European Institute of Romania

"The European Council is the crisis manager par excellence of the European Union"

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Introduced in 1974, at the initiative of the then president of the French Republic, Valéry Giscard d'Estaing, the European Council was meant to offer a high-level setting for European leaders to discuss matters of continental importance. **How do you see the institutional development of the European Council over time?**

There were **three reasons for the creation of the European Council**. The first related to the growing consciousness of the leaders of their own status. The Paris and Rome treaties did not foresee any direct role for the Heads of State or government. But, as the European Community took on an increasing significance over the years, they felt that this was too important a development to leave it in the hands of their ministers. The second motivation was "thematic": after the failure of the European Defence Community in 1954, the Community had no competence whatsoever in foreign policy, security and defence. However, with a customs union and a common trade policy developing fast, the Europeans could not go on telling their foreign interlocutors that they were not able to discuss those issues. **The only way to overcome the dilemma was for the Heads of State or government (HoSG) to express joint positions outside treaty constraints** and in their capacity as leaders of sovereign countries. The third reason was institutional and political, i.e., the French considered that, at the highest level, there was a need for a political counterpart of the supranational Commission.

From day one, the EUCO became a key player in the Community. The reason for this is simple: when the HoSG of the Member States, plus the President of the Commission, state a position, this carries a big weight. The fact that the EUCO can talk about both Community business and national issues gives it additional political clout; you see this in a crisis like COVID-19, where you need EU action, but first and foremost national measures and decisions. The EUCO communicates via Presidency (today, EU) conclusions. **The latter are not legally binding, nor do they deal with legislation, but they shape the overall responses of the EU and its institutions.** Because of its intergovernmental nature and the absence of treaty rules, the EUCO meetings allow for a lot of flexibility and pragmatism. From the Single European Act of 1986 onwards, the treaties have "recognised" the existence of the European Council without changing its functioning and roles. **It is only with the Lisbon Treaty in 2009 that the EUCO became a formal EU institution.** But that treaty just formalises the practices that have arisen over the years.

However, it is innovative on two points: it introduces the role of a "permanent" (or rather full-time) President, and it limits the composition of the EUCO to the HoSG, the President of the EUCO, the President of the Commission, with the High Representative (HR) also participating in its works. Both measures have further enhanced the club-like nature of the EUCO meetings.

How did these legal provisions impact the institutional dynamics at the European level, especially those connected to the Council of the European Union and the High Representative of the Union for Foreign Affairs and Security Policy?

These legal provisions did not really alter the nature and functioning of the EUCO. It is true that the EUCO now has, like all the other institutions, rules of procedure that it must respect. They provide more transparency in its preparation and functioning, but in fact they just mirror past practices. The EUCO continues to do what it has always done: it sets the overall orientations of the EU, it states official positions, tasks the other institutions and the Member States with working on legislative and other matters, and sometimes arbitrates political debates within the Council of Ministers, when ministers fail to find common ground. Additionally, the EUCO is, of course, the crisis manager par excellence of the EU. In a time of crisis, what happens in a country is that the government takes responsibility and coordinates the urgent responses. In the EU system, there is no European government; **the EUCO is the closest we have to a form of collective governance**.

In your professional experience as a former Director General for General and Institutional Policy at the General Secretariat of the EU Council of Ministers, you have been closely acquainted with the work of the European Council. **Can you share some insights regarding some historical meetings of the European Council, such as those in Copenhagen (1993) or Thessaloniki (2003)?**

There have been very many "historical" meetings of the EUCO: Venice, in 1980, with a groundbreaking declaration on the Middle East and a call for a two-State solution; Fontainebleau, in 1984, sorting out the UK rebate; Maastricht, with the founding of the European Union and the decision to create a single currency; Copenhagen, in 1993, and Thessaloniki, in 2003, on enlargement; the dramatic meetings dealing with the subprime mortgage crisis and the Greek crisis between 2008 and 2014, etc. **[1]**.

But I will just pick out one of the last meetings at which I was present as DG in the GSC, the July 2020 special meeting on the COVID-crisis response. **It lasted five days and four nights, and it epitomised the nature of the EUCO**: a dramatic crisis; a need for decisive action both at the EU and the national levels; a succession of (7!) plenaries and countless side-meetings in all kinds of configurations; serious disagreements, but a will to find a common response in the end; and a historical outcome with a new Resilience and Recovery Facility (EUR 750 billion) at its core. It showed EU governance at its best. **[2]**

[1] An assessment of the key meetings of the EUCO up till 2015 can be found in "National leaders in the Making of Europe", written by General Secretariat members familiar with the European Council; Mr. Jim Cloos is one of the authors.

[2] A detailed account of this meeting was published by Mr. Jim Cloos, in 2023, at EGMONT.

Not long ago, the former prime minister of Portugal, António Costa, was elected the President of the European Council (PEC) with the prospect of holding the mandate for up to five years. **What can we expect in terms of leadership and general approaches in the years to come?**

I was pleased about the election of António Costa. He was at the helm of Portugal when it had to battle the aftereffects of the subprime crisis. He showed determination, skill, and a deep sense of pragmatism. I saw him in action during the meetings of the EUCO and liked his constructive approach to files. **During the July 2020 meeting, he was influential in bridging the gaps between the three camps in presence**: the so-called 'Frugal Four' (eager to limit EU expenditure), the cohesion countries (which wanted to preserve their structural funds), and the Member States that clamoured for a new fund for investment. His qualities will come in handy in his work as PEC. The President of the European Council is not there to "run" the EU. Neither he, nor the Commission President is the President of the EU. Moreover, the PEC is not there to impose "his" programme. His job is to run the EUCO, to organise the agenda, to supervise the preparations, to chair the meetings efficiently and fairly and help the leaders find common ground. He is also an important voice of the EU for the broad public and the outside world. **The EU is a sophisticated machinery, where no single individual or institution can do something without the cooperation of the other players.** Once you understand that, you can become highly influential because people will look to you to find solutions and settle the differences between the Member States. António Costa will have the trust of his colleagues; that is a huge asset.

In your paper co-authored recently for Egmont Institute, you argue that the institutions should focus more on improving EU governance and less on treaty change. In contrast, the re-elected President of the European Commission, Ursula von der Leyen, has stressed the need for treaty change, in the political guidelines shared before the Parliament. **How will this subject unfold in the next five years?**

I fully respect Ursula von der Leyen and the way she has steered the Commission over the past five years. She and the Commission are entitled to their views on treaty change, but this is primarily a matter that concerns Member States. Negotiations on treaty change take place in the framework of "intergovernmental" conferences, and there are good reasons for that. The "political guidelines" you refer to represent only a commitment on the part of the Commission. At this stage, most Member States do not believe that the EU should enter a treaty-changing process.

Just to be clear: I am not against treaty change as such. Of course, not; that would be unreasonable, especially because I have been involved, one way or another, in all the negotiations on treaty change, ever since I arrived in Brussels in 1985.

Between 1985 (Single European Act) and 2009 (Lisbon Treaty), the EU underwent repeated treaty changes. They were necessary. You cannot introduce extensive qualified majority voting, codecision, a single currency, new policies, etc. without modifying the treaties. But it seems to me that, after this long institutional "aggiornamento" [updating], the EU has reached a plateau from where it will be difficult, in the short term, to reach for new heights. In my view, the efforts in terms of resources, time and political capital needed today for a new major overhaul of the treaties would be disproportionate to the projected outcome. And the risks of initiating such a process are presently high, because of the immensely challenging international environment outside and the rise of Eurosceptic political parties inside. In fact, the EU has managed the existential crises of the past few years much better than expected, within the limits of the present treaties. It has shown resilience, flexibility, and innovation. For all these reasons, I think it is better, for the time being, to draw all the lessons from the past crisis management and to improve our governance system. I see enormous potential for progress here, as I have explained in a recent paper on governance published jointly by EGMONT and TEPSA. Advances made on governance will allow us to face the present challenges but will also open the way for possible treaty changes when the time is ripe.

Jim Cloos

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He retired from his job as DG for General and Institutional Policy at the General Secretariat of the Council at the end of January 2021. Between 2001 and 2006, he worked with High Representative and Secretary General Javier Solana on external relations.

From 1995 to 1999, he was Head of Cabinet to the President of the European Commission and the EU Sherpa within the G7/G8. Between 1993 and 1995, he headed the Cabinet of the Commissioner in charge of agriculture.

He worked at the Permanent Representation of Luxembourg from 1987 to 1992. He took an active part in drafting the Maastricht Treaty during the Luxembourg Presidency in 1991, before becoming Deputy Permanent Representative.

In 1983, he published, with Renata Fritsch-Bournazel and André Brigot, 'Les Allemands au cœur de l'Europe' (Fondation pour les Études de Défense Nationale, Paris). He is one of the authors of 'Le traité de Maastricht: genèse, analyse, commentaires' (Cloos, J., Reinesch, G., Vignes, D., Weyland, W.; Bruxelles: Bruylant, 1993). He is a co-author of 'National Leaders and the Making of Europe - key episodes in the life of the European Council' published by John Harper Publishing in 2015. He has written extensively on European issues.