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**Inter-institutional power struggle.
The role of the European Parliament and the European Council in
the EU's institutional architecture**

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Abstract

The relationship between the European Parliament and the European Council is increasingly characterized both by the need for partnership in some instances and inbuilt rivalries and tensions. Yet, the inter-institutional balance of power has remained an under-researched and under-theorized aspect of the political system of the European Union. The authors develop three theoretical models to grasp the inter-institutional balance between the European Parliament and the European Council. Based on three case studies, that is the management of the Euro crisis, the investiture of the Commission President and the adoption of the multiannual financial framework, this paper identifies three factors to explain the large empirical variance of inter-institutional relations: the internal coherence of each institution, the Treaty provisions and the degree of urgency.

‘The primary poles of power’: an introduction

In the evolution of the institutional architecture of the European Union (EU), the relationship between the European Parliament (EP) and the European Council (EUCO) is of specific importance – for political actors as well as for academic observers. Both institutions represent opposing poles in the constitutional balance, with each institution claiming its own specific democratic legitimacy. While the EP is the sole institution whose members are directly elected by European citizens, members of the EUCO draw upon the highest democratic legitimacy from the national level as heads of the respective state or government (Van Middelaar, 2013, p. 285; see Document 1).

Citizens are directly represented at Union level in the European Parliament.
Member States are represented in the European Council by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens. (article 10 (2) TEU)

From a theoretical perspective, both institutions are often considered as the ideal types of an intergovernmental and a supranational-federal institution, respectively. Their relationship may thus be interpreted as a tension of the theoretical dichotomy of supranationalism and intergovernmentalism. Hence, a main point of departure of this paper is an inbuilt rivalry in the balance of power between the European Council and the European Parliament, which, yet, has remained an under-theorized aspect of the EU’s political system.

The entry into force of the Lisbon Treaty in December 2009 changed the legal basis of both the European Council and the European Parliament. The Treaty revision reinforced both institutions which are now perceived as ‘the primary poles of power in the post-Lisbon institutional system’ (Monar, 2011, p. 86). A second point of departure of this paper is the de jure and de facto need for cooperation among these institutions in relevant Treaty provisions, but also from this perspective the respective weight of each institution is of major interest.

On the one hand, the Treaties stipulate only few instances at which the European Council and the European Parliament have to cooperate. The most relevant examples are the investiture procedure of the Commission President (article 17 (7) TEU) and the application of the so-called passarelle-clause (article 48 (7) TEU).

On the other hand, the European Council often acts beyond or besides legal Treaty provisions. As a consequence, tensions between the two institutions have manifested itself in various situations of indirect and direct confrontation. The relationship between the institutions is often characterized by a lack of mutual trust. The members of both institutions appear to lack a spirit of co-operation. Members of the EUCO do not – in most cases – seem to consider the EP as a serious player to be reckoned with, despite its formal legislative powers (De Schoutheete, 2017). In addition, exercising its pre-constitutional as well as pre-legislative functions, the EUCO finds itself frequently in a kind of indirect competition with the EP in framing dominant positions and doctrines when it comes to system- and policy-making. The EP is concerned that its Treaty powers are eroded if the EUCO's de facto decisions pre-empt the formal decision making within the institutional triangle of the ordinary legislative procedure. Hence, members of the EP have regularly and openly criticized the Heads of State or Government when they felt that political leaders of the Member States have circumvented Parliament or gone beyond the actual Treaty wording. The EP has repeatedly voiced opposition to the increase in intergovernmental agreements of the EUCO, in particular in the course of the Euro crisis. Former EP President Schulz (2012) argued that '[t]he plethora of summits is severely diminishing the part played by the only directly elected Community institution, the European Parliament. The publics are responding to this lack of parliamentary legitimacy by viewing political decisions taken by their leaders as nothing more than a series of dictates from Brussels.'

Overall, inter-institutional relations between the EP and the EUCO are increasingly characterized both by the need for partnership and cooperation in some instances and at the same time by some strong and significant inbuilt rivalries and tensions. Against this background, this paper analyses the balance of power between the European Parliament and the European Council, which represents a key conflict in the EU's institutional architecture. The objective of this paper is threefold. First, we intend to provide a theoretical approach to both the academic analysis and the political discussion of EP-EUCO relations. How can we depict the inter-institutional balance of power from a theoretical perspective? Second, we seek to grasp the actual positions of the European Council and the European Parliament within the EU's institutional architecture as well as vis-à-vis each other. To what extent has a shift taken place in the institutional balance with the entry into force of the Lisbon Treaty? Third, this paper aims to identify recurrent patterns regarding the institutional balance between

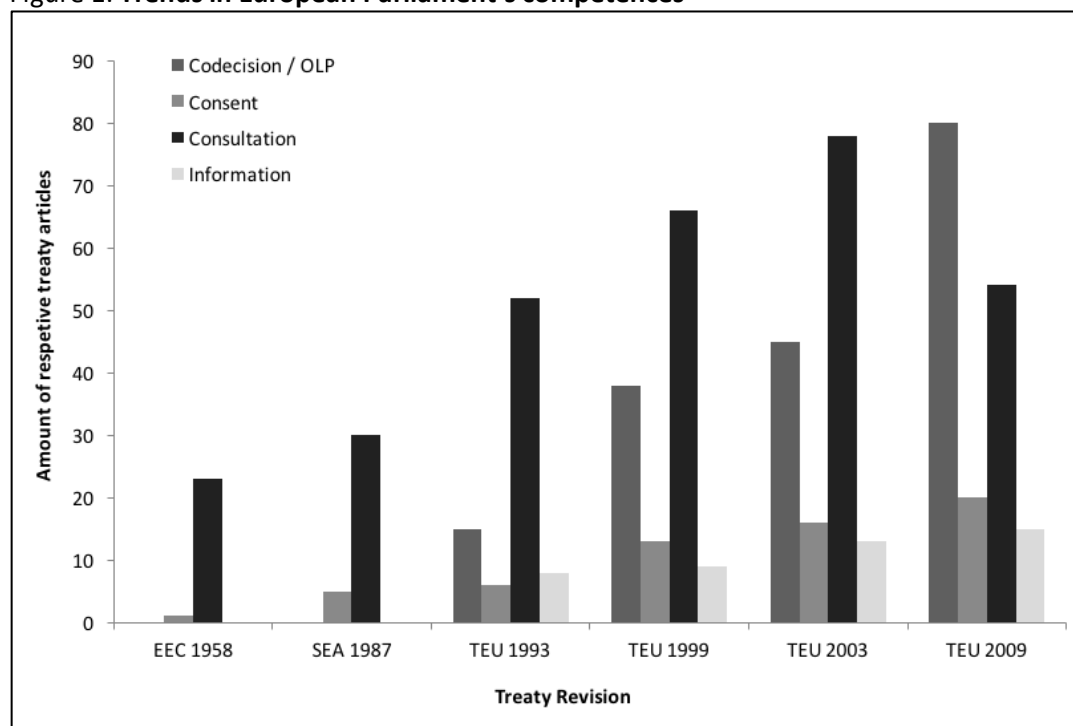
Parliament and the European Council. Which conditions may lead to the predominance of one or the other institution?

To answer these questions, we will start by looking at the legal developments of the European Council's and the European Parliament's role in the EU's architecture. We will then develop three ideal types of inter-institutional relations: the 'Union of sovereign States model', the 'Federal model' and the 'Cooperation model'. In order to identify systematic trends and patterns, we will study three cases which are representative for different legal constellations: the management of the Euro crisis, the introduction of *Spitzenkandidaten* for the post of the Commission President, and the adoption of the EU's own resources and the multiannual financial framework (MFF). Our empirical evidence shows a large variance of inter-institutional power relations. Based on our analysis, we detect three core determinants of concrete EP-EUCO power relations: the internal political coherence of each institution, the Treaty provisions and the degree of urgency. These preliminary findings shall serve as a guide for future research.

The constitutional development of the European Parliament and the European Council

One relevant element for understanding the relationship between the EUCO and the EP is a look at the evolution of the Treaty articles which frame the EU's institutional architecture. Following the introduction of universal suffrage in 1979, the 'masters of the Treaties' (Bundesverfassungsgericht, 2009), as the German Constitutional Courts dubbed the highest national leaders, have increased the European Parliament's competences with each Treaty revision. The ordinary legislative procedure and the procedure for the annual budget put the EP on an equal footing with the Council (article 14 (1) TEU). Parliament's legislative powers have thus been reinforced and extended to more areas of competences since the 1990s (see Figure 1). Furthermore, the Lisbon Treaty strengthened the European Parliament's role regarding the appointment of the European Commission and its President (article 17 (7) TEU). Some scholars go as far as arguing that this remarkable growth in power and status has made the EP not only the 'winner' of all Treaty reforms since Maastricht, but also 'one of the most powerful parliaments in the world' (Pollak and Slominski, 2015, p. 245).

Figure 1: Trends in European Parliament's competences



Based on calculations by the Centre for Turkey and European Union Studies of the University of Cologne, 2018.¹

The European Council, on the other hand, is a relative newcomer to the original institutional architecture of the European polity. After a step-by-step evolution since its creation at the Paris Summit in 1974, the Lisbon Treaty introduced considerable legal changes and innovations in comparison to previous Treaty formulations. In contrast to the European Parliament, the European Council 'shall not exercise legislative functions' (article 15 (1) TEU). Besides the European Council's task to 'define general political directions and political priorities thereof' (article 15 (1) TEU), the EU Treaties allocate concrete functions to the European Council in specific policy fields, such as the Common Foreign and Security Policy (article 26 TEU) and in economic and employment affairs (article 121 TFEU). Furthermore, the Heads of State or Government select, nominate or appoint the personnel for relevant positions in the EU's architecture, such as the President of European Commission (article 17 (6) TEU), the High Representative of the Union for Foreign Affairs and Security Policy (article 18 (1) TFEU) and the Executive Board of the European Central Bank (ECB) (article 283 (2) TFEU). Furthermore, articles 48, 49 and 50 TEU confirm the former de facto role of the European

¹ The columns represent the amount of Treaty articles which stipulate the application of the respective decision-making procedure.

Council as the key institution for system-making and system change, thus as the ‘constitutional architect’ (Wessels, 2016, p. 161).

In sum, through legal innovations, Member States have agreed via the Lisbon Treaty to share prerogatives with the EP more than ever before.

A theoretical approach to the inter-institutional power relations

In this section, we develop three models of inter-institutional relations between the EP and the EUCO, which we base on three competing theories of European integration, namely (neo-) intergovernmentalism, (neo-) federalism and the Fusion thesis.²

The ‘Union of sovereign States’ model: the European Council as the (dominant) key institution

From an intergovernmentalist perspective (Puetter, 2014; Schimmelfennig, 2004; Moravcsik, 1993; Hoffmann, 1966) the national chief executives of the EU Member States are the key players in the EU’s institutional architecture – in accordance with de Gaulle’s credo of ‘l’Europe des patries’ (de Gaulle, 1962, in: de Gaulle, 1970). The Heads of State or Government can be regarded as rational actors who are eager to pursue and impose their respective national interests.

Following the German Federal Constitutional Court’s description of the EU as a ‘Staatenverbund’ (Bundesverfassungsgericht, 1993), we dub our first ideal type the ‘Union of sovereign States model’. Here, the European Council represents the central institution which takes all major decisions. As the body of national leaders, the European Council should not be subject to any legal constraints and the EU’s system of checks and balances. From this perspective, ‘Montesquieu did not make it to Brussels’ (von Donat, 1987, p. 161). Notwithstanding the primary law’s legal language of the Lisbon Treaty, the European Council is held to be the key locus of power in the EU, exercising the prerogatives of leadership. As the institution is set at the top of the institutional hierarchy of the EU’s architecture, the European Council can be regarded in this model as the ‘principal’ (see: Kassim and Menon, 2003; Pollack, 2003; Moravcsik, 1993) vis-à-vis other institutions, which in turn serve as ‘agents’ of the political leaders, thus disposing merely of a derived form of legitimacy.

² For a similar approach, see Reiners and Wessels, 2011.

Even though the EP can hardly be regarded as a simple agent of the EU's Member States, from this perspective it has only a very limited room of manoeuvre. First, it acts within the strict and specific guidelines determined by the Heads of State or Government and codified in the treaties. Second, the European Council directly interferes in EU policy-making and eludes the European Parliament and the Council if necessary. Besides, this model implies that the EP does not possess full parliamentary legitimacy despite its label (Bundesverfassungsgericht, 1993). Therefore, according to this model, the assembly of parliamentarians is no rival to the European Council, but merely serves as a forum for exchanging positions, being eventually irrelevant when it comes to making vital decisions in, for and on the EU.

The federal model: the European Parliament as the (dominant) key institution

On the opposite side to the intergovernmental model, we find the federalist perception of EU politics (see Burgess, 2004; Pinder, 1986). From what we dub the 'Federal model', the EU has been evolving towards a state-like federal system with the *United States of Europe* being the *finalité* of the integration process (Grimmel and Jakobeit, 2009, p. 23).

This approach considers the European Parliament as the key EU institution. It acts as the direct representation of the Union's citizens and provides the EU's principal basis of legitimacy. Consequently, from such a perspective, the European Parliament must possess extensive competencies and can be understood as the dominant decision-making body. Besides its legal empowerment, the European Parliament applies the 'creeping competences' strategy (for the term: Pollack, 1994). It generously interprets the often vaguely formulated Treaty provisions to further strengthen its position among the EU institutions. As a result, the European Parliament decisively shapes the EU's political agenda and has a strong or even the final saying in EU policy-making and in the appointment of the EU's relevant office-holders.

Based on this model, the European Council would function as a forum in which the national governments deliberate and coordinate their interests, and as a kind of collective presidency which is left with some formal and ceremonial tasks. It acts in the background and does not interfere in policy-making procedures which follow the logic of a bi-cameral system with the EP being the primary chamber. The community method and the ordinary legislative procedure represent the 'centre of the institutional interplay' (Reiners and Wessels, 2011, p. 45), which implies that Parliament can formally shape the Union's politics on an equal footing with the Council, and de facto successfully get its position through.

The cooperation model: a fusion of powers

The Fusion thesis (Wessels, 2016, pp. 18-20; Wessels, 1992) regards the European Council as the centrally located and pivotal player in both a vertical multi-level constellation and in a horizontal multi-institutional architecture of the EU system. The main impact of the European Council can be described and analysed as a process of 'vertical' and 'horizontal fusion' (for the terms see Tanil, 2012; Miles, 2011; Mittag, 2011; Wessels, 2010).

Within the multi-level game, each Head of State or Government wears 'two hats', as the members of the European Council act both within the national and the European arena. In this vertical direction, the Heads of State or Government merge domestic and European agendas and pool national and EU instruments. As a consequence, the European Council sets a state-like agenda for the Union that covers a broad range of public policies. In a horizontal direction, the European Council is increasingly forced to co-act with other EU institutions which cannot be simply circumvented.

Thus, in contrast to the intergovernmental and the federal perspectives, the 'Cooperation model' sees a direct interaction between the European Council and the European Parliament and considers cooperation of both institutions necessary and of increasing relevance. Decisions can only be taken through collaboration and by mutual consent. Both institutions depend on each other and cannot act single-handedly. Office-holders, such as the Commission President, are selected jointly and policy-making outcomes represent compromises of the EP's and the EUCO's positions.

Summary

The three models of inter-institutional balance between the European Council and the European Parliament grasp three different perspectives on the interaction of the two institutions, their respective role in the institutional architecture and the main mode of decision-making (see Table 1).

Table 1: Models of inter-institutional balance

	<i>Union of sovereign States model</i>	<i>Federal model</i>	<i>Cooperation model</i>
<i>Key institution/ Principal</i>	European Council	European Parliament	Interaction between European Parliament and European Council
<i>Central logic</i>	Intergovernmental method	Federalism/ Parliamentarism	Joint decision-making/ horizontal fusion
<i>Institution serving as a forum</i>	European Parliament	European Council	n/a

Own illustration.

We underline that we do not expect one model to generally dominate the interplay between the European Parliament and the European Council. These three perspectives are not mutually exclusive and vary depending on the policy field and the issue at stake.

Analytical approach and case selection

Research on the EUCO suffers from the relatively scarce data disclosed on the internal workings of this key institution: Scholars must build far and foremost on European Council Conclusions, leaving room for interpretation on the positions of Heads of State or Government within the EUCO. To grasp the institutional balance between the EUCO and the EP and to uncover the complex and ambiguous workings of the key institutions of the EU in a post-Lisbon perspective, this analysis needs to build on a qualitative case study approach. Despite its limitations (Gerring, 2007), this method fits the inductive and explorative purpose of this paper.

Since the aim is to grasp the diversity in EP-EUCO relations after the entry into force of the Lisbon Treaty, the observation period is limited. Moreover, cases of direct interaction between the EP and the EUCO are rare. We identified three cases of inter-institutional conflict or interaction based on ambiguous Treaty provisions. These three distinctly different cases, the Euro crisis management, the (s)election of the Commission President and the negotiations of the multiannual financial framework, represent particularities of the EU system.

First, the case of the Euro crisis as an ‘existential challenge’ (Fabbrini, 2013) is of particular importance due to the central role of the crisis in EU policy-making throughout almost the entire period after the entry into force of the Lisbon Treaty. Crisis management can be expected to have had a direct effect on EP-EUCO relations, as it favours exceptional, hence

extra-treaty measures which by nature fall outside of the EP's Treaty competences. Besides the strong crisis momentum, the concerned policy area has seen the largest constitutional evolution and transfer of competences.

Second, in contrast to the crisis momentum, with respect to the (s)election of the Commission President, the Treaties clearly stipulate a close interaction of Parliament and European Council: Taking into consideration the outcome of the European elections, the Heads of State or Government propose a candidate who then has to be elected by the Parliament (article 17 (7) TEU). The wording of the Lisbon Treaty left sufficient room for interpretation, opening the door for serious contestations between the two institutions in the wake of the 2014 EP elections, the first ones after the entry into force of the Lisbon Treaty.

Third, the negotiations of the multiannual financial framework, determining the main categories of the expenditures of the EU budget, represent a double-edged example. On the one hand, the EUCO comes to bargain directly with the EP although the Treaty provisions formally allocate this function to the Council (article 312 (2) TFEU). The current MFF covering the period from 2014 to 2020 was the first adopted under the new Lisbon provisions which allocated the strong legal power of consent to the EP. On the other hand, the MFF is only adopted based on the decision regarding the EU's own resources, that is the income-side of the EU's budget, which is taken by the Member States (article 311 TFEU) while granting the EP only a weak power of consultation.

Preliminary empirical evidence: three cases of inter-institutional power struggle

In the following empirical analysis, we will attempt to assign each case to one of the three theoretical models. Furthermore, the case studies will help us to infer general patterns and to detect determinants of the inter-institutional relations between the EP and the EUCO.

Euro crisis management: the moment of the Heads of State or Government

The Euro crisis has had a significant influence on the economic governance in the EU and, more specifically, in the Euro area. The institutions of the Economic and Monetary Union (EMU) conceived throughout the 1990s and the early 2000s, most notably the European Central Bank, have – in the dichotomy of intergovernmentalism and federalism – fallen under

the latter. However, the traditional supranational institutions, namely the European Commission and the European Parliament, and the community method have played only a marginal role: major political decision-making was installed at the so-called Euro group of Euro area finance ministers as well as in the supranational, but politically independent ECB.

System-making in the Euro crisis

When pressure by financial markets on European state bonds' interest rates peaked and the spread between Euro area countries' sovereign bond rates drastically widened, the Heads of State or Government faced tough decisions on how to proceed (Van Rompuy, 2014, pp. 16-38). While a financial collapse of the most fragile members of the Euro area was widely seen as detrimental for EMU, some leaders went as far as linking the future of the EMU to the future of the EU as a whole. To remedy some of the shortcomings of the legal framework of the EMU, EU leaders used the European Council and the newly created Euro Summit leaders of Euro area Member States on several occasions – usually in the early hours of the morning just before the opening of stock markets – to act as constitutional architects and change Treaty provisions. In 2011, the European Council adopted the *Decision amending the TFEU with regard to the setting up of the European Stability Mechanism (ESM)*. In March 2011, it laid down concrete formulations for the amendment of article 136 (3) TFEU. The leaders of the participating Member States agreed on the text of the intergovernmental *Treaty establishing the European Stability Mechanism* in February 2012. Furthermore, rules to tighten fiscal discipline were introduced by the European Council by means of the intergovernmental *Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (TSCG)* in March 2012. The Heads of State or Government had to create the ESM and the TSCG outside the EU's primary law given the opposition by some member states. Consequently, the European Parliament was only indirectly involved.

Why did the European Council play such a major role during the *hottest* phases of the Euro crisis, particularly in comparison to the European Parliament? First, executives and governments are generally the dominant actors in 'emergency and crisis politics': Member State governments, acting collectively in the European Council, are the one actor that can declare the 'state of emergency' and thus shape the agenda (for a discussion of this argument see: White, 2015).

Second, the European Parliament lacks the powers to mobilize a considerable amount of resources which would have been appropriate to stabilize the financial situation – the so-called *power of the purse*. Only national governments were able to rally sufficient financial leverage to enact both stimulus packages (Howell, 2015) and bailout funds to counterweight the pressure by financial markets on crisis economies. In turn, national governments – headed by a very reluctant German government – were able to shape the TSCG and the bailout funds EFSF (European Financial Stability Facility) and ESM, the institutions that would enclose these financial commitments (Epstein and Rhodes, 2016, p. 425; Chang, 2013).

Rules for Policy-making in and after the Euro crisis

Notwithstanding the leading role of the EUCO and the Euro Summit for the management of the Euro crisis, the EU Treaties enable Parliament and the Council to legislate economic and fiscal surveillance mechanisms (article 121 (6) TFEU). From 2011 on, the EU enacted a series of legislative acts through ordinary or special legislative procedures, tightening the Stability and Growth Pact and the European Semester through the so-called Six-Pack and the Two-Pack legislative packages (Fasone, 2014). Particularly, the Six-Pack legislative package reforms the Stability and Growth Pact by strengthening oversight over national budgets and introducing an early warning mechanism on fiscal imbalances: the Macroeconomic Imbalance Procedure. During the legislative process, the EP showed little internal coherence, allowing Heads of State or Government to pressure their respective party groups in the EP to accept Council and Commission positions (Bressanelli and Chelotti, 2016, p. 519). EP amendments to the Commission's proposal to prevent strict mechanisms to harm economic growth in Member States impacted most by the crisis were eventually watered down. Consequently, both legislative packages foresee only a weak position for the European Parliament, limited to a consultative role in the tightened national budgetary oversight procedures. Oversight is being carried out within the European Semester as well as an economic dialogue, allowing the Parliament's ECON committee to invite 'the President of the Council, the Commission and, where appropriate, the President of the European Council or the President of the Eurogroup' and the weak power to 'offer' member state officials 'the opportunity' to appear before the EP (article 3 of Regulation 1173/2011).

The Spitzenkandidaten procedure: a preliminary or a sustainable victory for the European Parliament?

In 2014, European political parties nominated pan-European lead candidates for the post of the President of the European Commission. The basic idea shared by the majority of the members of the European Parliament was that the candidate of the European party winning most seats in Parliament would become Commission President. After the European People's Party received most votes in the 2014 European elections, the European Parliament successfully imposed Jean-Claude Juncker as their candidate as the President of the Commission upon the European Council.

Legal basis and first application of the Spitzenkandidaten

Legally, the EP's involvement in the appointment of the Commission President and the Commission as a collegiate body had been constantly increased since the Treaties of Rome: 'The intention has thereby always been to strike a balance between ensuring control of the Member States on the process and a democratization of the procedure via a stronger involvement of the European Parliament.' (Nasshoven, 2011, p. 83) The current provisions (see Document 2) are relevant in two respects: First, they clearly link the (s)election of the Commission President to the EP elections. Second, they underline that the power to elect the Commission President is assigned to the European Parliament.

Taking into account the elections to the European Parliament and after having held the appropriate consultations, the European Council, acting by a qualified majority, shall propose to the European Parliament a candidate for President of the Commission. This candidate shall be elected by the European Parliament by a majority of its component members. If he does not obtain the required majority, the European Council, acting by a qualified majority, shall within one month propose a new candidate who shall be elected by the European Parliament following the same procedure. (article 17 (7) TEU)

With the European Council still having the formal prerogative for the nomination of a candidate for the Commission presidency, one reading of the article 17 (7) TEU is that the Lisbon provisions did not necessarily imply practical renovations or a loss of power of the European Council. Yet, the new Treaty wording induced the nomination of European lead candidates. By intensively supporting this new procedure, the European Parliament aimed at strengthening its role vis-à-vis the Heads of State or Government and at de facto revoking the right to nominate a Commission President candidate from the Member States.

The introduction of *Spitzenkandidaten* was highly controversial among the Heads of State or Government. Concretely, the German chancellor together with the Swedish and Dutch prime ministers only after some hesitation decided to vote in favour of the new Commission President Juncker. The Hungarian and British Heads of Government were eventually outvoted, which represented the first application of qualified majority voting (QMV) in the European Council for the nomination of a candidate for a high-level position at the EU level. On the other hand, the European Parliament's major political groups supported the *Spitzenkandidaten* system and managed to join forces to impose the winner of the European elections as the new Commission President.

By nominating and electing Jean-Claude Juncker, the European Parliament, interpreted the Treaty provisions in an extensive way and asserted itself cleverly and successfully against the European Council. At first sight, it might have set a decisive precedent (Hobolt, 2014, p. 1537). Following the previous tradition of a generous interpretation of Treaty provisions and playing the role of a 'creeping constitutional architect' (Nasshoven, 2011, p. 94), the EP again vigorously enhanced its position within the EU architecture (Müller Gómez and Wessels, 2015).

A sustainable shift in the inter-institutional balance?

In order to prevent the European Council from taking steps back and in order to secure the *Spitzenkandidaten* system for future elections, the European Parliament demanded the constitutionalising of the procedure by amending the European Electoral Act (European Parliament, 2015). However, the EP remains internally divided over this question. A relevant part of the political groups did not support the introduction of pan-European lead candidates in 2014, and do not back the parliamentary majority's claim to constitutionalize the *Spitzenkandidaten* procedure. This considerably weakens the European Parliament's negotiation position vis-à-vis the Member States. On the other hand, the European Council has always considered the investiture of the European Commission and particularly of its President as highly relevant (Nasshoven, 2011, pp. 75-80). Consequently, despite the apparent victory of the European Parliament in 2014, the Heads of State or Government have been reluctant to accept a definitive loss of power. In February 2018, the President of the European Council Donald Tusk underlined on behalf of the Heads of State or Government of the EU-27 'the autonomous competence of the European Council to nominate the candidate' (Tusk

2018). Accordingly, the EUCO will most likely block the legal consolidation, that is an amendment of the European Electoral Act, which would require a unanimous vote in the Council.

Own resources and the multiannual financial framework: the battle for the power of the purse

The power to determine the volume, revenue and the distribution of public financial resources is at the heart of every political system. The so-called *power of the purse* is generally regarded as the most important privilege of parliaments.

The legal basis: A strong role for the Council?

The adoption of the revenue and the multiannual financial framework (MFF) is divided into two steps. First, Member States determine the overall size of the budget (see Document 3). In granting so-called own resources, that is the revenue side of the EU's budget, Member States determine to what degree they choose to empower the Union 'to provide itself with the means necessary to attain its objectives and carry through its policies' (article 311 TFEU). The EP is only consulted at this stage and still lacks one of the core prerogatives of a parliament, that is to raise taxes.

The Council, acting in accordance with a special legislative procedure, shall unanimously and after consulting the European Parliament adopt a decision laying down the provisions relating to the system of own resources of the Union. [...] That decision shall not enter into force until it is approved by the Member States in accordance with their respective constitutional requirements. (article 311 TFEU)

In a second step, national governments take decisions about the main categories of expenditure and their respective amounts on a multi-annual basis through the MFF (article 312 TFEU). According to this article, the Council of the European Union, 'acting in accordance with a special legislative procedure, shall adopt a regulation laying down the multiannual financial framework. The Council shall act unanimously after obtaining the consent of the European Parliament', which shall be given by 'a majority of its component members' (article 312 (2) TFEU). The Lisbon Treaty thus granted the European Parliament a veto right over the MFF.

Despite the political significance of the own resources and the MFF, the European Council is not mentioned in the relevant Treaty articles. The financial provisions of the Lisbon TFEU (article 310-319 TFEU) do not include the European Council in these formal procedures, except for one unlikely and exceptional case of 'authorising the Council to act by a qualified majority when adopting the regulation' of laying down the multiannual financial framework (article 312 (2) TFEU).

The real-world practice: sharing responsibilities?

Since its creation, the EUCO has taken the main decisions on the EU's budget (Wessels, 2016, pp. 200-4). Despite the dominant role for the Council of the European Union vis-à-vis the EP foreseen by primary law and confirmed by the Lisbon Treaty, the EUCO has de facto taken up the *power of the purse* and forged consensus on the side of the Member States. Once having secured an internal consensus, the EUCO tried to impose its line of negotiation upon the EP. In 2013, in spite of lengthy preparations, it took the European Council a 'decisive 24 hour non-stop summit' to agree on the MFF 2014-2020 (Van Rompuy, 2014, p. 77). The EUCO agreed upon a reduction of the size of the next MFF, strict categories of expenditures with only very limited room to manoeuvre for the annual budgets and a budget based primarily on GNI-based national contributions (see European Council, 2013). However, the EP rejected the EUCO's pretence to be the decision-maker in the MFF negotiations and negotiated with the Council and the Commission. An inter-institutional agreement was reached in late June 2013 and eventually approved in December 2013 alongside the MFF regulation for the period 2014-2020 (European Parliament, Council of the European Union and European Commission, 2013). Dialer et al (2015, p. 251) note that the EP has 'successfully resisted the European Council's approach to take the European Council's political, legally non-binding conclusions as given'. In fact, by developing a tough and (internally) coherent negotiation mandate for the consent procedure in the second phase of the negotiations, the European Parliament was able to push through a number of demands, most notably the right to shift resources unused in one year to following years, the creation of a task force discussing the possibility of a system of genuine own resources (Monti et al., 2016) and a guaranteed mid-term review of the MFF at the end of 2016 (for a discussion of the mid-term review see: Becker, 2016). Nonetheless, apart from the above-mentioned rights, the concessions made by the European Council to the Parliament are rather of symbolic nature than a real victory of the EP.

Discussion and conclusion: patterns of inter-institutional balance

In looking at the formal provisions and three concrete situation of inter-institutional competition which serve as cases in point for the evolution of the institutional balance between the European Council and the European Parliament, this paper aimed at shedding light on a complex, yet under-theorized aspect of the political system of the EU.

Variety of inter-institutional relations

Building on a set of three models grasping the roles of the European Council and the European Parliament within the EU system, the Union of sovereign State model, the Federal model, and the Cooperation model, it has been shown that the inter-institutional balance between the European Council and the European Parliament differs largely from one case to the other with no balance of power model being predominant. Instead, the inter-institutional depends on the concrete circumstances (see Table 2).

Table 2: Patterns of EP-EUCO relations

Cases	EP with veto power	QMV possible	EUCO's cohesion	EP's cohesion	Exigence	Theoretical model
Euro crisis	No	No	No	Yes	Yes	Union of sovereign States model
Spitzen-kandidaten	Yes	Yes	No	Yes	No	Federal model/ Cooperation model
MFF	Yes	No	Yes	Yes	No	Cooperation model/ Union of sovereign States model

Own illustration.

First, the post-Lisbon trajectory of inter-institutional relations of the EP and the EUCO in EMU affairs has been dominated by the Euro crisis and subsequent institutional realignments. Following the conventional wisdom of an upgrading of the EP by the Lisbon Treaty and a downgrading by the reforms throughout the Euro crisis, the EP was very much side-lined in the immediate decision-making procedures. Generally, the Euro crisis has led to an affirmation of the Union of sovereign States model and, thus, to a strengthening of the EUCO within the

EU system. European leaders in the EUCO were faced with immediate pressure by financial markets and, after an initial period of inertia, took up the leadership in the form of a *gouvernement économique*. Furthermore, the European Parliament only marginally contributed to further legislative acts which were enacted to prevent the emergence of new crises, in particular the Two-Pack and the Six-Pack legislation.

Second, even though a short-term observation of the 2014 election indicated an evolution towards the Federal model in which the EP asserts itself against the Member States, a mid-term perspective rather suggests a situation in which the European Council and the European Parliament are forced to act together with respect to the appointment procedure of the Commission President. After all, the European Council still holds the formal right to propose the President of the Commission. Such a development would be in line with the Cooperation model. Hence, we see a mixed picture: Although the European Parliament was able to push through its candidate in the wake of the 2014 elections, the European Council has not backed its claim to codify the *Spitzenkandidaten* procedure for future cases. What is more, it remains unclear whether the European Parliament itself will be able to develop a coherent approach after the 2019 parliamentary elections.

Third, the MFF is an area where political agreement between the Member States and the EP is required by the Lisbon Treaty. Given the legal power of consent which the TFEU now allocates to the EP through the special legislative procedure and in view of the power of the purse which the governmental heads have de facto taken up, increased conflicts between both institutions with respect to the distribution of the Union's budget in the MFF are unavoidably built in to the process. At first sight, the finding that the EUCO and the EP had to collaborate at eye level supports the Cooperation model, this is a fusion of responsibilities. Nevertheless, one has to take the broader picture into consideration in order to understand the effective institutional balance at play: as long as the system of own resources follows almost entirely an intergovernmental logic – and is thus shaped by the European Council (Becker, 2014) –, negotiations to the MFF will be of mere secondary importance. In this light, the recent proposals launched by the EP to create an own fiscal capacity for the Euro area as well as a shift to a system of genuine own resources (European Parliament, 2017) have to be interpreted as the EP's call to overcome the persisting governments' dominance in this area.

What broader implications can be drawn from these findings? First, the European Parliament has indeed evolved into a strong body with comprehensive competencies. Besides its legal

rights as co-legislator, it has always been a strategic actor that deliberately exploits Treaty provisions. It has fostered its de facto role in the EU's institutional architecture by extensively interpreting its primary law-based functions; the *Spitzenkandidaten* innovation is only one concrete post-Lisbon example of this recurring method. Second, the role of the European Council can nevertheless not be regarded high enough: The role assumed by the European Council in the Euro crisis management and in the EU's economic governance in general confirms the willingness and capacity of the Heads of State or Government to take the lead when necessary. Third, the legal provisions of the Lisbon Treaty as well as real-world practice confirm a considerable, but still limited, move towards an uneasy sharing of powers. This can be interpreted as a horizontal fusion of responsibilities. To sum up, there has been a net power gain for both institutions with the entry into force of the Lisbon Treaty. However, when looking at the inter-institutional balance of power between the two institutions, the European Parliament seems to have experienced a relative loss to EUCO.

Explaining inter-institutional relations

The case studies helped us to identify three core factors which can help explain the concrete balance of power between the EP and the EUCO: the internal coherence of each institution, the Treaty provisions and the degree of urgency.

First, internal coherence has been proven to be of major relevance for each institution to secure a strong position vis-à-vis the other institutions. The European Parliament could only impose Jean-Claude Juncker as Commission President as the major parliamentary groups were acting together. Similarly, the concessions achieved in the course of the MFF negotiations were only possible because the main political groups could agree on a clear mandate. Whenever the European Parliament is internally divided, the Federal model will not prevail, as it was the case in Euro crisis legislations.

Whereas the members of the European Parliament agreed on a joint position after the 2014 elections, there was no consensus among the Heads of State or Government, which weakened their position vis-à-vis the EP. In the case of the European Council, internal disagreement has a particular impact on its position vis-à-vis the European Parliament in cases in which QMV is possible.

Second, Treaty provisions on the role of each institution and on the internal decision-making procedure seem to be of major importance. The EUCO can be expected to predominate in cases of a lack of legal provisions for direct interaction with the EP. The EP may only legislate and get active when Treaty provisions unambiguously stipulate its involvement in the respective procedure or its position as a formal veto-player which cannot be circumvented. As the Spitzenkandidaten example illustrated, the European Parliament having a strong say is not automatically accompanied by the predominance of the Federal model or the Cooperation model. But we expect strong parliamentary competences in legal terms to be a necessary condition for the Federal model. This argument also applies to cases of Treaty-making where the EP has no formal right to co-decide. The Euro crisis and the negotiation of treaties outside the EU's framework underlined the European Council's role as the Union's 'constitutional architect' (Wessels, 2016, p. 161).

As for the decision-making procedure, the possibility of a qualitative majority voting can affect the EUCO's position vis-à-vis the EP, particularly in cases in which the EUCO is internally divided. The disagreement within the European Council regarding the *Spitzenkandidaten* procedure could only have an effect since the Treaties allowed qualified majority voting. Whenever the European Council has to decide unanimously, it is difficult for the EP to benefit from disagreements among the Member States. Such a pattern has been observed in the context of the Euro crisis management. Because of the need of deciding unanimously, the European Council had to overcome the division between debtor and creditor countries.

Third, a situation of urgency, this is a crisis or an emergency calling for an immediate reaction, muddle up the institutional balance by pushing the European Council to the front. In other words: the Union of sovereign States model prevails. The role assumed by the European Council in the Euro crisis management and in the EU's economic governance in general confirms the willingness and capacity of the Heads of State or Government to take the lead when necessary. Similar observations can be made in other crisis situations, such the Russian annexation of the Crimea and the British decision to leave the Union, at which the European Council immediately took over the lead (Müller Gómez et al., 2017).

Academic tasks for the future

In a next step, these preliminary results have to be tested in more comprehensive study. None of our cases has fully matched the Federal model. In which areas can we expect the Federal model? And: Which other factors which we could not deduce from our case studies can explain the predominance of one model or another? Additional aspects to look at might be the political relevance of certain issues and the role played by individual personalities.

Other interesting cases to look at would be trade policy, in which the European Parliament has gained decisive competences; the Area of Freedom, Security and Justice, which is now part of the shared competences but has also been in crisis since 2015; and climate and energy issues, which are communitarized but have been a core item on the European Council's agenda. With regard to institutional and constitutional matters, we suggest examining the inter-institutional balance in recent accession procedures and the Brexit negotiations, in the framework of which the European Parliament holds the right to veto, as well as the current reform debate, including the future composition of the Parliament. Lastly, the decision on the EU's own resources and the adoption of the MMF in 2019/2020 will represent a major challenge, as well as an opportunity for research.

The pattern of both institutions striving for a strong position in the EU's institutional architecture will persist in the future. The European Parliament might be weakened by internal divisions. This is particularly due to the large share of EU-sceptic MEPs in the current legislative period. The European Council might be the beneficiary from this situation, as long as it manages to maintain a relatively unified position in view of the dividing effects caused by the presence of EU-sceptic governments.

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