

The rotating Council presidency hinders legislative continuity in the Council of the European Union

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*The Presidency of the Council of the European Union is held on a rotational basis by EU member states for six month terms. **Andreas Warntjen** writes that the frequent change of the Presidency sometimes causes disruption in EU legislative decision-making. He notes that during the negotiation of the Lisbon Treaty the principle of increasing the term from six months up to a year was rejected in favour of creating a permanent President of the European Council, which is held by an individual for terms of two and a half years. Despite this change, however, the limited role of the European Council in legislative negotiations has ensured that continuity in Council decision-making still presents a challenge.*



The European Union needs to respond in an efficient and timely manner to the challenges of a complex and fast-changing world if it wants to effectively further the welfare of its citizens. This requires continuity of legislative decision-making. Shortcomings in this regard were identified in the discussions leading up to the Lisbon treaty, which sets out the rules for decision-making in the EU.

A special focus was placed on the work of both the Council of the European Union (often referred to simply as 'the Council'), where ministers and civil servants discuss legislative proposals, and of the European Council, where the heads of government decide the broad guidelines of EU policy. A particular concern was the length of the term of office of the Council presidency, which chairs and organises the meetings of the Council. The Convention on the Future of Europe decided to increase the term of office of the Council presidency from six months to a minimum of one year to strengthen the continuity of the Council's legislative work. Other suggestions involved a stronger role for the Secretary-General in steering the Council's legislative work.



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The Lisbon treaty, however, left the six-monthly rotation in place for the presidency of the Council. Instead, continuity in the decision-making process of the Council is supposed to be ensured by a longer term presidency of the European Council, of up to five years, as well as closer coordination between the rotating Council presidencies in the form of multi-annual programmes. The Lisbon treaty therefore installed a hybrid solution and two separate presidencies: a longer term presidency for the meetings of the heads of government in the European Council, but a continuation of the rotation system for the meetings of the ministers discussing EU legislation in the Council.

The rotating Council presidency remains primarily in charge of the deliberative process regarding legislative proposals, most of which are not discussed in the European Council, but only in the Council of the European Union. Furthermore, multi-annual programmes have only a limited effect on the actual conduct of individual Council presidencies. Thus, the reforms of the Lisbon treaty are unlikely to represent a major step in increasing the continuity of the Council's legislative work.

The Council is chaired by the member states on a half-yearly system of rotation. Every six months, a new government takes over the role of chairing the meetings of the ministers and working groups of civil servants discussing EU legislation in the Council. However, many discussions on legislative proposals are not resolved during one presidency term.

The frequent presidency changes can lead to inefficiencies in the legislative process. Due to national sensitivities and different priorities, the discussions on some proposals are effectively stalled during a specific presidency. During the Council presidency of a country, EU affairs receive more coverage from the national press of that country. A presidency sometimes delays discussions on a legislative proposal that is controversial in its country, to avoid resolution while they are in the spotlight as the chair of the Council. Governments also often try to use the presidency to highlight topics that are of particular national importance. Thus, priorities can shift from one presidency term to the next. An incoming presidency might also approach some topics from a different angle, thereby introducing discontinuities in the ongoing discussions. For example, the new presidency might pursue a different strategy in an effort to build a sufficient consensus on a pending proposal.

A change of the presidency can interrupt the legislative process and lead to a less efficient negotiation process: momentum is lost, information becomes outdated, and compromises fade away. This can lead to a major disruption in the discussion of some legislative proposals and, at the aggregate level, quite substantial inefficiencies in the legislative process overall.

The elected, long-term presidency of the European Council does represent a major innovation in the decision-making process of the European Council. It does not, however, necessarily have a major impact on the process of legislative decision-making in the Council. The European Council only meets a few times a year and most of its discussions are devoted to broad issues of foreign policy and the overall development of the EU: for example how to respond to the Eurozone crisis. Only a small percentage of legislative proposals are discussed by the heads of government in the European Council. In contrast, the Council, in its various formations of ministerial and working group meetings, discusses all legislative proposals. The Council also meets more frequently than the European Council. Thus, the bulk of the legislative deliberations take place in the Council, not in the European Council.

Similarly, the multi-annual programmes are a useful tool for planning successive presidencies. However, the extent to which they actually guide the conduct of individual presidencies in steering the legislative work of the Council is debatable. The multi-annual programme can only give broad guidelines, which might be out-of-date by the time a new presidency term starts. Thus, the rotating Council presidency is primarily in charge of steering legislative deliberations in the Council.

The hybrid solution of the Lisbon treaty represents a trade-off between the goal of strengthening the continuity of the EU's legislative decision-making and the benefits of a rotation system. The latter include the dispersion of influence, equal opportunity to highlight topics of national importance, and the learning effect of holding the presidency. One should note, however, that the value of some of these benefits is diminished in a Union of 28 member states, where a country only holds the presidency once every 14 years.

An elected, longer term presidency for the Council, possibly consisting of a representative set of several governments, or a stronger role for the Secretary-General, would probably increase the continuity of the Council's legislative work. The benefits of more efficient legislative decision-making in the Council might outweigh the diminished benefits of a rotation system.

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