
Politics and Diplomacy: Lessons from Donald Tusk's Time as President of the European Council

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Abstract

The 2020 COVID pandemic has posed an unprecedented challenge to Europe's economies, societies and political institutions. Finding solutions for the immediate and longer-term impact of the pandemic requires collaboration between the European Union's (EU) member states and leadership from their governments at both national and European levels. The President of the European Council is central to this process, as he leads and facilitates the collaboration between the heads of states and governments. Looking back at the lessons from Donald Tusk's time as President of the European Council from 2014 to 2019, this article argues that Tusk made an immensely important political contribution to the EU as he set the tone for a liberal and progressive agenda at a time of significant threat from populist and pro-Russian voices in Europe. However, with the recent political and institutional developments in the EU, and based on the insights from Mr Tusk's successes and challenges, the article also argues that the role of the European Council President today requires strong brokering skills and leadership behind the scenes more than an openly political and public figure.

1 Introduction

In 2014, when Donald Tusk was appointed President of the European Council,¹ the popular Prime Minister of Poland had the perfect profile for the job: As a progressive, liberal and outspoken Eastern European leader, his appointment was seen as a strong message to counter a growing populist rhetoric throughout the European Union. In particular, it was a clear statement of the EU's intention to protect democratic and

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¹ The European Council is the EU's most senior political institution and consists of the heads of states and governments from the 27 EU member states.

liberal values in Central and Eastern Europe at a challenging time. Internally, the EU was still grappling with the consequences of the Eurozone crisis years and a growing political fragmentation between and within the member states. Externally, the EU had to manoeuvre a number of volatile situations including its reaction to Russia's military intervention in Ukraine. Hence, Donald Tusk was chosen as the EU governments wanted to bring political visibility, leadership and direction to the EU's most senior political body, and to send a clear signal about the liberal, democratic values of the Union.

In this respect, Donald Tusk's appointment and his tenure as President from 2014 to 2019 have been a significant political contribution to the continued development of the European Union at a very critical time. Yet, lessons were also learned about the internal power balance between the President and the Heads of Governments, and the constraints that the presidency needs to operate within; Tusk did not always get this right. His successes and setbacks provide important insights for what lies ahead as the EU grapples with even great turmoil and uncertainties in the 2020s.

2 The Council President: Neutral Chair or Political Leader?

Donald Tusk succeeded the European Council's inaugural president, former Belgian Prime Minister Herman van Rompuy, who had been in the job from 2010 to 2014. While the European Council has had the presidency in place since 1975 on a rotating basis between the member states, it was only with the implementation of the Lisbon Treaty in 2009 that the presidency became permanent and – together with the European Council as an institution – became formally embedded into the EU's organisational structures.² Hence, having just one person preceding him in the job, the role of the European Council President was still very much 'in the making' when Donald Tusk came into post.

Herman Van Rompuy and Donald Tusk have approached the presidency very differently, and their differences in leadership reflect an inherent complexity in the job. The European Council President has to strike a delicate balance between taking political leadership for a shared European agenda at the same time as appearing as a neutral broker between heads of states and governments of the member states. The difficulty lies in knowing *when* and *how* to be either the convenor or the political director for the governments. Paraphrasing the words of a senior EU practitioner, 'the European Council presidency requires the appropriate persona for the appropriate crisis'.

For Donald Tusk's predecessor, Herman Van Rompuy, who has a background in economics and political experience from the highly complex Belgian political system, the natural leadership style was always that of an understated, but very skilled and

² For a brief overview, see European Parliament, 'Fact sheets on the European Union' (2020), available at <https://bit.ly/2G1o30B>; see also the full text of Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community, 13 December 2007, 2007 O.J. (C306) 1, available at <https://bit.ly/2Hy1Zs>.

competent facilitator. Throughout the economic and financial Eurozone crisis years, Van Rompuy worked tirelessly behind the scenes to coordinate and find compromise solutions between the European Central Bank, the heads of government and the other EU institutions. Van Rompuy never sought the spotlight or media attention even when great successes had been achieved under difficult circumstances. Instead, he often left the public presentations of political 'wins' to the member state governments and EU spokespeople. This disinterest in public appearance and political posturing, and his strong focus on the issues on the table, made Van Rompuy well respected by his colleagues at the most senior political level; he was never one to take their spotlight, but showed expertise and leadership in finding solutions. The media, on the other hand, was much less impressed by the understated diplomacy, and often characterised him as too weak and 'bureaucratic' as a leader.

In contrast, Donald Tusk was seen as someone who would come in to strengthen the connection to the public and invigorate the political drive in the European Council. Playing to his strengths, the conditions were also rapidly changing when Tusk took over the presidency in 2014: the EU's priorities shifted away from the immediate crisis management of the Eurozone to a stronger focus and action in foreign policy. Russia had embarked on its military intervention in Ukraine only in February that same year, so tensions were high in the EU's immediate neighbourhood. The EU member states also shared strong concerns about global politics more broadly, with Syria, the Middle East and the Ebola crisis in Africa as some of the most pressing issues in early 2014. It was against this changing political context, and with the endorsement from the other EU Heads of Government, that Donald Tusk started the job with a clear intention to play an active, visible and public role to help set the political direction for the EU's agenda.

3 Formal Powers and Informal Practices

Donald Tusk served as President of the European Council from 2014 to 2019 over two terms, as is set out in the Lisbon Treaty:³ a term is two and a half years, renewable once, and the first term coincides with that of the appointment of the other EU top jobs of European Commission President, the European Union's High Representative and the President of the European Central Bank. These are all nominated and decided upon as a 'package agreement' by the Heads of States and Governments at an EU summit following the European elections.⁴ The appointment of the President is therefore not

³ The tasks of the President are set out in Article 15(6) of the Treaty on European Union (TEU), OJ C 326, 26 October 2012, p. 13–390, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012M%2FTEXT> and further described in the European Council's Rules of Procedure of 2 December 2009, available at https://europa.eu/european-union/sites/europaeu/files/docs/body/rules_of_procedure_of_the_council_en.pdf.

⁴ For details about the appointments, please refer to European Council, 'The Role of the European Council in Nominations and Appointments' (last updated 30 January 2020), available at <https://bit.ly/3kIXlBl>. The President of the European Parliament is elected separately in the Parliament following the outcome of the European elections.

done in isolation, but happens with the objective to also strike a balance across the EU institutions with regards to representation of small/medium/large member states, North/South/East member states, gender and party political platforms.⁵

From the Lisbon Treaty and the European Council's Rules of Procedure, we can summarise the European Council presidency to include the following responsibilities:

- to act as Chair of European Council summits and meetings;
- to prepare and arrange the European Council agenda;
- to act as facilitator between governments;
- to be the external representative of the EU at the most senior political level.⁶

However, few details are provided in the rules of procedure and treaty texts with regards to how these responsibilities are in fact to be carried out. Hence, much is up to the person in the job to interpret and shape the role, and the experience from Van Rompuy's and Tusk's tenures in the job shows that the above parameters for the European Council President can result in a very expansive power base with great influence on the political agenda and on the legislative environment for the EU. Or, conversely, the lack of detail in the work description can also lead to a very constrained role where the capacity to influence and bring about policy change is limited. Both Herman Van Rompuy and Donald Tusk experienced periods of significant influence during their presidencies, while facing heavily constraining circumstances at other times.

It has been argued that the successes and setbacks of the two presidencies were in both cases connected to the fact that each one started off with crisis situations in areas closely related to the respective Presidents' personal expertise, and then moved on to a more diverse set of policy priorities as the presidencies progressed. As a result, member state preferences became more fragmented and both Presidents' political role became more diffused as time passed during both tenures, changing the opportunities for political agenda-setting and manoeuvring by the President.⁷ Yet, some caution is needed with regards to these conclusions. There is no doubt that the role of the European Council President is even more pronounced and essential to securing government agreements at the time of crisis than in 'non-crisis' scenarios. In fact, one can argue that the urgency of responding to successive and sometimes overlapping crises since 2008 has made the crisis management role the dominant function of the European Council and hence of the President over the last 12 years. However, it would be misleading to suggest that the President of the European Council is more constrained when it comes to influence on the political direction and outcomes of negotiations

⁵ European Council, 'Nomination Process for New Heads of EU Institutions in 2019' (last updated 16 June 2020), available at <https://bit.ly/3mWRlxQ>.

⁶ The external representation role is shared with the EU High Representative. The European Council President represents the EU at summits and in meetings with third countries at most senior political level. See European Council, 'The President's Role' (last updated 17 August 2020), available at <https://bit.ly/2S2T5Ys>.

⁷ European Parliament, *The European Council under the Lisbon Treaty: How Has the Institution Evolved?* (2019), available at <https://bit.ly/3cyT1sJ>.

outside of crisis management situations, or when several policy priorities are on the table and member states are not aligned. It would also be too simplistic to conclude that the President requires personal expertise in a particular policy area in order to facilitate successful consensus agreements. In fact, we know from a vast political science literature on (international) negotiations and bargaining that a Chairperson can have great influence on decision outcomes when policy-making is complex across several topics⁸ and negotiators differ in their policy preferences.⁹ Therefore, I will instead suggest to combine the observations from Tusk's and Van Rompuy's years in office with insights from classic negotiation theory and argue that the President's ability to determine the agenda and find political agreements in the European Council depends on three factors: (i) how divided the governments are over (a) policy issue(s); (ii) how salient the issue(s) are to the governments; and (iii) the rules and sequence by which negotiations are carried out.¹⁰

A successful European Council President is able to read and navigate all three of these factors. For the first two points, the President can help steer governments when they form opinions over policy outcomes in the context of Council negotiations. However, there can be limits to how much he/she can influence the governments' preferences, as these may be predisposed from the outset of negotiations and are rooted in national interests and politics. Therefore, the most important 'tool' for the European Council President is often the last of the three points: within the formal decision rules set out in the treaties, the President has much scope to arrange negotiation processes in a combination of formal or informal settings which can be enabling for deliberation and consensus building when necessary. The President may also organize the decision process to be either an entirely collective effort or more broken up and sequential in nature, when looking for most optimal outcomes for individual member states as well as for the European agenda collectively. So the European Council President can be immensely important and influential in this respect: understanding just how essential the sequence and the formal/informal organization of the decision process is, as well as his/her role as the navigator and facilitator of this process, is absolutely key to the President's success in European Council negotiations.

Yet, the organization and facilitation of decision processes is where Mr Tusk's tenure as President has in fact received most criticism. While being a strong political figure himself amongst the governments, and drawing significant authority from his personal leadership qualities and his political experience as Prime Minister of Poland, his negotiation strategy and work processes in the European Council were on a number of important occasions not seen as adequate and satisfactory to the member states. Several examples stand out: One senior practitioner present in European Council summits during Tusk's years as President has explained how Tusk was at times impatient and too strongly minded about a particular political position to act as facilitator and

⁸ Or in political science lingua: when it is 'multi-dimensional': see, e.g., R. McKelvey, 'General Conditions for Global Intransitivities in Formal Voting Models', 47(5) *Econometrica* (1979) 1085–112. doi:10.2307/1911951.

⁹ See, e.g., G. Tsebelis, *Veto Players: How Political Institutions Work* (2002).

¹⁰ These arguments draw on a vast political science literature going back to work such as Baron and Ferejohn, 'Bargaining in Legislatures', 83 *American Political Science Review* (1989) 1181.

broker between the governments. This was apparent with regards to issues such as the difficult negotiations over migration quotas, Nordstrom 2 discussions (which he is said to have kept off the agenda¹¹) or at key points during the Brexit negotiations. Especially Brexit brought President Tusk to speak out more candidly and more politically than was expected: in public remarks ahead of the June 2017 European Council, he expressed that he could imagine the on-going Brexit negotiations to lead to 'an outcome where the UK stays part of the EU',¹² at a time when this was far from clear to the majority of the governments. He also did not hold back on his personal opinion in February 2019 when negotiations with Britain were at a crucial point and he nevertheless wondered on Twitter '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'.¹³

Reactions from a number of governments and the other EU institutions have also been negative to some of Donald Tusk's internal presentations of policy priorities and decision outcomes, for example as laid out in his own 'Leader's Notes' which he introduced to help steer discussions at meetings. The criticism made it clear that President Tusk's tendency to express personal views on policy issues rather than act solely as chairperson of the European Council was on some occasions neither constructive nor welcome.

4 External Representation

The critique of President Tusk's handling of internal negotiations between the EU governments is an important lesson for the European Council going forward, but it does not take away from Tusk's significant influence and impressive defence of liberal and progressive rights and freedoms both in Europe and globally.

Formally, the European Council President's external representation role consists of participating in international summits, taking part in meetings with foreign Heads of State or Government and representative visits abroad. Hence, President Tusk represented the European Union at the G8/G7 and G20 summits and at the UN General Assembly meetings. He also chaired EU summits with third countries, such as the European Union–Ukraine summit (which he worked hard for), the Latin American and Caribbean States (CELAC) summit and the European Union–League of Arab States summit organized at the initiative of the European Council in February 2019. In his capacity as EU representative at this most senior global level, President Tusk spoke out about democratic freedoms and human rights on several occasions, even when EU member state governments did not dare to do so or were not able to for political reasons. A particularly courageous and forceful message was given in President's Tusk final speech to the UN General Assembly in September 2019 when he spoke out against populism and told leaders to stand up for democracy and international organisations set up to protect democratic values and peace, directly criticising US President

¹¹ European Parliament, *supra* note 7.

¹² <https://www.bbc.co.uk/news/uk-politics-40362594>.

¹³ https://www.politico.eu/article/__trashed-21/.

Trump who had endorsed nationalism and patriotism as the key to a better future in his address to the Assembly only two days before.

In sum, it seems fair to conclude that Donald Tusk's presidency of the European Council is best characterised as an important and influential 'activist' voice for democracy at an important time in European and global politics, while he has less patience for the diplomacy required for internal politics and negotiations between the EU governments themselves.

5 Conclusion: Further Volatility Ahead

After the two rounds of presidencies by President Van Rompuy and President Tusk, and an intense start for current President Charles Michel, it is by now apparent that the European Council President cannot take the bold, public leadership position that many – including Mr Tusk himself – assumed when he embarked on the job. The role, it is now clear, certainly requires political leadership and public flair, but in the current political climate the main task is the difficult issue of finding compromises and solutions between the EU governments. This responsibility has been further emphasised with the weakening of COREPER¹⁴ (the meeting of EU Ambassadors) in recent years, and the pronounced intergovernmental mode of governance across the EU in general. As a result, the European Council President is currently the most important actor when it comes to preparing consensus on highly political areas and finding spaces for compromise ahead of European Council summits. Although not a point we have been able to elaborate on here (but see the contribution by Daniel Sarmiento in this series¹⁵), it has also become clear how fundamental to the success of the European Council presidency the relationship with the European Commission really is. When the presidents of the two institutions work well together and connect their different power bases, they bring together different parts of the system and facilitate collaboration throughout all levels of decision-making. If they do not, the European Council President will find him/herself constrained in terms of resources and influence, and risk becoming merely a ceremonial figure for chairing the governments' meetings.

It is perhaps a sign of the political times that the current European Council President, Mr Charles Michel, is another Belgian Prime Minister with a political career characterised by coalition building and multi-stakeholder (as well as multi-lingual) politics. Also, President Charles Michel is known as a strong liberal and early on – before COVID-19 appeared – indicated the main priorities for his presidency to be transatlantic relations, trade and security issues. As such, his leadership – at this early point in time – appears somewhere in between the profiles of his two predecessors as he often refers to the need for consensus building and the political agenda set by the governments collectively, but also calls for the EU to play its part at the global stage, in

¹⁴ COREPER is the 'Committee of the Permanent Representatives of the Member States to the European Union'.

¹⁵ Sarmiento, 'The Juncker Presidency – A Study in Character', 31 *EJIL* (2020) 727.

economic and political terms. This has all quickly come to the test, of course: As Mr Michel took over from Mr Tusk on 1 December 2019, the immediate agenda was already packed with issues that go to the heart of the EU, including Brexit, the next EU budget for 2021–2027 and the fight against climate change. Add now also the ongoing COVID crisis, and there is no doubt that the European Council President is absolutely key to finding solutions which will impact the EU member states and Europe's citizens for many years to come.