Single Supervisory Mechanism (SSM). After the SSM proposal was tabled, efforts shifted towards process management by institutions, in which ad hoc working formats were developed to speed negotiations to conclude by December 2012 (Nielsen and Smeets 2018).

At the same time that the SSM proposal was tabled, the Commission also produced a ‘roadmap towards a banking union’ which reproduced the key elements of a broader reform already proposed in the draft Four Presidents report from June. Together, these ideas about a broader reform package framed the further discussions amongst the heads. Whereas the heads had actually only mandated the creation of SSM at their June meeting, by the end of 2012 the frame of the debate had shifted, with banking union now accepted as the final goal. Debates then were only about what elements it should include (e.g. a common deposit guarantee scheme), and what they should look like. As a result, at the December 2012 summit the heads mandated the Commission to take the next step by submitting a proposal for a single resolution mechanism (SRM).

While the Banking Union process was formally driven by the heads, and machine room negotiations took place using the existing institutions, in practice the case is an example of the dependence of the heads on institutional collaboration in linking their discussions with meaningful reform processes in the machine room, and in managing the work on major reforms forward in the machine room (Nielsen and Smeets 2018). In this process, President Van Rompuy made it perfectly clear that he had no intention of involving the heads in detailed debates (Ludlow 2013a, 31, 2013b, 28). The heads would merely provide political coverage and guidance by means of deadlines and endorsements. De facto leadership in the machine room was given to the Commission’s DG Markt and its Commissioner Barnier in particular (Nielsen and Smeets 2018). By the time of the December 2013 European Council, the member states and institutions had been able to finish the banking union more-or-less according to plan.

More broadly, the immediate pressure for major reforms started to dissipate as the crisis relaxed. The institutional strategy from December 2012 onwards therefore basically came down to keeping the broader EMU deepening process alive, while probing for promising issues and venues for further reforms. The European Council

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The president made a final push in the run-up the December 2013 Council. The October Conclusions had stated:

The European Council held an in-depth discussion on completing the Economic and Monetary Union ... will return to all these elements in December with a view to taking decisions.24

However, the December 2013 debate would not result in any such decisions. The more sceptical member states, Finland and the Netherlands, did not even feel the need for further debates. At the December diner, Van Rompuy had to engage in a lengthy struggle over a rendezvous date (Ludlow 2013b, 37). In the end, the presidents were invited to report back only in October 2014.

The October 2014 European Council summit was the final summit under president Van Rompuy. By that time, many felt that the EMU deepening debate was moving around in circles.25 Famililiar ideas about fiscal capacity, debt mutualisation and risk sharing kept popping up, but never really made it onto the table. The Euro summit of October 2014 certainly did not provide an occasion for reinvigorating EMU deepening. Many did not even expect a debate. In the draft conclusions, there was no mentioning of any report or new mandate to the four presidents. Instead, the idea surfaced only at the summit.26 Van Rompuy clearly thought otherwise, and it is interesting to note his motivations:

He did not want to stop after the failed initiative of contractual arrangements and was looking for different ways to keep this issue on the table. Thus a mandate was provided to a new president to work on it.27

The principals provided only a very narrow mandate this time: ‘for work to continue’ on ‘concrete mechanism for stronger economic policy coordination, convergence and solidarity’ and ‘to prepare next steps on better economic governance’.28 The December 2014 European Council limited it even further to: ‘closer coordination of economic policies’.29 However, the presidents and their sherpas chose to interpret this mandate in a broad fashion.30 All four ‘unions’ were again on the table. Ideas that had been discarded earlier, such as a common deposit guarantee scheme (banking union) or a fiscal stabilization function (fiscal union), made a comeback. In the longer term, the capital markets union was the biggest reform on the agenda. One could argue that least was happening in the direction of deepening economic union, The plans here were rather minor ones: to streamline the European Semester and further strengthen the MIP.31 Thus, the immediate focus would be on improving existing instruments, while fundamental EMU reforms were made conditional upon an assessment of the progress.32 The five presidents report that was submitted in June 2015 thus revealed a strange mix of short term pragmatism and the promise of a long term vision.

3.3. Phase III – formalizing European Council-dominated decision-making: the leaders’ agenda

The final phase of the evolution is marked by the formalization of the steering role played by the European Council in dealing with crises, which started with the so-called Bratislava Agenda in 2016 and now formalized in the Leaders’ Agenda.33 However, paradoxically this
also strengthens the role of institutions in linking the control and machine rooms, and in providing instrumental leadership in the machine room. Additionally, the working procedures for European Council-dominated major reforms developed in relation to the euro-crisis were deployed to deal with the refugee crisis (fall 2015 – early 2016), and the British membership crisis (summer 2015 – spring 2016).

In 2015, informal European Council-dominated crisis governance methods developed to deal with the euro-crisis were deployed to deal with two new problems: the refugee and British membership crises. In the case of the refugee crisis, the heads recognized by September 2015 that cooperation with Turkey might be a viable way to stem the flow of refugee that was threatening to unravel free movement within the Union. At the same time, officials from the Commission had already begun to explore internally, and in dialogue with Turkey, potential ways to fix the problem (Smeets and Beach 2019). Together this led to a draft prepared by the Commission that was the first element of the EU-Turkey deal, the EU-Turkey Joint Action Plan, that was submitted for approval by the heads already at a meeting in mid-October. The process here resembled the launch of banking union in June 2012 – the heads were asked to endorse a deal without knowing all the details, and without a preparatory machine room process in which governmental representatives engaged in careful scrutiny and amendments of the proposal (Smeets and Beach 2019).

Over the course of the next months of negotiation of the second element, the final EU-Turkey Statement of 18 March 2016, instrumental leadership would be provided through informal collaboration between institutions – with the European Council President’s team, high-level officials in the Council Secretariat and in the Commission taking responsibility when relevant, but also supplementing each other’s efforts. Collaboration was informal and flexible, enabling actors to sidestep bureaucratic hierarchies and to cross the intergovernmental/Community pillars. Governments – with the exception of the Dutch and German – were kept at arm’s length, being involved only very late in the process. As a whole, informal collaborative governance by institutions resulted in a deal that was able to fix the immediate problem, and that was a more ambitious deal than governments left to themselves would have been able to negotiate (Smeets and Beach 2019).

Similarly, in the British membership crisis, the heads informally delegated significant authority to institutional actors – led by the European Council President and key officials around him – to figure out a way to thread the needle between giving the Brits significant concessions that could be used to win the planned referendum, and the need to stay within the bounds of existing EU law because treaty change was off the table for both political and practical reasons. After the UK officially presented initial demands at the June 2015 European Council Summit, an institution-led process involving an informal network of high-level officials spanning the European Council President’s cabinet, the Council Secretariat and the Commission started working to figure out what concessions could be given to the Brits.

Interestingly, work had been underway much longer internally within both the Council Secretariat (and its legal service), and the Commission in response to earlier demands for exemptions. For example, the British proposal in December 2010 for a protocol granting exemptions in Eurozone governance had led the Council Secretariat Legal Service to explore how these concerns could be dealt with legally (Beach and Smeets 2019). As a result, the institutional network therefore entered the negotiations with a running start, but this meant that the ensuing negotiations would run along tracks laid out by the institutions (Beach and Smeets 2019). This was exacerbated by the fact that the British government was unable to
formulate clearer demands about what it actually wanted, only asking for significant exemptions that could be sold domestically in areas such as Eurozone governance and the free movement of persons (Beach and Smeets 2019). During the negotiations, the EU-27 governments were deliberately kept at arm’s length, thereby avoiding lowest-common-denominator dynamics that could have been expected to kick in if governmental representatives engaged in extensive discussions in the machine room, especially in free movement issues. A major consequence of informal collaboration, in which the Commission worked closely with cabinet-level officials of the European Council President and the Council Secretariat, was that the Commission showed unprecedented flexibility in doing something it had never done before, where it used Commission declarations in conjunction with the final European Council Decision that contained the promise by the Commission to table three different legislative amendments to allay British concerns relating to free movement of persons issues (Beach and Smeets 2019).

The combination of the effectiveness of the informal delegation to institutions to steer reform processes in the EU-Turkey deal and the British re-negotiation, and the continued need for reforms of the EU’s immigration system, along with new concerns related to security-related and other issues, resulted in the formalization of the new European Council-dominated crisis governance modus operandi in the course of 2016 and 2017. After a brief interlude in which Juncker attempted to seize the political agenda on further reforms that ended in late 2015 in the recognition by the Commission that it had to act more pragmatically and be willing to collaborate with helping to deliver on the priorities of the heads. After Juncker’s brief ‘walkabout’, the Commission at the highest level returned to the role of being a key component of European Council-dominated crisis governance that it had played earlier (Ludlow 2016b).

The new European Council-dominated crisis governance modus operandi in dealing with Chefsache is one where the heads are in nominal control of the process, but where the European Council President and his institutional interlocutors de facto manage the process – including activating machine room processes where relevant to translate the political priorities of the heads into actual reforms in the machine room. This is what we have termed new institutionalist leadership. The first steps were taken in the run-up to the Bratislava informal European Council Summit in September 2016, in which European Council President Tusk, assisted by his chief of staff Serafin and the General Secretary of the Council Secretariat, Tranholm-Mikkelsen, fleshed out a list of priorities for the Union – in consultation with governments (Ludlow 2016a, 24–26). However, once a written text was drafted, governments were given limited ability to comment, with Tusk having the express goal of avoiding a lowest-common-denominator dynamic that could occur if the heads or their deputies (sherpas) engaged in a line-by-line review (Ibid, p. 26). Two documents resulted – the Bratislava Declaration and Bratislava Roadmap, that listed a set of Chefsache that had to be tackled.

The process became formalized with the development of the so-called Leaders’ Agenda in 2017, which built on the Bratislava papers. At the Tallinn informal European Council Summit in September 2017, the heads informally delegated responsibility for reforms even more explicitly to the European Council President (Ludlow 2017a, 5). In consultation with the sherpas, key topics were identified by a collaborative informal network centering on Tusk, with extensive assistance from the Council Secretariat and the Commission (Ludlow 2017b, 2). This led to the drafting of a series of Leaders’ Agenda notes, which were short discussions of Chefsache issues that asked the heads to consider mandates for machine room processes to be started, but also
where the heads were asked to re-visit progress on the issue at later meetings. In connection
with the next institutional period (2019 - 2024), the agenda was rebranded as the Strategic
Agenda that will be continued by the new European Council President.

Whether any significant reforms result from this more formalized process is to be seen. The
Union can move forward without formal treaty change, but at the same time, the European
Council-dominated crisis governance system cannot defy political gravity. While the combina-
tion of overall political leadership provided by the heads and effective informal collaborative
instrumental leadership supplied by EU institutions has been effective in negotiating a Brexit
deal that kept the EU-27 in-line while offering some concessions to the British, less progress has
occurred in other Chefsache – in particular immigration, in which a reform of the Dublin-system
was postponed until after May 2019 EP elections.

4. Discussion and conclusions

The heads have always been the ‘deciders in chief’ in the Union, setting the overall priorities of
the European project and settling key points of contention in end game negotiations (Ross and
Jenson 2017, 114–115; Tömmel 2013, 797). What has been new in the crisis decade is that the
heads increasingly concern themselves with actual reforms instead of providing overall
political guidance (Bocquillon and Dobbels 2014, 22). At various moments during the crises,
the heads chose to by-pass formal channels of delegation. Instead, they favored more informal
or ad hoc action channels in which responsibility for achieving far-reaching reforms was
informally delegated to EU institutional actors working in collaborative networks with each
other, but where they kept the overall political responsibility in what we term new institution-
alist leadership.

Building on the new institutional leadership model that explains what types of tasks are
required and at what level, we documented in this article that the early stages of the crisis were
dominated by the counterproductive efforts of German Chancellor Angela Merkel and French
President Nicolas Sarkozy to supply leadership themselves, without any real link to a machine
room process.

The second phase of more efficient twin-track leadership started with the initiation of the
‘presidents club’ format. Cooperation led to the development of informal patterns of collab-
oration – especially at the cabinet-level – within and across institutions that would be vital for
coming reforms. These emerging patterns could for instance be seen at work in the informal
collaboration between high level civil servants in the European Council President’s cabinet,
Council Secretariat and European Commission that evolved in the fall of 2011 in the negotia-
tions of the Fiscal Compact. During the negotiations, the institutional network laid the tracks
along which governmental negotiations proceeded, turning the final deal into a more
Community-aligned instrument than original Franco-German ideas suggested (Smeets and
Beach 2020). Similar roles were played by institutions in dealing with other Chefsache reforms,
including the ESM Treaty and Banking Union.

The final phase of the evolution was marked by the spill-over of the new forms of leadership
into Chefsache in other issue areas. This can be seen in relation to the so-called Bratislava
Agenda in 2016 that became formalized in the Leaders’ Agenda (now Strategic Agenda),
cementing the central role of the heads, but at the same time, also the critical ‘right hand
person’ roles played by high-level officials in the institutional network that enabled the
translation of the broad priorities of the heads into actual reforms in the machine room.
Examples of this include reforms dealing with the refugee crisis (EU-Turkey deal) and British membership (re-negotiation of the British terms of membership).

Based on our empirical findings, we contend that it is vital to assess which types of leadership functions are required at different levels of negotiation to understand these developments. At the highest political level, political leadership can only really be provided by the heads themselves. However, the heads by themselves cannot provide long-term guidance for reforms, nor can they negotiate specific reforms themselves. Here a crucial innovation was the use of informal delegation of instrumental leadership tasks to a collaborative network centered around the European Council President and trusted officials in his cabinet and the Council Secretariat, with close links to high-level Commission officials. This contrasts with new intergovernmentalist claims that member states will delegate to ‘de novo’ bodies instead of to EU institutions (e.g. Bickerton, Hodson, and Puetter 2015). Instead, what is different is the form of delegation, which governments have informally asked, or acquiesced, to EU institutions playing a critical role in delivering reforms in the machine room, and in managing the overall reform process in the control room.

By extending the collaborative network from intergovernmental officials in the European Council President’s cabinet and Council Secretariat to also include Commission officials (and sometimes ECB officials), the political priorities of the heads could then be translated into workable reforms. At the same time, this informal delegation has had ‘costs’, as with all forms of delegation (Kroll 2017). The delegation costs can be best seen in relation to particular reforms like Banking Union, which became a more far-reaching and Community-oriented package than governments left to themselves might have agreed on.

Of course, this new type of European Council-centered NIL cannot defy political gravity. When reforms are blocked by strong veto players at the level of the heads – as happened in December 2018 in efforts to push through a broader asylum and immigration policy deal – no amount of instrumental leadership in the machine room can overcome this.

Taken as a whole, our findings point to the need for EU scholars to pay closer attention to what is going on beneath the headline-dominating activities of the heads. While these might be the most visible manifestations of European Council-dominated crisis governance, they tell only a small part of the story in which there is an enhanced dependence on EU institutions to translate broad political priorities into actual reforms in the machine room. Institutional influence is exercised through drafting texts and shepherding deals through the process.

Notes

1. In this article we focus on institutional actors from both the intergovernmental and supranational pillars of the EU, including the European Council President and cabinet, actors in the European Commission at multiple levels, the Council Secretariat.
2. While the European Council is a formal EU institution (Art. 13 TEU), it is only tasked with providing ‘… the Union with the necessary impetus for its development and shall define the general political directions and priorities thereof. It shall not exercise legislative functions.’ (Art. 15 TEU).
3. Here the European Convention marked a departure from the past, in that the quasi-parliamentary forum (committees and plenary) also included formally representatives from the European Parliament and European Commission, along with national parliaments.
4. The exception was certain legal working parties, that were usually chaired by the head of the Council Secretariat’s Legal Services.
6. Agence Europe, 03-03-2011 ‘Van Rompuy/Barroso version of the competitiveness pact’.
7. Author’s interview, Commission Director General level, 27-6-2013.
10. Author’s interview, European Council president cabinet, 17-11-2015.
11. Author’s interview, Council secretariat, 3-3-2015.
15. Author’s interview, Commission services, 27-6-2013.
18. Letter to President Van Rompuy, 17-8-2011.
19. Author’s interview, Council secretariat, 11-3-2015.
21. Author’s interview, European Council president & Commission president cabinets, 14-7-2014.
22. European Council Conclusions, Brussels 18/19 October 2012: 15.
25. Author’s interviews, member states representatives, 22–5 & 28-8-2015.
26. Author’s interview, European Council presidency cabinet, 30-6-2015.
27. Author’s interview, European Council president cabinet and Commission cabinet, 14-7-2015.
30. Author’s interviews, Eurogroup and ECB level, 22–7 & 26-8-2015.
32. ‘Completing Europe’s Economic and Monetary Union’ Brussels 22 July 2015: p. 5.
33. The Leaders’ Agenda has been renamed the Strategic Agenda in 2019.
34. Beyond the widespread reluctance to engage in formal treaty change that could raise difficult ratification problems, there was also the practical time constraint created by the British commitment to hold the referendum by the end of 2017.

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