

Michel Ayral, The Presidency of the Council (April 1975)

Caption: In an article published in April 1975 in the *Revue du Marché commun*, Michel Ayral, a legal expert, considers the development of the tasks assigned to the Presidency of the Council of the European Communities, in particular the task of representing the Community and the Council, as well as the power to manage the Council's work.

Source: *Revue du Marché commun*. 1975, n° 184. Paris: Éditions techniques et économiques. "La présidence du Conseil", auteur:Ayral, Michel , p. 163-166.

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Last updated: 05/07/2016

The Presidency of the Council

By Michel Ayrat

Pursuant to Article 2 of the 1965 Brussels Treaty (the ‘Merger Treaty’), the office of President (of the Council) shall be held in turn by each Member State in the Council for a term of six months, in the following order of Member States: Belgium, Denmark, Germany, France, Ireland, Italy, Luxembourg, the Netherlands and the United Kingdom.

Taking over from Germany, France accordingly held the office of President of all Council bodies from 1 July 1974 until 1 January 1975, when Ireland in turn took the helm for six months.

What was in the beginning no more than an honorary office not unlike any office of president of an international body has become a real political office, bringing to the state that holds it a power of representation, a power to direct matters and an administrative role.

I. — Power of representation

The President acts as a representative outside the Community and within the Council.

(a) Representing the Community on the international stage

— In diplomatic and protocol relations with non-member countries, the Community is represented jointly by the Presidents of the Council and the Commission. They simultaneously receive the credentials of ambassadors accredited to the Communities and must ‘inform each other rapidly and fully’ ⁽¹⁾ of any action taken by either of them.

It was also in 1965 that the determination to strengthen the role of the Council Presidency to the detriment of the Commission became apparent. In its ‘decatalogue’ of complaints, France called for an end to the temporary system that the Council had approved in 1959 whereby the Commission President receives the credentials presented by diplomatic missions. Particularly annoyed by the fact that the ‘ceremonials had been copied directly from those in place in the Member States’, it sought to have that role assigned exclusively to the President-in-Office of the Council. The Member States in the end opted for a dual system.

— At the Copenhagen Summit of December 1973, the Heads of State or Government affirmed ‘their common will that Europe should speak with one voice in important world matters’.

Reaffirming that will, the communiqué issued at the end of the Paris Conference held on 9 and 10 December 1974 states that ‘[t]he President-in-Office will be the spokesman for the Nine and will set out their views in international diplomacy. He will ensure that the necessary concertation takes place in good time.’

Current affairs provide a number of examples of the extent of the ‘common will’ referred to above: the French Ambassador to Greece was, after all, acting on behalf of the Community when he made representations during the Cyprus affair, and it was the President-in-Office of the Council who came to Paris to meet the Greek Foreign Minister, Mr Mavros. However, the Copenhagen Declaration has no legislative effect, hence its occasional encounters with political difficulties. Since it had no common position, the Community therefore could not find a single figure within the ‘group of twelve’ to speak on its behalf — any more than when the PLO was admitted — in the debate on the Palestinian problem at the UN General Assembly. A further difficulty arises from the fact that not all Member States of the Community maintain diplomatic relations with every country in the world; it was therefore agreed that, where the Member State holding the Council Presidency was not represented in a particular country, the subsequent Member State in the order of presidencies established by the Treaties would act as guarantor of the Community’s interests.

Nevertheless, there is some willingness among the Member States to establish procedures for the representation of the Communities in international organisations. Relations with the OECD date back to the origins of the Treaties and are based on Article 231 of the EEC Treaty; ⁽²⁾ in addition to representation by the Commission, which takes part in the work, the Community may, depending on the issue involved, express its view through the Commission or through the country holding the presidency. Similarly, Resolution 3208 of the 29th UN General Assembly, dated 11 October 1974, invited the Community to participate in the sessions and work of the General Assembly as an observer; the Community delegation now comprises one representative from the country holding the Council Presidency and one Commission representative. The spokesman is appointed on a case-by-case basis at consultation meetings.

After deliberation by the Council, it is that spokesman who commits the Community on the international stage.

(b) Representing the Council in the Community

— Contact with the European Parliament

Contact between the European Parliament and Council is made in particular through the annual colloquy between the two institutions as well as through the meetings organised as part of the budgetary procedure. Under the conciliation procedure (which has just been adopted by the Council), similar conciliation negotiations will be held in respect of some financial texts, where there is disagreement between the Council, as represented by its President, and the representatives of the European Parliament.

A different member of the Council will occasionally speak at those meetings; that increased procedural flexibility was borne out in the recent budgetary procedures and will become tangible when the conciliation procedure is implemented. However, the President himself is the spokesman for the Council and therefore commits the Council vis-à-vis the European Parliament.

— Relations between the institutions

In addition to those meetings convened at the level of the institutions, informal meetings are also organised at the request of the President of the European Parliament for the purpose of exchanging information. Meetings of that kind have been organised to discuss increasing the budgetary powers of the European Parliament, and they may be expected to continue as the report on European Union is drawn up. ⁽³⁾

The Council President is the link to the other institutions. Commission proposals, for example, are addressed to him.

As part of the measures to upgrade the role of the Economic and Social Committee, the Committee and the Council are also expected to meet at the level of their respective presidents, as are the Presidents of the ESC and Coreper. In her capacity as representative of the Member State holding the Presidency, Françoise Giroud attended the opening of the new session of the Committee.

By virtue of the prerogatives of his office, the Council President signs the acts adopted by the Council and notifies Council directives and decisions to the Member States. In short, he is the Member States' link with the Council.

II. — Directing the Council's work

The Member State holding the Council Presidency has the power to direct all work undertaken by the Council by virtue of the technical contribution provided by the General Secretariat of the Council and because it chairs all Council working parties.

(a) Technical contribution provided by the General Secretariat of the Council

The Council Secretariat supplies its President with staff and equipment; the Presidency may avail itself, first of all, of the services of officials from the Council's Legal Service and Secretariat who provide assistance at meetings, produce minutes and carry out the research requested of them. A representative of the Secretariat sits by the President's side at all meetings and, for instance, drafts the President's papers and speeches. Once the President has been consulted, the representative also convenes meetings. However, all expenses pertaining to the Presidency are financed from the Council's budget.

(b) Presidency of the Council and of its working parties

Holding the Presidency of the Council means that the Member State concerned enjoys a number of prerogatives with regard to convening meetings, setting agendas and conducting debates.

In principle, it is for the President to convene meetings; of course, in most cases he will do so only if holding a meeting seems appropriate to its chairman. However, this power to convene meetings is dying out and survives only for the working parties, that is to say, at a level where its implications will be limited. Clearly, if the Member State holding the Presidency takes the initiative in convening a meeting, this only ever happens after much consultation. The remit of the President of the Council is established by the provisional rules of procedure; in theory, a session is held automatically on the first Tuesday of every month, and changes may be made only after consultation with the other Member States. Because of each Minister's obligations, more and more Council meetings begin on the Monday afternoon.

The same applies to the agenda: subject to the President's discretion in the working parties, it is submitted for approval by all the upper levels. All Coreper sittings and all Council sessions begin with the adoption of the agenda, at which time any Member State, and even the Commission, may ask for an item be included or withdrawn. Summit preparations take place in the light of many working meetings devoted solely to the drafting of the summit agenda.

By contrast, it is entirely the President's responsibility to steer debates, the effectiveness of which will, of course, depend on his personality but also on the importance that he attaches to the subject concerned. It is worth noting here that there may be some rivalry between the President and the Commission, the former sometimes divesting the latter of its power to submit proposals in order to search for a compromise; thus the strengthening of the powers of the European Parliament proposed by the Commission was adopted on the basis of a compromise proposed by the German Presidency.

III. — Administrative role

Although the Secretary-General appointed by the Council is at the very top of the hierarchy of officials of the Council and, therefore, the appointing authority and the disciplinary authority, it is, in fact, the President of the Council who is responsible for relations with the staff of the institutions as regards salary adjustments.

During the dialogue between the Council and the staff representatives, the first stage involves intervention by the President of Coreper, and the second stage — when the proposals are forwarded to Council level — involves intervention by the President of the Council. However, it should be noted clearly that Coreper and Council Presidents act on a mandate from their peers; the Council President may, at best, undertake a 'conciliation mission' in the event of disagreement.

Where the agenda of Council meetings includes items of interest to the staff, the session is generally preceded by talks between the President and the trade union representatives who express their views on the subjects to be debated by the Ministers.

Clearly, therefore, the Presidency is, on account of its remit, a significant instrument for directing and guiding the work of the Council for the Member State which holds it. However, there are limits to that power in terms of the resolve of the other delegations: too frequently, the Member States tend to use the prerogatives that they enjoy under the Presidency to achieve purely national objectives or, at least, to shift the Community position in their favour. But the Presidency also encourages compromise. Obviously, all the states accept those prerogatives in the knowledge that they will each be able to exercise them in turn, but then comes the realisation that the impact of the Presidency depends on the influence and dynamism of the country holding the office.

If it were to gain too much importance, that development might result in an inconsistently institutionalised Europe.

That system's other drawback lies less in the brevity of each Presidency than in the fact that the role is not personalised. Although most of the tasks fall to the relevant Foreign Minister, the President changes on the basis of the composition of each Council. As a result, a certain solemnity and representativeness are taken away from the office of President of the Council.

(1) Paragraphs 3 and 4, concerning the methods of cooperation between the Council and the Commission, of the Luxembourg Compromise.

(2) 'The Community shall establish close cooperation with the Organisation for Economic Cooperation and Development, the details of which shall be determined by common accord.'

(3) A meeting has already taken place between the Presidents of the Council, Commission, European Parliament and Court of Justice.