Political Championship and its limits

New institutional leadership (NIL) in major EU crisis reforms

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Abstract

A classic topic in EU integration theory is the leadership role played by EU institutions, the European Commission in particular, in major EU reform negotiations like the Single European Act, the Maastricht Treaty, or more recently, the banking union or the EU Turkey deal. In this paper, we argue that existing accounts of institutional leadership suffer from two theoretical problems: first a rather 'heroic' notion of *what* such leadership looks like and what it can accomplish, and second a misconception as to *where* to look for such leadership. Drawing inspiration from Moravcsik (1999) seminal study on supranational entrepreneurship, we compare the role and influence of the EU institutions in five major reform negotiations, covering the three successive crises of the last decade, Eurozone crisis, migration crisis and Brexit. We look at the role and influence of the EU institutions in the process leading up to the European Stability Mechanism (ESM), Fiscal Compact, banking union, EU Turkey deal and British re-negotiation.

We argue that existing studies have focused primarily on 'great man' type of leadership, performed by individual actors/institutions at the highest political (European Council or what we call 'control room') level (e.g. Ross and Jenson, 2017; Tömmel, 2017; Peterson, 2016). We shift the focus to leadership provided by multiple (collaborating) institutions at the 'machine room' level. We present a process theory of new institutional leadership (NIL) and juxtapose it to liberal intergovernmentalist (LI) and new intergovernmentalist (NI) interpretations of the role and influence of the EU institutions. Evidence from the five cases suggests that the institutions, by which we primarily refer to the Commission operating within the broader inter-institutional network, has been rather *in*effective when it tried to act as the 'engine' or 'political champion' at the European Council level. However, during the

successive crises we witnessed the rise of a new type of institutional leadership, through which these institutions were able to *lay out the tracks* along which reform negotiations proceeded, *shield* negotiations from bureaucratic action channels and domestic political input, and formulate *creative fixes* that would have eluded other actors.

Introduction

'Does informal intervention by high officials of international organizations decisively influence the outcome of multilateral negotiations?' (Moravcsik, 1999: 267). A general reading of the reform processes, that stemmed from the major three crises of the last decade: Eurozone crisis, refugee crisis and Brexit, would probably result in a negative answer (see e.g. Bastasin, 2012; Mody, 2018). The leadership provided by Commission presidents and their institution has been perceived as weak and rather erratic. There were few instances at which high level Community officials were able to put their mark on the negotiations. Instead, we witnessed repeated, unsuccessful attempts of the Commission Presidents to act as the political champion of Europe, trying to push reforms forward through assertive interventions at the highest political level.

During the Eurozone crisis, Commission President Barroso was keen to defend his formal institutional prerogatives, a.o championing a Community-based and Commission-led European bail-out fund (EFSF/ESM) and a Community-based and Commission-led, single resolution fund (SRF). Throughout the crisis the President tried to pre-empt upcoming intergovernmental initiatives such as the 2010 report of the Van Rompuy taskforce and the 2011 Fiscal Compact with Community legislation (the six-pack and two-pack). This resulted in turf battles with the new European Council President, Van Rompuy, and open clashes with some Heads of State and Government (Heads), most notably the German Chancellor.

Building on his self-proclaimed mandate as 'Spitzenkandidat', Commission President Juncker, again, tried to act as the political champion during the migration crisis, a.o openly challenging the European Council's (and its President's) authority on the matter, and trying to strong-arm the member states into a mandatory and Commission-led refugee relocation schemes. This was followed by a proposal for a fundamental overhaul the Common European Asylum System (CEAS) and the Dublin regulation in particular, which has been stuck in the Council ever since. During the British re-negotiations, there was the somewhat more minor, but nevertheless telling example of the Jonathan Faull taskforce on "strategic issues related to the UK referendum", which was installed by the Commission President to oversee the British re-negotiation. It was eclipsed by the intergovernmental EU taskforce, chaired by the Secretary General of the Council Jeppe Tranholm-Mikkelsen, where the real negotiations would take place.

It is clear that for many, inside and outside the European institutions, the rise of the European Council (EC) was perceived as a threat (author's interviews). It is clear that the Heads of State or Government (HOSG) play a more prominent role in the successive crises. This is partly through their many meetings at crisis summits, but also due to an enhanced operational role, the growing importance of the Sherpa network as a coordination node, a more specific role of the EC in providing instructions to, setting the priorities, in part even the legislative agenda of the other institutions (e.g. Bocquillon and Dobbels, 2014; Johansson and Tallberg, 2010, Thaler, 2016). The follow-up question then becomes: what is the role and influence of the *other* institutions in this new framework of European Council centered governance?

We believe that these images of threat and competition apply only to the political level (what we call the control room). Below the political level, there is an enhanced dependence on institutional actors. We contend that the rise of the European Council has resulted in an increased need for *EU-level* solutions, which require *EU-level* technical (or substantive), process and legal expertise, and thereby enhances the role and influence of the institutional actors that are able to provide this expertise (cf. Moravcsik, 1999: 281-282). Consequentially, major EU reform negotiations are *less,* instead of more, intergovernmental, when compared to the major Treaty reform IGC's of the past.

There is, however, not one single actor/institution that can provide all these types of expertise. The Commission would be the only institution that could in theory, be able to provide all leadership tasks both at the control room (EC) and machine room level. However, the Commission (and its President) were not trusted enough by the Heads to be delegated these tasks. Rather trying to act as the sole engine/entrepreneur, the Commission had to establish new patterns of inter-institutional cooperation across the intergovernmental-supranational divide (Hodson, 2013: 303; Peterson, 2015: 203). Major crisis reform processes needed to be European Council based, which meant a prominent process management role for the European Council President and the Council Secretariat. However, the EC President only has a small cabinet and therefore needs to employ the services of other actors. The Council Secretariat would typically be able to provide a lot of the legal expertise for transforming the Heads' political declarations into legally sound texts. However, most of the substantive expertise would still need to come from the Commission, primarily through input from officials at cabinet and services level, who were prominently involved in the proceedings *within* these intergovernmental structures. Through effective inter-institutional collaboration, the Commission was able to shape the main features of the European Stability Mechanism (ESM), the banking union, some elements of the Fiscal Compact, and most elements of the EU Turkey Statement and the text of the British re-negotiation. This is what we called: 'new institutional leadership under a veil of intergovernmentalism' (Smeets et al, 2019).

In this paper we intend to use the empirical evidence to go one step further and provide a 'theoretically and methodologically rigorous' evaluation of our claims about institutional, leadership (Moravcsik, 1999: 269). This requires explicit and detailed process-level expectations (or hypotheses) about the role and influence of the institutions, which can be juxtaposed to the expectation of competing theories: liberal intergovernmentalism (LI) and new intergovernmentalism (NI). Second, this requires a more structured and focused comparison of the similarities between the five cases, taking into account differences in scope-conditions, instead of a more narrative approach that primarily catalogues all relevant institutional activities.

Our approach is as follows. We will first present and discuss our causal argument about new institutional (Commission) leadership, and juxtapose it to the models provided by LI and NI. From these three theoretical perspectives we deduce process-level hypotheses on the role and influence of the EU institutions (see table 1). In We present our analytical model for comparing the role and influence of the institutions in the five major reform dossiers. Since this is primarily an attempt to *theorize*, the empirical analysis will serve to provide illustrative evidence for the different elements of our process theory of new institutional leadership across the five cases.

Theory: towards a process theory of new institutional leadership (NIL).

EU studies on institutional leadership will always be confronted with the image of Delors. To what extent and why Presidents Barroso and Juncker were actually trying 'to do a Delors' remains something of a mystery. But it is clear that this Delors type serves as the explicit or implicit benchmark for Commission leadership (Hodson, 2013: Peterson, 2015). This 'great man' leadership is one of the types of supranational entrepreneurship identified by Moravcsik (1999: 277). Institutional leadership then refers to the ability to act as the 'engine' of European integration, driving the machinery forward with a sense of purpose towards a clearly defined goal. In studies on institutional leadership, this resonates with the concept of 'transforming leadership' (Burns, 1978: 20; see a.o Ross and Jenson, 2017: 119-120; Tömmel, 2013: 791). We contend that this is a rather 'heroic' notion of leadership and what it can accomplish. In the Moravcsik model it might even be considered as a bit of a straw man. It requires institutional leaders to exceptionally skilled, ingenious and more visionary than national leaders, which makes them able to find creative solutions early on in the process, which they are subsequently able to steer through the intergovernmental negotiations, making sure essential elements remain intact (Moravcsik, 1999: 275-278).

Most observers seem to agree that it is hard to find examples of successful 'transforming' institutional leadership in the history of the EU (Beach, 2015). Moreover, it is clear that in the post-Maastricht era, the possibilities for providing such leadership have become even more limited. Institutional leadership is nowadays 'constrained' by the fact that EU negotiations touch upon salient and politically sensitive issue areas, such as fiscal or migration policy (Genschel and Jachtenfuchs, 2014; Hooghe and Marks, 2009). Both LI and NI assume that the rise of an intergovernmental body, the European Council, restricts the role of the Community institutions. We will argue the exact opposite: The rise of the EC has *enhanced* the opportunities for providing effective institutional leadership. Instead of opting for the hardly enviable role of 'political champion' at the control room level, the institutions are able to provide a more effective type of leadership in the machine room. We will explain what this new type of leadership looks like, by comparing it to the conjectures of LI and NI.

New institutional leadership: filling the gap between the control room and the machine room

The causal argument for our new institutional leadership model builds in no small part on Moravcsik model of supranational entrepreneurship, but with a crucial addition (or rather modification) which stems from the new inter-institutional set-up for dealing with major reforms. In this new system of European-Council-centered governance, negotiations about reforms 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 institutions are represented by their Presidents. 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.

Institutional leadership stems from 'the manipulation of information and ideas' (Moravcsik, 1999: 268). This implies that there are bottlenecks or information asymmetries that favour institutions over national governments, in that the former have privileged access to such information and ideas. The question is what is the bottleneck in the current setting? The bottleneck refers to the gap between the control room and machine room. This gap stems from the fact that the heights of the EU system (European Council) operates rather autonomously from the rest of the (legislative) machinery. 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, when it comes to drafting proposals and for process management. In previous rounds of treaty reforms, around major IGC's, this crucial 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.

This means that the ideas and information that were lacking, were not ideas about what were, and how to articulate, national interests (Moravcsik, 1999: 281). It was thus also not about figuring out what would be an optimal/efficient outcome (for instance agricultural, competition policy or EMU) from a particular member states perspective. The crisis were about finding EU level answers for EU level problems; problems like setting up an EU-level bail-out fund, or how to deal with cross-border banks, large inflows of migrants, or with specific requests of third countries (the UK, Turkey). There is of course still a distributive dimension to each of these negotiations, for instance whether a particular solution favoured

German banks over Greek pensioners, frontline states versus those less affected by migrant flows, or those who with a lot of trade with the UK versus those with a lot of citizens living in the UK. But, these were not negotiations in which member states came together to take national policies to the European level. It was rather the other way around: a matter of European level problems that forced their way on to national political agendas.

Leadership is displayed in the ability to come up with feasible solutions, within the legal and institutional framework of the EU. Large administrations like Germany might have had the requisite legal and substantive expertise to come up with solutions. However, they would not be trusted by others to draft texts and they cannot provide the process management tasks required in the machine room. The institutions have an informational advantage when it comes to how to turn the general political solutions that the Heads were able to agree on, into legally feasible, substantive sensible texts that subsequently could to be shepherded through the machinery.[1] Contrary to the classic Treaty reform IGC's, the current crisis reforms far more top-down. Typically, it would start with the Heads deciding the broad, if not incomplete, outlines for a solution which the rest of the machinery subsequently needed to deliver. After which, the Heads would endorse the solutions that the machine room was able to produce.

It is important to note that had there been *no* gaps, meaning that the Heads and rest of machinery worked together seamlessly, there would be no need/room for 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 story of EU crisis management from the perspective of NI, in which intergovernmental coordination between the Heads has replaced the Community Method as central node of the decision making. In NI, the Heads themselves and their Sherpas provide the leadership tasks, in no small part through crisis summitry, and in which the role of the institutions has been subdued to facilitation. Starting from the notion of 'integration without supranationalization', NI argues that the Community institution have been surpasses by the EC and by other, mostly intergovernmental, institutional actors (which NI calls 'de novo bodies') and which act as rivals to the

[1] From an institutional perspective, the game was less about mobilizing sectoral interests (groups) and employing their ideas/information in the two level game that is so central to LI.

Commission.[2] To the contrary, we believe that the negotiations amongst the heads are merely the tip of the iceberg, while a lot of the actually leadership takes place below the surface.

A liberal intergovernmentalist (LI) perspective is less top-down, and less focused on the Heads, but LI would still assume that the member states are able to keep control of the crisis reform process. They 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 control over, the machine room proceedings. To the contrary, we believe that there *is* a gap/bottleneck, which the institutions are able to use to their advantage to provide institutional leadership. During the three crises, there were multiple instances in which the control room and machine room were out of sync, and ministers and ambassadors even from larger member states, were caught off guard by the unanticipated moves of their leaders.

The first part of our causal argument is showing that there *was* a gap between control and room. The second part is explaining how this gap was filled and why it was filled not by one single institution, but rather by joint leadership provided by multiple (collaborating) institutions. This is what we do in the next section. A genuine test of our conjectures regarding the role and influence of the institutions, requires that we juxtapose them to the expectations of rival theories. To prevent straw men, we note that neither NI nor LI assumes the institutions to be completely *irrelevant*.[3] Moravcsik even includes an explicit model of institutional influence, namely the 'two-level network manager' model through which the Delors Commission was able to provide leadership in the run-up to the Single European Act. This is the LI model that will serve as the benchmark also for our study.

[2] This is a view of EU decision making that is reflected in the recent BBC series on the three crisis: '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.

[3] Although Moravcsik reference to institutional interventions as 'late, redundant, futile, and sometimes even counterproductive' (1999: 270), and Bickerton et al. second hypothesis that supranational institutions no longer 'hard-wired to seek ever closer union' [assuming they ever were] (2015: 712) might suggest otherwise.

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) (ADD REFERENCES). This forces us to infer quite a lot about the role and influence of the institutions. However, if the terms ‘new’ and ‘intergovernmentalism’ are to mean anything, the intergovernmental actors should be considered 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).

Competing process level hypotheses on institutional leadership

Table 1 provides an attempt to come up with competing *process hypotheses*. An *NI reading* of major crisis reforms focuses mostly on the control room. NI would assume that the crisis reforms primarily required brinkmanship, i.e. high level political leadership that could only be provided by (some of) the Heads, rather than institution Presidents. The crises required political leaders to think and act ‘outside of the box’. This means willing to consider solutions that were unaccounted for in the treaties, solutions that might even be considered illegal, but at least required sufficient political clout/capital to adopt. 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 should be 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’. 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. There will be Commission fingerprints also in an NI interpretation of the banking union (Howarth and Quaglia, 2015). But these are limited to efficiency gains, whereas the member states (united in the EC) are both the architects and the engines.

Table 1: overview of process level hypotheses

Alternative explanations	**Process level hypotheses**			
	Where are solutions developed?	Where is informational 'bottleneck?'	What is the role of the EU institutions in the process?	What are the effects of institutional interventions?
New intergovernmentalism (NI)	Control room, Heads decide on the key features of solutions themselves, in a process of intergovernmental coordination, using input from Sherpa level.	Ideas and information about far-reaching solutions that require a broader perspective (brinkmanship) and political clout to consider.	Chairing, facilitation and providing follow up. Institutions have limited mandate to carry out restricted tasks, acting as rivals.	Efficiency gains that result from the ability to carry out the orders of the Heads in a way that fits with institutional preferences.
Liberal intergovernmentalism (LI)	Domestic level and machine room. Ministers, ambassadors and civil servants provide the required technical, legal expertise, using input from national, sectoral, societal experts and line ministries.	Ideas and information about zones of possible agreements, based on configuration of member states interests.	Policy initiation, mediation, (and mobilization). Institutions present initial, key proposals, broker agreements and mobilize societal support.	Efficiency gains that result from an ability to come up with novel technical or legal solutions that national actors have not (yet) been able to come up with.
New institutional leadership (NIL)	Machine room Using the gap between the control room and machine room, institutions come up with solutions, in machine room, using control room instructions and endorsements.	Ideas and information about legally and institutionally feasible EU level solutions.	Laying out the tracks, shielding and creative fixes. Institutions steer the course of the negotiations, shepherding their proposals through the machine room.	Efficiency gains *and* distributional consequences. Within the broad outlines defined by the Heads, Institutions determine key features of the solutions.

An *LI reading* of major crisis reforms is less focused on the control room. In the two-level model of Moravcsik, it is rather sectoral and societal actors at the domestic level that play a crucial role in the negotiations. It is through the coordination and mobilization of such sectoral and societal interests that either the member states or the institutions are able to provide leadership (Moravcsik, 1999: 282). Solutions are primarily developed in the machine room, building on input provided from *below* (the domestic level) instead of above (the European Council). The ideas and information that are scarce, according to LI, are ideas and information regarding member states' interest, which make it difficult to locate a potential zone of agreement. It can be the role of the institutions – but also of member states – to help member states articulate these interests and come up with solutions. But this would still only result in efficiency gains. The advantage that the institutions have, in advancing technically complex packages of EU level solutions through policy initiation, mediation and mobilization, is considered to be only temporary. If the matter is of sufficient importance, Moravcsik expects that the member states will mobilize the resources that allow them quickly to catch up and if necessary reassume control over major reform processes, such as the banking union or the reform of the migration system.

Finally, our model of new institutional leadership (NIL) of major crisis reforms starts from the idea that there is a gap between the control and the machine room, and that leadership is provided by those actors that are able to fill this gap. We contend that institutions are in a better position, *because* of the kind of ideas and information that are required in these particular reform processes. Crisis reforms are different from 'regular' treaty reforms in that they require two things: -1- an immediate (or at least short term) response and -2- a 'broader' or 'comprehensive' reform. Crisis reforms are thus 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 sufficiently comprehensive 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 have superior expertise, not in fleshing out what member states interests were and how these could be aggregated in an EU level solution, but instead in figuring out what an EU solution could look like that would be acceptable to the member states, in view of these interests.

The role of the institutions is different from what both LI and NI presume. In our NIL model, it is *not* the institutions that initiate in the classic sense of the supranational entrepreneur, but it is rather the control room that decides on the general 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. Moreover, the institutions do not mobilize national support, but instead *shield* the process from extensive involvement of both national and other bureaucratic actors. This shielding is crucial for ensuring a smooth handling of the process. Finally, the institutions do not just determine minor features (i.e. ensure efficiency gains), but instead are able to put their mark on some of the key features of the solutions (e.g. the creative solutions regarding the size/scope of the ESM, the ingredients of EU Turkey deal).

Empirical analysis: Institutional leadership across five cases of major EU reform.

This article is first and foremost an attempt to draw theoretical lessons from five case studies, which have been – or are close to being – published as separate case studies. Within the confines of this study, we obviously cannot provide an in-depth process tracing analysis of all five cases. Below, we provide a comparative approach to flesh out the evidence from each of these cases that allows us to assess the competing process level hypotheses. Not all elements in the twelve cells of Table 1 can be addressed with the same level of detail, so we will instead focus on the, from a theoretically perspective, most telling observations.

The European Stability Mechanism:

The European Stability Mechanism (ESM) is a permanent fund that can provide loans to Eurozone countries facing problems financing their debt. It is the heir and successor of the temporary European Financial Stability Facility (EFSF), which was created as a special purpose vehicle at the famous crisis weekend in May 2010 (Gocaj and Meunier, 2013). After amending Article TFEU to allow for the creation of the ESM, the ESM itself was created by an intergovernmental Treaty. Agreement on the first version of the Treaty was reached in June 2011. The second version of the Treaty was finalized end of January 2012

While it is the earliest case, the ESM provides a good illustration of the new inter-institutional dynamics in this system of European Council centered governance. The EC undoubtedly provided the impetus for the ESM. In fact, the EFSF has been the product of crisis summitry, fitting best with the conjectures of NI, in which member states representatives – notably Maarten Verwey – played a crucial role in determining the terms and conditions (Ludlow, 2010; Bastasin, 2016). The ESM on the other hand, was far more a bottom-up process. Here, the Heads – specifically the German Chancellor – still provided the overall impetus, primarily confirming the need for a permanent fund. But what this fund would come to look like (in terms of size and scope) was determined by key institutional actors in the machine room (Smeets et al, 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 nominally intergovernmental bodies, the Commission services from DG Ecfin provided most of the input, not as Commission notes but as proposals from the Chair.

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. The most telling evidence for this is the temporal sequence. The machine room started working on the 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 European Council. 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, Commission and ECB, provides the ideas and information on what these solutions on the size and the scope would come to look like. They shepherded their 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 shielded from the member states, the truth is that the opposing member states, Germany, Finland and the Netherlands, were repeatedly dragged into discussing instruments that they did not care for in the first place. The institutions, European Council president and Commission, 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 of December 2011 to get 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.

The Fiscal Compact:

While often considered as the hallmark of German leadership during the Eurozone crisis, the Treaty on Stability, Coordination and Governance (TFCA), of which the Fiscal Compact is the central element, was primarily a compensatory measure for allowing an increase in the size of the EFSF/ESM (Ludlow 2011: 34). The TFCA was agreed at the EU Summit of 30 January and signed on 2 March 2012, by all EU member states except the Czech Republic and the United Kingdom. The main elements, reflected in Article 3.1. and 3.2, are that 'the budgetary position of the general government of a Contracting Party shall be balanced or in surplus' and that this shall by set down 'through provisions of binding force and permanent character, preferably constitutional'.

The process up until the EC summit of December 2011 seemingly fitted with the conjectures of LI, with the Franco-German letters of 4 February and 17 August setting the stage for – and providing the substantive outlines of – subsequent decisions by the Heads. At the control room level, this process was very much driven by member states. Commission President Barroso was, in fact, so unhappy with it, that he instructed Marco Buti and his staff in DG Ecfin to immediately prepare an alternative reform package, the two-pack. In this first phase, it fell to another set of institutional actors, the European Council president's cabinet and Council Secretariat Legal Service, to provide leadership in the machine room. Already in November 2011, the Council Legal Service had drafted an embryonic version of the Fiscal Compact, thereby laying out the tracks for subsequent control room decisions, While following the German line on the balanced budget rule, 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.

At the second stage, which was the follow up to the Summit of December 2011 until the end of January, the Commission also came on board. Like on the ESM, the key to 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 less spectacular, than on the other four cases. However, we should keep in mind that 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.

The banking union:

The banking union is generally considered the most significant step in European integration since the Treaty of Maastricht. The package, which consists of the single supervisory mechanism (SSM), the single rule book (SRB) and the single resolution mechanism and fund (SRM/SRF) was negotiated between June 2012 and April 2014. One persistent misconception regarding the banking union is that it was launched by a decision of the Euro Area Summit of 29 June 2012 (cf. Howarth and Quaglia, 2015: 152). A related misconception is that the Four Presidents Report, drafted under the nominal heading of EC President Van Rompuy, provided the impetus for this project.

This NI reading of the launch of the banking union is problematic for two reasons. First, it is highly doubtful whether the Heads were aware of the fact that they had launched the 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 direct requirement, the German Chancellor requested some form of common supervision of these banks, and invited the Commission to come up with proposals. Second, it was the Commission and ECB that jointly developed the concept of a banking union and acted as the drivers of the process. Within hours after the Summit, the Commission started talking about the banking union as if it was a done deal. The ECB had already developed a clear view of what such a banking union could look like. It had developed the concept in house (cf. . The Commission and ECB 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. It was only then, in December 2012, that the EC provided the endorsement for the entire project.

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), which anchored the crucial element of the bail-in of share- and bondholders. This bail-in principle was a game changer. Bail-in made it possible to sell the 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 reach a deal on the BRRD in June 2013.

However, the final stage, which was the intergovernmental conference that negotiated the SRF probably fits best 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, which reflected 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 (see Schimmelfennig, 2015). However, on the 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, that was able to employ the general guidance and endorsement by the control room, to put a strong steer on the negotiations in the machine room.

The EU Turkey deal:

The EU Turkey deal consists of the EU Turkey Joint Action Plan (JAP) of 15 October 2015 and the EU Turkey Statement of 18 March 2018, which jointly served to engage with Turkey in a number of issue-areas in order to stem the flow of migrants across the Aegean Sea.

This case provides the most complete illustration of the NIL model. The EU Turkey deal would be on the EC's agenda on quite a number of occasions between October 2015 and March 2016. In this same 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 on the main features of the EU Turkey deal. The ideas and impetus, instead, came 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, already 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.

A lot of emphasis has been put on the turf battles between Commission President Puncher and EC President Tusk. But 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 European Council 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 nominal guidance of the EC President. The process was overseen by an informal institutional triangle of Piotr Serafin (Tusk's chef de cabinet), Jeppe Tranholm-Mikkelsen (Secretary General of the Council) and Martin Selmayr (Juncker's chef de cabinet). However, in the negotiations as such, Timmermans was in the lead, working in tandem with President Tusk.

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.

The UK re-negotiation:

The UK re-negotiation of 2015-2016 was an attempt by the UK to re-negotiate their terms of EU Membership. This process began in the summer of 2015, although the institutions already started laying out the tracks for it in March 2015, and ended when the reforms were adopted as a Decision by the Heads of 18/19 February 2015. The two main issues were a safeguard mechanism in economic (Eurozone) governance and some safeguards or derogations on migration (primarily from within the EU).

The solutions were, again, 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. In that sense, the UK re-negotiation are a relatively easy case for our NIL model. These were issues that 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).

There would be no real machine room process (or negotiation forum) to manage, in which these reforms would be discussed with the member states. The process was directly dealt with in an ad hoc fashion by the informal institutional triangle of Piotr Serafin (Tusk's chef de cabinet), Jeppe Tranholm-Mikkelsen (Secretary General of the Council) and Martin Selmayr (Juncker's chef de cabinet), who were able to reach directly into their respective institutions to acquire input on specific issues. 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.

As mentioned, the Council Secretariat laid out the tracks for the negotiations, even before Cameron won re-election and called for a referendum. The skeleton draft they produced in March 2015 already contained the four baskets of 'ever closer union', 'euro-area governance flexibility', 'non-discrimination of non-euro countries' and 'free movement', that would come to form the basis for the June 2015 UK demands. This process 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 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, going even beyond the bounds of the EU treaties on the issue of immigration, specifically 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 in the Anglo-Saxon media, on limiting free movement as such. Which meant that the reforms were not spectacular enough to be used as ammunition in the subsequent referendum campaign. But for those who were able to grasp the legal niceties, it was clear that these were more than just efficiency gains.

Conclusion

Our main claim has been a simple and straightforward one: the rise of an intergovernmental body, the European Council, has been made the crisis reform process *less* instead of more intergovernmental, in the sense that there are better opportunities for providing institutional leadership.

On the basis of five cases of major reform, we believe there is sufficient evidence to claim that the role and influence of the institutions has been enhanced, in comparison to earlier, and somewhat unfortunate models of institutional leadership: meaning the 'Delors type' of political entrepreneurship (see also Peterson, 2015: 187-188). This is a different kind of institutional leadership, in the sense that it was not driven by one single institution. We are talking about the *joint* ability of the intergovernmental (EC President's cabinet, Council Secretariat) and the supranational institutions (Commission, ECB) to provide leadership, which comes at the expense of the ability of *individual* institutions to steer, let alone control, all developments. This also means that the role and influence of the institutions, specifically the Commission, cannot be assessed in isolation, but it needs to be seen within the broader inter-institutional framework.

To substantiate this claim, we tested our model against its main competitors, liberal and new intergovernmentalism. We believe LI and NI constitute valid alternative theoretical models that deserve careful consideration and thorough empirical testing.[4] As becomes clear from the overview in table 2, our model of new institutional leadership (NIL) does not explain all elements of major reform. The role and influence of the institutions was

[4] Supranational and neofunctionalist models provide less of an alternative, as these do not sufficiently take into account the enhanced presence of the European Council and instead stick to a model of EU reform driven by incremental decision making and functional spill-over, neither of which correctly characterize the five major reforms.

somewhat different in each of the five cases, and there are elements that are better explained by NI or LI.

Table 2: Answers to process level hypotheses and their fit with theoretical models (NI, LI, NIL)

Cases	**Process level hypotheses**			
	Where are solutions developed?	Where is 'bottleneck?' Which ideas or information are scarce?	What is the role of the EU institutions in the process?	What are the effects (is the influence) of institutional interventions?
European Stability Mechanism (ESM)	Control room decision to launch EFSF and thus ESM (NI). Bottom-up process of designing ESM in the machine room (NIL)	Idea to set-up EU bail-out fund required political clout (NI). Ideas regarding the scope and size of the ESM required EU level expertise (NIL)	Laying out the tracks for design ESM (NIL). Some mediation and initiation while MS maintain control over terms and conditions and procedures (LI)	More than efficiency gains. ESM became bigger and was allowed to do more than anticipated by MS (NIL).
Fiscal Compact	Main elements of balanced budget rule decided in control room, coming from MS (NI).	Legal expertise on what an EU level Fiscal Compact could look like (NI/LI).	Facilitation in the control room (NI). Steering and shielding role in the machine room (NIL).	Efficiency gains mostly (NI/LI), some reduction of scope and novelty of instrument (NIL).
Banking Union	Decision to launch the banking union came from interplay (gap) between control and machine room (NIL).	Ideas on framework for banking union required EU level expertise (NIL) Ideas about how to set up SRF mainly driven by MS interests (LI)	Laying out the tracks for banking union as a whole (NIL). Policy initiation and mediation on legislative elements of SSM, SRB and SRM (LI)	More than efficiency gains. Institutions provided impetus for package (NIL). MS determined scope of BRRD (bail-in), SRF and ESM related elements (LI)
EU Turkey deal	EU Turkey deal and main elements agreed in interplay (gap) between control and machine room (NIL)	EU level solutions on how to engage with Turkey and what could be offered in return (NIL)	Shielding process from MS involvement, laying out tracks for package and finding creative solutions (NIL)	More than efficiency gains funding, visa liberalisation and accession (NIL). MS championed one for one scheme (LI)

UK-renegotiations	UK re-negotiation package developed in interplay (gap) between control and machine room (NIL).	Ideas on what could be offered to UK required EU level, legal, process and substantive expertise (NIL)	Facilitation in control room (NI). No machine room process. Institutions designed creative solutions (NIL)	Somewhat more than efficiency gains, package contained some far reaching concessions to UK (NIL).

NI better explains the launch of the EFSF and its successor the ESM in the crisis months of 2010. However, in the course of the process (beginning of 2011), the institutions took over, designing the main features of the ESM and steering them through the machine room. When the crisis returned in the summer of 2011, their ideas on the size and scope of the ESM were quickly taking over by the Heads. Overall, the ESM case shows that there was a gap between the control and machine room, that was effectively filled by institutional leadership.

To the contrary, the institutions played a more prominent role in the early stage of the banking union processes, coming up with the overall model, and forcefully steering the first element, the SSM, through the machine room. The final stage of intergovernmental bargaining on the SRM and SRF are probably better explained by LI. But all in all, we can safely say that the reason that we got a banking union, was due to the institutions, the ECB and Commission in particular.

The balanced budget rule, that is the central element the Fiscal Compact, resulted from active German leadership in the control room, thus fitting with NI conjectures. The institutions initially played a more facilitating role in this process, and their influence was more subtle. Instead of enhancing the Fiscal Compact, the institutions (Commission's) main interest lie in reducing the scope and novelty of the instrument, so that it would be compatible – if not largely redundant – in comparison to the recently strengthened SGP (through the six-pack) and the upcoming two-pack. Also, Article 6.16 would ensure that this would all become part of the Community framework in due time.

The EU Turkey case is probably the strongest case supporting our NIL framework. Apart from the one-for-one scheme on resettlement, that was championed by the German and Dutch representatives (thus fitting with an LI interpretation), the institutions, and the Commission in particular, designed, shielded and led the machine room process from the start: the October 2015 JAP to the finish: the EU Turkey Statement of 18 March, resulting in more far-reaching deals on funding (2x3 billion in financial support), visa liberalization (dealing with all but 7 of the 72 benchmarks) and accession (opening chapters).

Finally, the UK re-negotiations were a process in which the institutions were perhaps naturally favoured, due to their legal and substantive expertise, to find solutions within the EU's legal and institutional framework on what to offer the UK. Input from other member states was limited. The institutions laid out the tracks for the package that was subsequently agreed by the Heads. From an LI perspective, one might conclude that the reforms were not spectacular, and thus did not run counter to vital member states interests. A major distributive shift, like allowing the UK to put a cap on the number of EU migrants, would have been 'smoking gun' evidence for our NIL model. This was never on the table, nor was it in the Commission's interest to decouple the four freedoms. The concessions that they were able to make – restricting in work benefits and preventing abuses – were noteworthy nevertheless.

Finally, we need to say a word about limitations and scope conditions. Ours is a model of new institutional leadership in major EU crises reforms. These require high level political involvement, a high pressure crisis atmosphere, a need to move beyond existing action channels and standard operating procedures, to look for creative and far-reaching solutions. This means that in the phase of immediate crisis management, for instance agreeing to the Greek packages of dealing with refugee relocation schemes, the institutions played a less prominent leadership role. The Commission and its President rather fell back on their role of political champions of Europe, which is actually a sign of structural weakness. In more regular EU reform processes, for instance the legislative processes on the six-pack or the reform of the Common European Asylum System (CEAS), the role and involvement of the EC was less, and therefore the ability of the institutions to provide this new type of leadership was also less. New institutional/Commission leadership is after all, mostly about being flexible, pragmatic and willing to waive institutional prerogatives and transcend inter-institutional rivalries. And perhaps it is also about accepting that from the outside the process will continue to be characterized as intergovernmental. Because it is behind this veil of intergovernmentalism that institutional leadership is most effective.

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