## New Institutional Leadership in a European Council-centered Union: a new understanding of Commission leadership in major EU reforms

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## 1. Introduction

The European Union has been plagued by three existential crises in the past decade: the eurocrisis, the migration crisis, and the British membership crisis. To tackle each of these crises, far-reaching reforms have been adopted. While day-to-day EU decision-making is centered on the 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 (the Heads) within the intergovernmental European Council (EC). This type of issue is referred to as *Chefsache*.

Many scholars have claimed that the rise of EC-dominated governance has resulted in a decline in the role and influence of EU institutions, and the Commission in particular (Chang, 2013; Fabbrini, 2013; Hodson, 2013; Mény, 2014), and the adoption at crisis summits of reforms that were too little, too late (Fabbrini, 2013; Jones et al, 2016). However, summit diplomacy between the Heads is not enough to achieve meaningful reforms. What is also required is a process at lower levels that translates the broad priorities of the Heads into binding agreements in what we term the machine room.

A key point that has been overlooked in the existing 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 EC 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. While the Commission does not play a strengthened role on its own, it has adapted, and through new forms of inter-institutional collaboration plays a central role in shaping the major reforms of the Union in the past decade.

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 (the control room) performed by individual leaders like Angela Merkel. As a result, the literature has overlooked the critical leadership roles played by collaborative networks of institutional actors in the what we term the machine room, and how they link levels together. Through careful process management, drafting and linkage of levels, they have enabled more effective and ambitious reforms to be achieved. The strengthened role played by the EC in *Chefsache* is therefore *not a zero-sum game*, but has paradoxically also strengthened the role of EU institutions when they participate in collaborative institutional networks that link the control and machine room, and that provides instrumental leadership in the machine room.

In this article, we first develop a theory of *New Institutional Leadership* (NIL) that uses insights from principal-agent models to understand how crisis reform negotiations can be managed in the new institutional setting. This is what we term ‘new institutional leadership under a veil of intergovernmentalism’ (Smeets, Jaschke, and Beach, 2019).

The article then uses evidence we have collected for a series of cases of major reforms in dealing with each of the three major crises to engage in a comparative and competitive theoretical test of our theoretical model and two competiting alternatives: liberal and new intergovernmentalism. Both approaches would expect that crisis reform negotiations would be dominated by governments, whereas our approach suggests that while this might hold as regards the broadest contours of agreement (e.g. getting a balanced budget rule), when we look below this tip of the iceberg, we find a more institution-driven processes and outcome in which the Commission plays a key role.

## 2. Theory - leadership in the new institutional context

This article develops a new understanding of institutional leadership in the new EC-centered mode of governance that has developed to deal with major reforms during crisis in the past decade. Our core contention is that, if we take institutional action channels seriously, the rise of the EC has *strengthened* the role played by EU institutions in major reform negotiations.

Before we develop our model and competing explanations of the implications that the rise of EC-centered governance have had for the prospects of institutional leadership, it is important to note that many conceptual and historical analyses of leadership, both within and beyond the EU, start from a rather ‘heroic’ notion of leadership and what it can accomplish. In EU studies, leadership is often equated with supranational entrepreneurship, meaning the ability to act as the ‘engine’ of European Integration, of the kind supposedly provided by Jean Monnet or Jacques Delors. In studies on institutional leadership, this resonates with the concept of ‘transforming leadership’ (Burns, 1978: 20; see also Ross and Jenson, 2017: 119-120; Tömmel, 2013: 791). This heroic notion of leadership continues to play a dominant role in assessments of current Commission leadership. Whether and why Presidents Barroso and Juncker were trying ‘to do a Delors’ remains though a puzzle. Was it hubris, out of a sense of duty, or instead a mainly symbolic attempt to appease outside observers and MEPs that they were fighting the good fight? Whatever their reasons, this ‘great man’ type of leadership - which is one of the types of entrepreneurship identified by Moravcsik (1999: 277) - has always been something of a straw-man. It requires institutional leaders to be exceptionally skilled, ingenious and more visionary than national leaders, which makes them able to find creative solutions early in a negotiation process, and subsequently able to steer the solution through intergovernmental negotiations, making sure essential elements remain intact. It also makes heroic assumptions about the willingness of governments to delegate the required authority to a supranational agent.

Most observers seem to agree that, within the EU, it is hard to find examples of successful ‘transforming’ or ‘visionary’ institutional leadership (Moravcsik, 1998, 1999; Beach, 2005; Hodson, 2013: Peterson, 2015). It is also clear that in the post-Maastricht era, the possibilities for providing such leadership have become even smaller. The current literature, specifically new intergovernmentalism, and the arguments about core state powers and the failing forward thesis, all hint at the fact that institutional leadership is ‘constrained’ by the fact that EU reform negotiations now touch upon very salient and politically sensitive issue areas, such as fiscal or migration policy (Bickerton et al, 2015; Genschel and Jachtenfuchs, 2014; Jones et al, 2016). The most prominent development of the past decade, the rise of the EC in EU reform negotiations, is therefore widely seen as a reaction to the increased sensivity of the issues; what are often termed *'Chefsache'*. The rise of the EC and its consequences is at the core of the new intergovernmentalism approach (NI), to which we will return below. What the different intergovernmental perspectives – liberal and new - have in common is that they theorize a very restricted role for Community institutions in major reform negotiations.

### A theory of new institutional leadership and its rivals

Moravcsik in a recent article claims that 'Few scholars or commentators still contest LI's ability to explain the past...PF and HI rely on LI for essential micro-foundations of national preference formation and decision-making, without which they would remain indeterminate...' (2018: 1658). Putting aside the fact that numerous empirical and theoretical accounts of past treaty reforms directly contradict Moravcsik's claims,[[1]](#footnote-1) his claim that there are no alternative theories of decision-making that have convincing micro-foundations is blatantly incorrect. In particular, principal-agent (PA) theorization applied to the new institutional context of reform negotiations offers an important corrective to LI's account of decision-making. In Moravcsik's account, transaction costs are low relative to the gains of co-operation, meaning that negotiations can be treated as *relatively* neutral transmission belts in which it only is actor power based on dependence of a deal that shapes processes and outcomes. In contrast, PA approaches suggest that transaction costs are higher than LI claims. For example, for obvious reasons, not every delegation can hold the pen, but delegating this function to an actor like a national presidency or the Council Secretariat can result in delegation costs due to institutional positions (Tallberg, 2006; Beach, 2004). Moravcsik's approach is also blind to the impact of how delegation of institutional positions can matter because he developed his theory as a ph.d. student of Keohane *before* the institutionalist turn of the mid-1990s, when PA approaches were mainstreamed into the study of international institutions and the EU (e.g. Pollack, 1997).

Our claim is that drawing on PA micro-foundations, our theory of new institutional leadership (NIL) can better account for the leadership dynamics of the negotiations of crisis reform negotiations in the past decade than LI or NI, as it sheds light on the new roles played by institutional leaders at lower levels of negotiation that are overlooked in existing research because they have been focused only on headline-making events in the control room (NI), or discount negotiation processes (LI). In the following, we first develop the NIL model, followed by a short description of the key points of contention with two alternative approaches: LI and NI in order to enable a competitive theory test.

### New Institutional Leadership (NIL)

The starting point of the NIL model is the use of new institutional action channels to negotiate major reforms due to the sensitivty of the issues being negotiated. In this new system of EC-centered governance, negotiations about reforms now effectively take place at two, rather detached, levels. The first is the control room level, which refers to the Heads of State and Government (and sherpa) level, where the Commission is represented by its President, and the meetings are chaired by the permanent EC President. The second is the machine room level, which refers to the regular action channels for dealing with EU policy reform, the Council of Ministers, Commission (cabinets and services) and the EP, and where member states are represented at the ministerial, ambassadorial and civil servant level.

Given the sensitivity of the issues in crisis reform negotiations, the Heads have to be closely involved. However, if we realistically assume that there are high transaction costs of finding and agreeing on a mutually acceptable deal in complex issues like banking union or the EU Turkey deal, the Heads cannot negotiate agreements amongst themselves, creating the need to delegate leadership functions in the form of drafting and process-management tasks to lower-levels (the machine room).

The EC does not have its own machine room, nor is it sufficiently anchored to the existing machinery except through the office of the EC President - who has a small cabinet and little administrative support - for it to effectively maintain overall guidance of machine room processes. In previous rounds of treaty reforms using major IGC’s, this crucial linkage role would be fulfilled by the rotating Presidencies, which would chair and manage the meetings at both levels and was thus able to provide the link between the two. In the post-Lisbon inter-institutional set-up, the EC President is not part of/represented in the machine room proceedings, and the rotating Presidency has no role in the control room. Now, as insiders note, control and machine room proceedings tend to take place in ‘different layers of the atmosphere’, which creates a strong demand for linkage.

The distinct lack of an actor that can manage machine room negotiations (drafting texts, managing the process) while at the same time providing linkage that enables the Heads to maintain overall control therefore created a *delegation dilemma* for the Heads. On the one hand, significant authority needed to be delegated to an agent (or agents) to supply leadership in the machine room. At the same time, the sensitivity of the issues involved meant that the Heads had strong incentives to maintain control over the activities of agents. Yet if there was too much control, this could have prevented the agent(s) from having sufficient leeway to enable the functional benefits of delegation to be realized (Delreux and Adriaensen, 2017: 5). We hypothesize that a solution has evolved through a series of crisis reform negotiations in the past decade, where the Heads *informally delegated* authority to a *collaborative* *network* of EU *institutional* actors tasked with doing whatever it takes to get the job done.[[2]](#footnote-2)

The Heads could have delegated authority to one of their own. Yet while a large administration like Germany might have had the requisite legal and substantive expertise to come up with suggestions for solutions in the machine room, they would not be trusted by others to draft texts, to provide the process management tasks required in the machine room, nor to link levels together. The Commission has the requisite expertise and ability to link levels together, but would also not be trusted to perform these tasks by themselves. Therefore, responsibility for performing the critical leadership tasks in the machine room and linking levels together was informally delegated to institutions collaborating together, with an initial informal mandate given to the EC President, who through his cabinet was able to link with key Commission and Council Secretariat officials, who then performed drafting and process management tasks in the machine room.

The *informal* nature of delegation by the Heads meant that it can be easily revoked by the principals in the control room, thereby reducing potential delegation costs. The provision of instrumental leadership in the machine room by institutional actors is contingent on the continued political support and commitment from the Heads, meaning that agents have strong incentives to not stray too far from general instructions (Emerson et al, 2012: 9). In principal-agent terms (Hawkins et al, 2006: 8), the actual grant of authority by the Heads is relatively large, which means that the collaborative network as an agent has a relatively large degree of *discretion*. However, because the authority can easily be revoked due to the informal nature of the mandate, the collaborative network has a lower level of *autonomy*. At the same time, the diverging preferences of the collective principal and the complexity of the issues make it more difficult for the Heads to detect unwanted actions by their agents. This means that significant delegation costs are still theoretically possible.

We hypothesize that *collaboration* between institutional actors was required because there was not a single institutional actor that could provide both the legal and substantive expertise to draft texts, the process management skills to manage machine room processes, and to link levels together while at the same time being trusted by the Heads. There is therefore a form of task interdependence because individual agents are unable to provide all of the relevant functions by themselves that are required to solve the key collective problems in negotiations (e.g. Ansell and Gash, 2008). In this type of situation, a form of problem-focused collaborative network can emerge in which actors across institutional levels and boundaries cooperate in delivering the required leadership tasks – termed collaborative governance in the literature (Emerson et al, 2012; Ansell and Gash, 2008).

What are the effects of institutional leadership according to the NIL model? Crisis reforms are different from ‘regular’ treaty reforms in that they require two things: an immediate (or at least short term) response and a ‘broader’ or ‘comprehensive’ reform. Crisis reforms are, in that sense, different from immediate crisis *measures*, such as providing an emergency loan or operational support to a country in trouble. There is a need to go beyond the existing framework for finding a sufficient answer to the current challenge. There are those who claim that everything that the EU came up with during the successive crises was ‘kicking the can down the road’ or ‘too little too late’ (Jones et al, 2016; Menz and Smith, 2014; Mody 2018).

For the five major reforms that we are dealing with here, this is simply not true. The Fiscal Compact might be partly a symbolic gesture to appease German concerns about fiscal profligacy. But the deals on the ESM, banking union, EU Turkey deal and UK re-negotiation were all innovative and far-reaching. The ideas and information that was lacking were about what kind of EU level solutions would be possible (‘allowed’), legally and substantively, and feasible (meaning within a short time frame, without requiring lengthy processes of consultation and ratification). The institutions had superior expertise - not in fleshing out what member states interests were and how these could be aggregated into an EU level solution - but instead in figuring out what an EU solution could look like that would be acceptable within the broad contors of what the Heads could accept. However, within these broad contors there was considerable leeway in skewing outcomes towards more ambitious reforms than governments left to themselves would have agreed upon.

In the NIL model, it is not the institutions that initiate in the classic sense of the supranational entrepreneur as policy initiator at EC level, but it is rather the Heads in the control room that decides on the broad contours of a solution. The institutions, however, *lay out the tracks* of the negotiations, both in the control and in the machine room. As will become clear, they often do this already before the control room negotiations actually started, providing the tentative outlines of what a solution could look like and how to get there. Building on PA theories, we should expect that delegating powers such as holding the pen (Beach, 2005), and process-management functions in the machine room (Tallberg, 2006), can enable the collaborative network to shape the path along which negotiations proceed, thereby increasing delegation costs. This can be achieved by tabling early drafts that lay out the parameters for debate during a negotiation, and managing the process to ensure that the draft is the focal point for further debates.

Process-management activities by the collaborative institutional network can also *shield negotiations* from strong domestic political pressures that could make it more difficult to find and agree on compromise solutions when dealing with very sensitive issues during a crisis (Kleine, 2013; 248). As an example of shielding, the collaborative network can decide that meetings in the machine room do not involve the line-by-line discussion of texts. Instead, the collaborative network could table complete draft texts followed by minimal debate, thereby limiting the input from national representatives. The granting of discretion to the collaborative network that enables them to shield the negotiations can be seen as part of a broader empowerment of chief executives vis-a-vis other ministers in the executive and national legislatures (Johansson and Tallberg, 2010). In the machine room, portfolio ministers and their representatives typically defend the positions of both ‘their’ ministry and home country, and lack the political clout to make compromises on very sensitive issues, both of which can result in lowest-common-denominator dynamics. In contrast, chief executives tend to have a broader picture, which enables them to sacrifice particular national priorities in the interests of a broader political compromise at the EU-level. By shielding crisis reform negotiations from extensive input from national officials, more ambitious reforms are possible. However, it also reduces the ability of the Heads to scrutinize the leadership activities performed by the institutional network, potentially increasing delegation costs.

Finally, we should expect that the collaborative network would be able to *supply creative fixes that would elude other actors*. This can be expected for several reasons. When the Heads informally delegate authority to manage the reform process, the collaborative network in effect becomes the central node in the negotiations. Here we can expect that the EC President talks to the Heads, his cabinet officials talk to the Sherpa’s assisting the Heads, and Council Secretariat officials informally discuss affairs with national civil servants. This interaction gives the network exclusive information on areas of possible compromise and key red-lines. Combined with the substantive and legal expertise at the disposal of Council Secretariat and Commission officials, and the drafting expertise of the legal services of both institutions, the network can be expected to be able to formulate creative fixes on key issues that would elude other actors. However, this can also potentially increase delegation costs because it creates strong informational asymmetries.

### New Intergovernmentalism (NI)

If there had there been *no* gaps, meaning that the Heads and rest of machinery worked together seamlessly, there would be no need/room for new forms of institutional leadership. This would be the case if the leaders were able to come up with a detailed solution themselves, so that there was no need for leadership (new ideas/information) from the institutions, but just a need to carry out orders. This is the story of EU crisis management of the past decade from the perspective of NI theories, in which intergovernmental coordination between the Heads has replaced the Community Method as the central node of the decision making (Puetter, 2012; Fabbrini, 2013; Bickerton et al, 2016). EC-level deliberation enables the Heads to insulate themselves from domestic constraints (Puetter, 2012: 165). In NI, the Heads themselves and their Sherpas are able to provide the leadership tasks, in no small part through crisis summitry, in which the role of the institutions has been subdued to mere neutral facilitation.

The EC-focused view of EU decision making in NI is reflected in the recent BBC series on the three crises: ‘*Inside Europe, ten years of turmoil’*, in which the basic message is: if you want to understand EU crisis decision-making, you can safely focus on the statements and actions of the political leaders, the German Chancellor and French President in particular. The crises required political leaders to think and act ‘outside of the box’. This meant willingness to consider solutions that were unaccounted for in the treaties, or that stretch the bounds of what is legally possible, thereby also requiring significant political clout/capital to agree upon. Successful ideas tend to have many fathers, so it will often be difficult to determine which national representation or institutional actor was the first to suggest something, like a ‘banking union’ or a ‘one-for one trading of refugees’. But it is the Heads that turn these ideas into solutions. The role of the institutions is primarily to facilitate the negotiations of the Heads, and to follow up on their instructions. NI assumes that the institutions have a limited mandate for carrying out specific tasks, they therefore have limited opportunities to provide their own steer on things. If they take it too far, they might be superseded by another ‘de novo body’, or by direct interventions by the Heads (e.g. Puetter, 2012: 170). The influence that institutions like the Commission can have on the course and outcome of the negotiations is therefore limited. Obviously they can still try to nudge the outcome in a particular direction, for example one can expect that there might be some Commission fingerprints in an NI interpretation of banking union given that it involved the use of secondary EU legislation (Howarth and Quaglia, 2015). But these are limited to relatively minor efficiency gains, whereas the member states (united in the EC) are both the architects and the engines.

### Liberal Intergovernmentalism (LI)

A LI perspective is less top-down and less focused on the Heads. At its core, LI envisions intergovernmental negotiation processes in which transaction costs are low relative to the gains of cooperation, meaning that process-related factors like the delegation of institutional positions do not matter (Moravcsik, 1998, 1999). Governments are expected to have incentives, and the required expertise and resources, to design proposals, initiate negotiations, identify possibilities for joint gain, and reach compromises. Given that transaction costs are low relative to gains, LI assumes that member states are able to easily keep control of crisis reform processes, and LI would not expect there to be significant bottlenecks or information asymmetries between the Heads and the national representatives (ministers, ambassadors, civil servants) in the machine room.

At both levels, member states are well aware of their national interests. Moreover, the Heads are clear about what they want the machine room to do. In that case it would be member states representatives in the machine room (Council) that could steer, or at least maintain strict control over, the machine room proceedings. Solutions are primarily developed in the machine room, building on input provided from the domestic level instead of above (the EC). The ideas and information that are scarce, according to LI, are ideas and information regarding member states’ interest, which in rare circumstances can make it difficult to locate a potential zone of agreement (e.g. in the 1985 IGC). The advantage that the institutions have, in advancing technically complex packages of EU level solutions through policy initiation, mediation and are, are considered to be redundant because there are so many potential leaders.

### Competing process-level hypotheses

A test of the conjectures of the NIL model can be done by juxtaposing them with the expectations of competing theories. Note, these hypotheses concern the provision of leadership in reform negotiations. They are not hypotheses about what explains the overall outcome.

To prevent straw manning LI and LI, it is important to note that neither theorizes that the institutions are completely irrelevant. Moravcsik refers to institutional interventions as ‘late, redundant, futile, and sometimes even counterproductive’ (1999: 270). Proponents of NI are less explicit about this new role of the EU institutions, other than noting that the institutions act more ‘pragmatic’ and ‘strategic’, and willing to establish close working relationships with the EC and the Council (Eurogroup). This forces us to infer quite a lot about the role and influence of the institutions from their general statements. However, if the terms ‘new’ and ‘intergovernmentalism’ are to mean anything, we should expect that intergovernmental actors are the ‘senior’ partners in this new inter-institutional set-up and that there is some inter-institutional rivalry between the traditional supranational institutions and the ‘de novo bodies’ that are instead mandated to carry out specific tasks, which limits the role and influence of the Commission (and EP, CJEU).

The first part of the causal process is testing whether there was a gap between the control and room, and the level at which key solutions were formulated and agreed upon. The second part assesses what leadership functions are required and who can supply them in the new institutional context. Finally, we develop hypotheses detailing the expected effects of leadership.

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|  | **Process level hypotheses about strengthened role of European Council for major EU reforms** | | |
| **Is there a gap?**  **Level at which solutions are developed** | **What are the leadership functions required and who can supply?** | **With what effect?**  **What is the role and effects of the provision of leadership in the process?** |
| **Liberal intergovernmentalism**  **(LI)**  **(Redundancy)** | **No real distinction,** given that negotiation processes are **not** theorized to matter because there are low transaction costs relative to the gains of cooperation. | **Initiation** (supply of proposals) and **mediation** required at **all levels**. The most interested **governments initiate and mediate,** assisted by **national Presidency** (pre-Lisbon), and **Council Secretariat.** | **Negotiations are inherently efficient**. **No effect** of interventions by institutions. |
| **New intergovernmentalism (NI)**  **(Facilitation)** | **No gap.** The **Heads in the control room decide on the key features of solutions themselves**, in a process of intergovernmental coordination, using input from Sherpa level. | **Political leadership** in the CR, in particular **deliberation** between the Heads important to reach consensus. **The Heads** and their closest assistants supply leadership. | **Institutions** can **chair, facilitate** and provide **follow up**. Institutions have **limited mandate** to carry out tasks, acting as rivals.  **Minor efficiency gains** result from their ability to carry out the orders of the Heads in a way that fits with institutional preferences. |
| **New institutional leadership**  **(NIL)**  **(Informal delegation to collaborative institutional network to manage negotiations)** | **Large gap between control room and machine room.**  **Control room** provides **overall direction** for negotiations, but **most decisions taken at machine room** level, **translating broad guidelines** from Heads into solution. | The Heads supply political leadership in the control room, but **informally delegate authority to institutions to manage machine room negotiations**, including drafting and process management tasks, and to **provide linkage between levels**. | Activities of collaborative institutional network **lays out the tracks, shields negotiations, and supplies creative fixes** to otherwise intractable problems.  **Efficiency gains *and* distributional consequences**. Within the broad outlines defined by the Heads, institutional network determines key features of the solutions. |

Tabel 1 - Competing process-level hypotheses

**Empirical analysis**

This article is first and foremost an attempt to draw comparative theoretical lessons, evidenced using published (or soon to be published) studies of episodes of important reforms stemming from each of the three crises (Nielsen and Smeets, 2018; Smeets, Jaschke and Beach, 2019; Smeets and Beach, 2019a, 2019b; Beach and Smeets, under review) based on research using a wide range of sources and unprecedented access to primary sources and participants conducted over the past four years.

For the eurocrisis, we investigate the negotiation of the Euro Plus Pact, ESM, Fiscal Compact and banking union. For the migration crisis, we investigate the EU Turkey deal, whereas for the British membership crisis we investigate the re-negotiation of their terms of membership in 2015-16. Within the confines of this article, we obviously cannot provide an in-depth process tracing analysis of all cases. Instead, we focus on testing in which direction the empirical evidence points as regards the three competing sets of process-level hypotheses. In appendix 1, we provide short descriptive summaries of each of the cases.

### Level at which solutions are found

What does the evidence tell us across the cases? In most of the crisis reforms, while the control room level formally initiated reform negotiations, the bulk of negotiations were dealt with at the machine room level. In the ESM negotiations, while the temporary EFSF was the product of crisis summitry in which member states representatives – notably Maarten Verwey – played a crucial role in determining the terms and conditions (Ludlow, 2010; Bastasin, 2016), the negotiation of its permanent successor - the ESM - was far more a bottom-up, machine room-centered process. Here, the Heads – specifically the German Chancellor – provided the overall impetus, primarily confirming the need for a permanent fund. But critical decisions relating to what this fund would come to look like (in terms of size and scope) were shaped by institutional actors in the machine room (Smeets, Jaschke and Beach, 2019). The main action channels through which they operated were the task force on coordination action (TFCA), the Eurogroup Working Group (EWG) and to a lesser extent the Eurogroup. While these were intergovernmental bodies, the Commission services from DG Ecfin provided most of the input. Significantly, they were not just Commission notes but were instead tabled as proposals from the chairs - naturally in cooperation with them

In the negotiation of the Fiscal Compact, the process up until the EC Summit of December 2011 seemingly fits with the conjectures of LI and NI. The Franco-German letters of 4 February and 17 August about a balanced budget rule set the stage for – and provided the broad outlines of – subsequent decisions by the Heads. Commission President Barroso was, in fact, so unhappy with it that he instructed Marco Buti and his staff in DG Ecfin to immediately start working on an alternative reform package - the two-pack. But in this first phase, most critical decisions were nonetheless taken at the machine room level, where institutional actors from the EC President’s cabinet and Council Secretariat Legal Service attempted to prepare a draft that translated Franco-German ideas into treaty texts (Smeets and Beach, 2019a).

For example, while following the German line on the broad contours of creating a balanced budget rule, the letters were very vague regarding how to define key terms like 'balanced budget', and they were silent about how it would be enforced. In contrast, the first Council Secretariat draft defined the rule according to existing EU law provisions in the Stability and Growth Pact, and fleshed out a workable enforcement mechanism. Even more importantly, the officials also quietly decided which Franco-German reform priorities were *dropped* from the package, like the idea to oblige member states to undertake structural reforms or to use structural and cohesion funds to support such reforms.

The initial draft suggested using a *passerelle* clause in Article 126(14.2) that allowed for minor amendments by a unanimous decision of the Council. This idea was vetoed by the German government, who felt it was too weak. Instead, they suggested going for full-fledged treaty revision using Article 48 EU. This episode and the events in the control room around the December 2011 EC Summit - in which the decision was made to go for an intergovernmental agreement (IA) instead of treaty change due to British blockage - accords more with LI and NI expectations. However, after this short intermezzo, the process returned to the machine room level to flesh out how the budget rule could be incorporated into the EU through an IA. Here successive drafts were prepared and discussed in the machine room with little input from the Heads - and indeed little input from government representatives themselves - until the final approval by the Heads in a January 2012 Summit.

In the negotiation of banking union, given that most of the elements involved secondary legislation – with the exception of the Single Resolution Fund that also included an IA – solutions were formulated and decided in a machine room process in which the Commission had the right of initiative (Nielsen and Smeets, 2018). Institutional leadership also provided the key conduit linking the levels together, calling on the Heads to back the initiation of particular elements (in particular the December 2012 decision to welcome a Commission proposal for a single resolution mechanism), and in encouraging rapid progress in the negotiations of legislation in the machine room (e.g. the Single Supervisory Mechanism).

Some scholars claims a more prominent role for the Heads in the process, in particular in deciding to launch banking union as a package at the Euro Area Summit of 29 June 2012 (cf. Howarth and Quaglia, 2015: 152). However, it is highly doubtful whether the Heads were aware of the fact that they had launched banking union in June 2012 (Nielsen and Smeets, 2018: 1240). At the Summit, the member states’ focus was on recapitalization of Spanish banks via the ESM. As a requirement, the German Chancellor requested some form of common supervision of these banks, resulting in an invitation by the Heads for the Commission to come up with proposals. During the process, it was the Commission’s road map from September 2012 that fleshed out which elements were to be included in banking union, with the Heads only able to block the inclusion of particular elements like a common deposit scheme.

The EU Turkey deal nominally looks like a control room-driven negotiation because it was frequently high on the EC’s agenda between October 2015 and March 2016. In this period, Chancellor Merkel chose to organize four additional mini-summits (25 October, 29 November, 17 December and 16 February) on migration. Still, it was *not* the control room that decided the main features of the EU Turkey deal (Smeets, Jaschke and Beach, 2019). The ideas and impetus came from the European Commission at lower levels. While a lot of emphasis has been put on the turf battles between Commission President Juncker and EC President Tusk, the real key to success was effective inter-institutional cooperation between the EC President’s cabinet and the Commission at the machine room level. Due to its nature, the process had to be EC-based, but it required extensive input from the Commission on the issues of funding, visa-liberalisation, accession, and (additional) resettlement.

In the UK renegotiation case, with the exception of the endorsement of the opening of a process by the Heads in June 2015 and the tweaking of several provisions in the final EC summit in February 2016, almost all of the drafting and process management took place within an informal network of EU institutional officials (Beach and Smeets, under review). The solutions were not developed at control room level. Most of these issues were clearly too technical to be dealt with at the EC level, providing the EU institutions with a natural advantage because figuring out what could derogations could be legally offered to the UK required intimate knowledge of many aspects of EU law, and substantive knowledge on many different domains that needed to be integrated into one text, thus favouring the Council Secretariat (legal feasibility) and Commission services (substantive input). All drafts were prepared internally by the institutions, before they were discussed with their British interlocutors. The EC President ensured that the Heads were informed of progress in the run-up to the December 2015 EC Summit. But most importantly, almost all solutions were developed within the informal network of institutional actors collaborating with each other (Beach and Smeets, forthcoming).

The obvious exception to this pattern of machine room decision-making is the Euro Plus Pact, in which the Heads attempted to negotiate a complex reforms on their own without any meaningful process in the machine room. Instead of a full preparatory process in the machine room, Merkel and Sarkozy tried to craft an agreement amongst the Heads themselves, showing up at a EC Summit asking for strengthened structural reform measures (see below for more).

### Leadership functions required and who supplied leadership

What does the evidence suggest? Overall, LI and NI are correct in claiming that political leadership was required in the control room when dealing with major reforms, and that it was supplied by governments. However, this is only the tip of the iceberg. Given that the bulk of work is done in the machine room, instrumental leadership in the form of drafting of texts and process management *and* linkage between levels was also required.

Here we investigate the evolution of informal delegation to a collaborative network of EU institutional actors developed to manage machine room processes and provide linkage with the Heads. When the focus of the euro-crisis moved from dealing with immediate crisis measures to thinking about more long-term reforms, using formal reform processes involving full-fledged IGC's was never seriously considered. Instead, new, more informal methods for engaging in major reforms evolved, naturally centered around the EC given the sensitivity of the issues. After the debacle of the Euro Plus Pact in early 2011, the Heads recognized that meaningful reforms required that a machine room process was coupled to their deliberations. In order to avoid creating a completely new institutional framework, the substance of major reforms were negotiated using the existing institutional framework from daily EU law-making, adapted to an EC-dominated format using informal, ad hoc procedures that were critically dependent on informal collaboration between institutions to provide instrumental leadership in the machine room and linkage with the Heads.

The seeds of institional collaboration can be traced back even earlier. At the same March 2010 summit in which the first Greek rescue package was agreed, the new EC President was provided with a mandate to set up a taskforce to discuss longer-term reforms of EMU. This role, and the cooperation within the taskforce between the institutions, created a precedence for the EC President to act 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 the 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 EC President (Ludlow, 2010, pp. 53-55).

New informal modalities were subsequently developed to deal with the negotiation of the ESM and the Fiscal Compact. Both issues were dealt with through *intergovernmental agreements* (IA’s) outside of the normal Community decision-making framework. In both reforms, the complexity of the reforms required extensive preparatory work and negotiation in the machine room. 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. The Heads endorsed ideas developed in the machine room, and provided political momentum. In both cases, extensive informal collaboration developed between the EC 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 that LI would expect. 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.[[3]](#footnote-3)

In the spring of 2012 there was renewed momentum for reforms created by the dire situation of Spanish banks, which were in need of 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 EC 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..’[[4]](#footnote-4)

A first draft of the report was presented already at the June 2012 EC Summit. The EC President 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 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. 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).

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 (Commission and Council Secretariat), 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 a banking union package 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, machine room negotiations took place using the existing institutions, illustrating 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; 2013c: 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 (REFERENCE REMOVED). 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.

In 2015, informal EC-dominated crisis governance methods that had evolved to deal with the eurocrisis were deployed to deal with two new problems: the migration and British membership crises. In the case of the migration 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, Jaschke 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, Jaschke and Beach, 2019). The process was overseen by an informal co-operation between three high level officials who spanned the institutions (Piotr Serafin (EC President Tusk's chef de cabinet), Jeppe Tranholm-Mikkelsen (Secretary General of the Council), and Martin Selmayr (Commission President chef de cabinet). However, in the negotiations as such, Timmermans was in the lead, working in tandem with EC President Tusk.

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, Jaschke and Beach, 2019).

Similarly, in the British membership crisis, the heads informally delegated significant authority to institutional actors – led by the EC President – 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 EC Summit, an institution-led process involving an informal network of high-level officials spanning the EC President’s cabinet, the Council Secretariat and the Commission started working to figure out what concessions could be given to the Brits.

### What role did EU institutions play and with what effects in the crisis reform negotiations?

As discussed above, there was no meaningful machine room process in the Euro Plus Pact. While the EC President’s Cabinet and Council Secretariat were willing to provide some support, 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.[[5]](#footnote-5) In their view, the Pact only replicated what they were *already doing*, as part of the monitoring cycle of the European Semester.[[6]](#footnote-6) This reticence then led Merkel to push the reforms through the European Council, attempting to provide the leadership required together with France in drafting the Pact.[[7]](#footnote-7) Not surprisingly, given that they neither had the expertise of EU-level solutions nor the trust of other governments, the final Pact was a handful of symbolic, non-binding measures that was quickly forgotten.

In the ESM case, the institutions were not just providing the follow up or carrying out the instructions of the Heads. They were instead laying out the tracks along which the decision making by the Heads would later proceed, contrary to what we would expect in both LI and NI. The most telling evidence for this is the temporal sequence of events. The machine room started working on the issue of size (paid in capital and overall lending capacity) and scope (instruments or activities that the fund was allowed to engage in) of the fund already in the beginning of 2011, *without* an explicit mandate from either the Eurogroup or EC. The fund was originally intended just to provide emergency loans, accompanied by a macro-economic adjustment program. From the outset, the Commission and ECB wanted the funds to be bigger and be able to do more (i.e. provide precautionary credit lines, engages in market operations and re-capitalize financial institutions).

The institutions, here officials from the Commission and ECB collaborating together, provided the ideas and information on what the solutions on the size and the scope would come to look like. They shepherded proposals through the machine room in the early months of 2011, awaiting political endorsement by the EC at a later stage. While it would go too far to say that the process was completey shielded from the member states, the truth is that opposing member states (Germany, Finland and the Netherlands) were repeatedly dragged into discussions of elements that they did not care for in the first place. The institutions, here the EC president and Commission officials, also managed the interplay between the control and machine room very effectively, thereby setting the scene for the July 2011 crisis decisions on the scope of the ESM, and using control room instructions to spur on the machine room to deliver on the size of the ESM in March 2012. This resulted in a bigger and better equipped ESM than member states left to themselves would have been able to agree on.

In the Fiscal Compact, the Council Legal Service had already in November 2011 drafted an embryonic version of the Fiscal Compact, thereby laying out the tracks for subsequent control room decisions. Like on the ESM, the crucial element for success was a willingness of Commission officials at cabinet and services level to put their manpower and expertise at the disposal of nominally intergovernmental structures, providing input particularly via the Economic and Financial Committee (EFC), which was staffed by national experts as well as Commission officials. The negotiations would take place in an ad hoc working group on a Fiscal Stability Union. The process was managed by an institutional quadrangle, consisting of representatives from the European Council president’s cabinet, the Council legal service, the EFC and the Commission.

The follow-up process was shielded from extensive member states involvement. Already in the days after the December European Council Summit, institutional representatives had come together to decide that this would all be done in a few short meetings, with limited documentation (e.g. use of room documents, no bracketed text, no circulation of minutes). There were limited opportunities (and a narrow time frame) for member states to provide input and debate the issues. Most member states had provided only minor track-changes to the Secretariat's draft, practically all of which were still ignored in the second draft. Most of the debate, in fact, took place within the institutional quadrangle in the run-up to the three meetings (Smeets and Beach, 2019a).

The results (influence) of this institutional leadership arguably are more sublte than in the other cases. The institutions had no interest in creating a radically different Fiscal Compact. The Commission’s main interest was rather to ensure legal compatibility with existing EU law and with the revised Stability and Growth Pact (SGP), which in effect watered down the novelty of the instrument. Institutional leadership effectively reduced the scope of the instrument, making it almost redundant in relation to existing and proposed EU legislation (Smeets and Beach, 2019a: 12). Furthermore, they ensured that this watered down and communitarized deal was shepherded through the machine room without significant changes. While (Franco)-German leadership ensured we got a Fiscal Compact, institutional leadership ensured it was a 'Community baby'.

In banking union, it was the Commission and ECB that jointly developed the concept of a banking union and acted as the drivers early in the process. Within hours after the June 2012 Euro Area Summit, the Commission started talking about the banking union as if it was a done deal. The ECB had already developed in house a clear view of what such a banking union could look like. The Commission and ECB then jointly drafted the proposals for the main elements, thereby laying out the tracks for the negotiations on the main elements of supervision and resolution. Very forceful leadership by Commissioner Barnier and his cabinet in the machine room ensured that the SSM proposals were shepherded through the Council in four months’ time, using endorsements from the Heads to overcome blockages.

In the remainder of the process, after December 2012, the EC played an even smaller role, primarily providing the regular endorsements to the work that was being done in the machine room. Since this was largely a legislative process, it was not so much shielded from the member states, as the other cases were. Member states and EP provided a lot of input on the SRB and SRM/SRF in particular. The Commission still played a prominent role in the legislative process on the bank recovery and resolution directive (BRRD), using the crucial element of the bail-in of share- and bondholders to sell banking union to hesitant member states (Germany, the Netherlands and Finland) who had previously feared it would become an indirect system of transfers from Northern European sovereigns to Southern European banks. Making use of the Cyprus crisis of March 2013, and working together with the Irish Presidency, the Commission was able to secure a deal on the BRRD in June 2013.

The final stage, the intergovernmental conference that negotiated the IA for the SRF, fits better with the conjectures of LI. The Commission played a modest role at this stage, and it was rather the rotating (Lithuanian) and Eurogroup Presidency (Dijsselbloem) that was able to secure a deal with the EP, reflecting key member states preferences (German/Dutch demands for an initially compartmentalized fund). Also, we should note that the results on the ‘solidarity’ elements of the banking union – the absence of a common deposit guarantee scheme (common DGS), and the limited and highly conditional ESM support for banks (and sovereigns) – are more in line with German preferences, thereby reflecting the Nash bargaining solution with asymmetrical interdependence that serves as the benchmark of LI. However, on banking union as a whole, it is clear that this was not something that Germany had wanted in the first place. Nor, was it the inevitable result of exogenous factors, like the Spanish and Cypriot banking crises. Instead, it was the product of institutional leadership in the machine room, and their ability to exploit control room endorsements to put a strong steer on the negotiations in the machine room.

In the EU Turkey deal, the ideas and impetus came primarily from the European Commission. A lot of what the process and substance would come to look like was already decided in a few weeks between the EC Summits of 23 September and 15 October (Smeets and Beach, 2019b: 11). Initial meetings with Commission officials at services and cabinet level produced the four pillars of the JAP: financial support (for hosting refugees), visa-liberalisation (for Turkish citizens), re-energizing Turkey’s accession process and resettlement of refugees from Turkey. The JAP laid out the tracks for all subsequent debates about EU-Turkey cooperation. Given the sensitivity of the issues, the process had to be EC-based, but it required extensive input from the Commission on the issues of funding, visa-liberalisation, accession, and (additional) resettlement. This was Commission – specifically Vice-President Timmermans – leadership, under the guidance of the EC President.

Shielding played a crucial role in this process. Member states’ involvement was limited. Both in October and in March, the Coreper ambassadors were only brought in at the very last minute to endorse a deal that had been made for them, leaving them with very little time to brief the Heads. Other institutional actors, like the College of Commissioners, High Representative Mogherini and the nominally responsible Commissioners Avramopolous (DG Home) and Hahn (DG Near) were largely kept out of the loop. Like in the banking union, it was only the final stages, that member states started to provide input, in a way that fits with the conjectures of LI. Here we refer to the ‘extra’ deal on one-for-one resettlement of Syrian refugees that the German and Dutch representatives negotiated separately with the Turks (Smeets and Beach, 2019b: 17-18). The proceedings in the run-up to the EU Turkey Summit of 7 March can be considered a (liberal) intergovernmentalist interlude, in an institutionally driven process.

In terms of influence and results, some observers, especially in Germany and the Netherlands, tend to equate the EU Turkey deal with this one-for-one resettlement mechanism, thereby arguing that the member states were the dominant actors in this process. However, the EU Turkey deal contains much more, and a reconstruction of the machine room dynamics shows that the institutions significantly shaped the contours of the agreement, taking it further on funding, visa liberalisation and accession, and providing the framework, and in fact *limiting* the scope for one-for-one resettlement in the run-up to the final EU Turkey Summit of 18 March 2016.

In the UK renegotiation, there would be no real machine room process between the EU member states to manage because it was a negotiation between the EU-27 and the UK; instead the key interlocutor was the UK government. The process was directly dealt with in an ad hoc fashion by informal collaboration centered around the same institutional triangle (Serafin - Tranholm-Mikkelsen - Selmayr) used in the EU Turkey deal. Given the level of these officials, they were able to reach directly into their respective institutions to acquire input on specific issues, while also being able to link directly with control room proceedings.

To be able to be more accommodating to the UK, the process was shielded from the member states as well as from other institutional actors, like the College of Commissioners. Member states would be involved only in the run-up to the EC summits, at the general level of the Sherpas, *after* draft texts had been developed within the inter-institutional network, making it difficult for them to alter the course of the proceedings or make substantive changes to the text. This was therefore not a process in which it was worthwhile for member states to mobilize a lot of national expertise and resources to formulate their national position.

The Council Secretariat laid out the tracks for the negotiations even *before* Cameron won re-election and called for a referendum. Inspired by past complaints and proposals by the UK, the Secretariat skeleton draft produced in March 2015 contained the four baskets of issues that would dominate the discussions: ‘ever closer union’, ‘euro-area governance flexibility’, ‘non-discrimination of non-euro countries’ and ‘free movement’. The process afterwards was never about mediating and aggregating member states preferences in the machine room. The role of the EU institutions, specifically of the EU Task Force chaired by Tranholm-Mikkelsen, was instead to come up with a package of creative proposals and directly deliver the package directly to Heads.

In terms of results, it is safe to say that the institutions were able to find creative solutions that allowed them to go far in accommodating UK concerns, arguably even going beyond the bounds of the EU treaties on the issue of immigration, specifically regarding the restriction of in-work benefits, indexation of child benefits and preventing abuses of free movement. The institutions were unable – and probably never had the intention – to deliver on the unrealistic expectations, particularly in the Anglo-Saxon media, on allowing for significant restrictions in the free movement of persons. But for those who were able to grasp the legal details, it was clear that the package that institutional leadership was able to produce was much more ambitious than governments left to themselves would have been able to deliver.

### Conclusions

Our findings are summarized in table 2. Taken as a whole, the empirical evidence supports NIL related to the role and influence of institutions in the new EC-centered crisis governance when undertaking major reforms like banking union. Taken as a whole, we find that the Heads shape the broad contours of major reforms, but when we go below the often vaguely formulated ideas like 'balanced budget' or 'common supervision of banks', how these ideas are fleshed out in binding agreements is shaped by the leadership activities of institutional actors collaborating with each other in laying out tracks, shielding negotiations, and providing creative fixes. The Euro Plus Pact provides a helpful counterfactual case that shows what happens when the Heads try to negotiate themselves without coupling the reform to a meaningful machine room process.

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| --- | --- | --- | --- |
|  | **Process level hypotheses about strengthened role of European Council for major EU reforms** | | |
| **Is there a gap?**  **Level at which solutions are developed** | **What are the leadership functions required and who can supply?** | **With what effect?**  **What is the role and effects of the provision of leadership in the process?** |
| **Euro Plus Pact** | (NI) The Heads in control room try to develop Pact. | (NI) French and German leaders try to formulate Pact together with colleagues in Summit. | .(NI/LI) No effect. Final deal non-binding pact that was quickly forgotten. |
| **ESM** | (NIL) Machine room developed solutions for the two key issues (size and scope) | (NIL) The Heads provided endorsement. Informal delegation to institutions to manage machine room and provide linkage. Marred to some extent by institutional conflicts. | (NIL) Efficiency gains. Delegation costs that resulted in ESM becoming bigger and allowed to do more than anticipated by MS. |
| **Fiscal Compact** | (LI) Overall idea from Franco-German letters.  (NIL) Solution fleshed out in machine room. | (NIL) The Heads provided endorsement. Informal delegation to institutions to manage machine room and provide linkage. Marred to some extent by institutional conflicts. | (NIL) Efficiency gains, Delegation costs that resulted in Compact that was in effect redundant in relation to existing Community law. |
| **Banking Union** | (NIL) Machine room through secondary legislation. The Heads endorse and encourage. | (NIL) The Heads shape overall contours, and provide endorsements and encouragements. Institutional collaboration to draft legislation and manage process. | (NIL - with exception of final deal on SRF). Efficiency gains. Delegation costs that resulted in broad package instead of more narrow deal to fix the Spanish problem. MS kept control in some sensitive issues like BRRD and SRF/SRM. |
| **EU Turkey deal** | (NIL) Machine room develops key solutions. | (NIL) The Heads provide endorsements, but institutional collaboration (with strong role for Commission) supplying key elements of deal. Development of cabinet-level collaboration across institutions. | (NIL) Efficiency gains. Delegation costs that resulted in more ambitious deal. (LI) MS championed one-for-one scheme. |
| **UK renegotiation** | (NIL) Machine room. | (NIL) The Heads provide endorsements, but institutional collaboration formulates deal with little MS input. Extensive cabinet-level collaboration across institutions. | (NIL) Efficiency gains. Delegation costs in the form of very ambitious deal that enabled Union to be very accomodating to UK, but that would not have been result if MS allowed to have extensive input. |

Table 2 - Comparative findings.

We do not claim that the theory explains every aspect of the different reforms - from preference formation, bargaining and institutional choice, in contrast to Moravcsik's claims with his LI theory (2018: 1658). However, the merits of a theoretical explanation cannot be judged by whether it attempts to explain different dependent variables/outcomes. Just as we do not have an overarching theory of US politics, that deals with both elections and voter behavior, legislative decision-making, and policy implementation, we do not need an overarching systems-theory of major reforms in the new Union to be able to assess whether NIL provides a more accurate explanation of the dynamics of leadership and negotiation in the new EC-centered Union.

## Conclusions

Theories are analytical simplifications that direct our attention towards and away from particular aspects of complex political developments. This is what leads both LI and NI to overlook critical elements of leadership in the next context of major crisis reform negotiations in the Union. Moravcsik goes so far as to claim in 2018 that, 'LI continues to offer the most convincing and accurate explanations for *what we see today* - especially in regard to the outcome we should care most about, namely substantive policy co-ordination.' (2018: 1658; italic added). We contend that there is very strong evidence that LI's and NI's picture of reform negotiations and the role of institutions therein look in the wrong place for the wrong thing (summarized in table 2, above). By ignoring the importance of institutional positions and downplaying the transaction costs associated with complex reforms in the EU, LI is blind to the insights into actual negotiations that PA explanations have given us about how leadership actually works in the real world. By focusing almost exclusively on headline-making events in the EC itself, NI is blind to the importance of machine room processes and linkage between levels that grant institutions ability to shape reform processes and outcomes.

We contend that there is strong evidence suggested that a new EC-dominated governance modus operandi has developed for dealing with major reforms during crisis. NIL hypothesizes that the Heads are in nominal control of reform processes, but processes in which the EC President and his institutional interlocutors de facto steer the process, both through managing machine room level processes, and by providing linkage to the control room.

Naturally, at the highest level, political leadership can only really be provided by the Heads themselves. However, the Heads by themselves cannot negotiate major reforms themselves. Here we find that a crucial innovation of the past decade has been the use of informal delegation of instrumental leadership tasks and responsibility for linkage between levels to a collaborative network centered around the EC President and trusted officials in his cabinet and the Council Secretariat, together with close links to high-level Commission officials (and sometimes the ECB). This type of delegation conflicts strongly with NI claims that member states now only delegate to ‘de novo’ bodies instead of to existing EU institutions (e.g. Hodson, 2015). Instead, what is different is the *form* of delegation, where governments have informally asked, or acquiesced, to EU institutions playing a critical role in delivering reforms.

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. 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 institutional leadership cannot completely 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.

But 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 EC-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, and providing linkage.

1. - E.g. Lieshout et al, 2004; Beach, 2005; Budden, 2002; Christiansen and Reh, 2009; Dyson and Featherstone, 1999; Parsons, 2003. [↑](#footnote-ref-1)
2. - Note that here we are not imposing strong rational design precepts onto our theory. Instead, we adopt a more realistic, bounded rationality assumption that opens for less intentional institutional evolution. [↑](#footnote-ref-2)
3. Author’s interview, Commission cabinet and services, 24-3, 27-8-2015 [↑](#footnote-ref-3)
4. Author’s interview, European Council president & Commission president cabinets, 14-7-2014. [↑](#footnote-ref-4)
5. *Agence Europe,* 03-03-2011 ‘Van Rompuy/Barroso version of the competitiveness pact’ [↑](#footnote-ref-5)
6. Author’s interview, Commission Director General level, 27-6-2013. [↑](#footnote-ref-6)
7. *Spiegel Online*, 31-01-2011. ‘An Economic Government for the Euro Zone?’. [↑](#footnote-ref-7)