

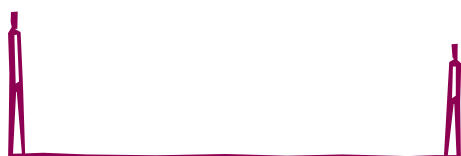
WILL THE EU GET A REAL PRESIDENT?

65

THE EU'S POLITICAL SYSTEM AS ANOTHER EXAMPLE OF SEMI-PRESIDENTIALISM IN EUROPE

Teija Tiilikainen

BRIEFING PAPER 65, 7 October 2010



WILL THE EU GET A REAL PRESIDENT?

THE EU'S POLITICAL SYSTEM AS ANOTHER EXAMPLE OF SEMI-PRESIDENTIALISM IN EUROPE



Teija Tiilikainen
Director
The Finnish Institute of International Affairs

Briefing Paper 65
7 October 2010

- The EU's political system comes very close to a semi-presidential system which represents a combination of presidential power and parliamentary accountability.
- The contours of semi-presidentialism have become accentuated both through the deepening and extension of parliamentary rule and through the simultaneous reinforcement of the European Council.
- For the time being the lack of party government forms a special characteristic of the Union's parliamentary dimension.
- Two main options dominate what comes to the future development of the Union's political system: either the Union will deepen its semi-presidential rule by moving into a real party government. Development towards a true presidential regime represents the second option, with the subordination of the Commission to one single head of executive, the president. This model would merge the current presidencies of the Commission and the European Council into one single EU presidency.



A meeting of the European Council. Photo: Council of the European Union

At first glance the EU's political system doesn't seem to correspond to any contemporary type of regime. There is a directly elected European Parliament (EP), but the way of constructing relations of power and accountability between the parliament and the three bodies with executive powers, the Commission, the European Council or the Council, complicates the picture. The Commission's accountability to the European Parliament has been confirmed in the founding treaties ever since their conclusion. But what is the value of such a rule when there seems to be a much more powerful executive emerging beyond the reach of any EU-level accountability, namely the European Council?

The key argument of this briefing paper is that the EU's political system comes surprisingly close to one particular type of regime. It is a question of a semi-presidential system which represents a combination of presidential power and parliamentary accountability. The Union's dual executive is formed by a parliamentary cabinet, the Commission, on the one hand and a presidential body, the European Council, on the other. The contours of this system were essentially strengthened through the changes taking place in the Lisbon Treaty.

How is the division of labour usually arranged between the two parts of such a dual executive and what kinds of factors might shake their co-existence? What kinds of pressures to modify the EU system are likely to occur next?

Semi-presidentialism between parliamentarism and presidential rule

Political systems are usually divided into parliamentary systems, parliament-centred systems and systems characterized by a separation of powers between the key political bodies.¹ The third category coincides with presidentialism, while semi-presidentialism is a form falling between parliamentarism on the one hand and a separation of powers system on the other.

A semi-presidential system combines a parliamentary system formed by a prime minister and a cabinet accountable to the parliament with a president gaining his or her legitimacy from a source other than the parliament. According to the man behind the original concept, Maurice Duverger (1980), semi-presidentialism implies that the president is elected by universal suffrage, has quite considerable powers and faces a prime minister and ministers who possess executive and governmental power and can stay in office only if the parliament doesn't show opposi-

¹ For an analysis of major political systems, see DUVERGER, M (1980). A new political system model: Semi-presidential government. *European Journal of Political Research* 8: 165-187; LIJPHART, A. (ed.), *Parliamentary versus presidential government*. Oxford: Oxford University Press, 1992; SARTORI, G. *Comparative constitutional engineering: An inquiry into structures, incentives and outcomes*. Basingstoke: Macmillan, 1994. SIAROFF, A. (2003), Comparative presidencies: The inadequacy of the presidential, semi-presidential and parliamentary distinction. *European Journal of Political Research* 42, 288-289.

tion to them. In contemporary thinking, all three criteria have proved flexible: different ways of electing the president come into question, the content of ‘considerable’ powers varies a great deal and even systems like the Russian one where the president can also dismiss the cabinet have been included in the semi-presidentialist category.

Semi-presidentialism which, in earlier times, was embodied above all in the French and Finnish constitutions, has suddenly become the most common form of regime in Europe as most of the Central and East European countries have adopted this type of political system after their recent democratization. Whether semi-presidentialism turns into a force for stability or instability in a regime seems to depend on conditions external to it, such as the party backgrounds of the two heads of executives (president and prime minister) or the general stability of the party system. In the latter case, a semi-presidentialist rule might bring more stability to turbulent political conditions, whereas the first is exemplified in the French system where a situation of ‘cohabitation’ typically decreases the stability of the regime.

A third alternative to a parliamentary or semi-presidential rule can be found, for instance, in the US type of presidential system where the state bodies function relatively independently in their own field of the separation of powers. In such a system the parliament is expressly a legislator and the functions of controlling and supervising the executive don’t exist.

The EU as a model of semi-presidentialism?

The EU’s political system consists firstly of a parliamentary government where the cabinet, that is the Commission, is accountable to the European Parliament (EP). While the Council has generally been treated as the other part of the Union’s dual executive², here I would suggest that this role be offered to the newly institutionalized European Council (EC). Due to the institutionalization of the European Council and the creation of a permanent presidency, this body has taken a much firmer grip on the Union’s executive powers than what the former summit meetings under the rotating presidency

2 HIX, S. *The Political System of the European Union*. London: Palgrave, 2005, 31.

were able to do. The formulation of the EC’s powers as the function to “provide the Union with the necessary impetus for its development and define the general political directions and priorities thereof” gives it a strong executive mandate, particularly when complemented with the powers it has in the appointment of the Commission and in the CFSP.

One essential question here, of course, is whether a collective body like the EC can be identified as the holder of presidential powers or whether this role should be linked instead to the President of the EC. It is immediately obvious that in general terms the EC’s role seems to be surprisingly compatible with the general characteristics of semi-presidentialism.³

The EC is very much independent of the EP in the sense that it can define the guidelines for the Union’s policies without taking into account the EP’s views or political constellations. In most policy fields the implementation of these guidelines is, however, firmly dependent on the parliamentary machinery that resides in the Commission and the EP. The other side of the coin consists of the fact that the Commission is accountable to the EP and to the EP only. In semi-presidential systems the president usually acquires his or her legitimacy from a source other than the parliament, meaning that the president is directly or indirectly elected by the people for a fixed term of office. The EC essentially acquires its legitimacy from the member states, and political considerations about whether its permanent president should be elected through direct vote must be understood against this background.

3 According to SARTORI (1994, 132), the characteristics of a semi-presidential system are as follows: the head of state is elected by popular vote either directly or indirectly for a fixed term of office. He or she shares executive power with a prime minister, thus entering a dual authority structure whose three defining criteria are: the president is independent of parliament, but cannot govern alone or directly and therefore his or her will must be conveyed and processed via his or her government; conversely, the prime minister and his or her cabinet are president-independent in that they are parliament-dependent: they are subject either to parliamentary confidence or no-confidence (or both), and in either case need the support of a parliamentary majority; the dual authority structure of semi-presidentialism allows for different balances and also for shifting the prevalence of power within the executive, under the strict condition that the ‘autonomy potential’ of each component unit of the executive does subsist.



José Manuel Barroso, the President of the Commission and Herman van Rompuy, the President of the European Council. Photo: European People's Party

The contours of semi-presidentialism have become accentuated both through the deepening and extension of parliamentary rule and through the simultaneous reinforcement of the EC. The two parts of the executive come together in the EC, of which the President of the Commission is a member. The EC's presidentialist characteristics are furthermore stressed through its role in the appointment of the latter. In spite of the fact that the EC can neither dismiss the Commission nor its president, its proposal is still key in the appointment procedure.⁴

There are, however, distortions in the EU's semi-presidentialist system as the Council still has important executive functions as well. It won't lose them all, but it has to be recognized that the Lisbon Treaty actually changes the situation in two respects. First, it stresses the Council's role as the EP's second chamber by spreading the ordinary legislative procedure whereby the Council and the EP act as the two chambers of a bicameral Parliament.⁵ In other fields of the Council's executive competences, changes

have taken place in favour of the EC on the one hand and the new High Representative for Foreign Affairs and Security Policy on the other. It should be noted that both in the EU's external relations and the area of freedom, security and justice the EC shall define the strategic guidelines (TEU, art 10b and TFEU art. 61A) and, consequently, also provide the political framework for the Council's action. The plurality of functions given to the High Representative again emphasizes his or her role in the leadership of the CFSP.

The European Parliament functions like a parliament in the conditions of semi-presidentialism where only one part of the executive functions under the rule of parliamentary accountability. The EP faces some remarkable constraints even when it comes to the fulfilment of this role. These constraints and the challenges of the parliamentary angle will be discussed next.

Parliamentarism lacking political content?

From the EP's point of view, the existence of a dual executive implies that only one part of the executive, namely the Commission, is accountable to the EP. The EC's role vis-à-vis the EP follows more the separation of powers logic as the EC has, on the one hand, functions where it is independent of the EP (powers to amend parts of the treaties and powers in the CFSP) and, on the other hand, powers where it is highly dependent on the EP's legislative capacity (general leadership of major policies). The President of the EC is obliged to report to the EP after each EC meeting.

4 An interesting combination of parliamentarism and presidentialism characterizes the rules of nomination as the EC, taking into account the EP elections (TEU, art. 9D, 7), shall propose a candidate for President of the Commission who will then be elected by the EP (in the event that a sufficient majority doesn't exist, the EC must come up with a new proposal).

5 TEU art.9 C, 8 divides the Council's competences into legislative competences and others and demands that each council meeting shall be divided into two parts accordingly. As the treaty subordinated a number of new legislative fields to the ordinary legislative procedure it, de facto, decreased the Council's power over these issues.



The European Parliament approved the new European Commission by 488 votes to 137 in February 2010. Photo: European Parliament

The parliamentary part of the EU's regime fulfils the normal criteria of parliamentarism with, however, a couple of significant exceptions. The principle of parliamentarism was already confirmed in the initial treaties, which entitled the EP to dismiss the Commission in a vote of censure. The validity of the principle has not been seriously questioned, but its applicability has been seen to be challenged by the demand according to which it can only be applied to the entire Commission and not to individual members of it. In the recent treaty changes, an indirect possibility has been created for the EP to, if necessary, push individual commissioners to resign. This is made possible through a provision originally included in the Nice Treaty (TEC, art. 217), according to which the President of the Commission can ask an individual member of the Commission to resign. The possibilities included in this provision were finally made visible in the inter-institutional agreement between the Barroso II Commission and the EP (Framework agreement on relations between the European Parliament and the Commission. 9.2.2010). It was confirmed that should the EP demand it, the President of the Commission will ask an individual commissioner to resign.

Constant amendments in favour of the EP's role in the process of appointing the Commission have equally underlined the value of the principle of parliamentarism. The EP's role in the appointment procedure has been systematically strengthened with the Lisbon Treaty taking it still one crucial step forward. In this treaty the EP is given the right to elect the Commission president on the basis of a proposal by the European Council (TEU, art. 9D.7). This proposal shall again take into account the results

of EP elections. The appointment of the rest of the College shall be subordinated into a vote of approval in the European Parliament.

The EU's government comprises many legal and institutional preconditions of parliamentary rule. The major constraint with a natural political background relates to the lack of a party government. The Commission owns the critical functions of a political executive and acts in legal and institutional terms under the formal accountability of the EP. The political content of this accountability is, however, seriously hampered by the Commission's character as an independent body without the normal characteristics of a party government.⁶

In full-fledged terms of parliamentarism, parliamentary rule at the EU level would mean the EP's control of the Commission's political agenda from the point of view of the political programme based on the electoral campaigns of the ruling parties. As the normal party political connection is lacking in the relationship between the Commission and the EP, this relationship can only be of a quasi-parliamentary nature. However, in this respect too, some moves have been taken away from the Commission

⁶ The critical treaty provisions have more or less remained in the same form since the Maastricht Treaty. The Lisbon Treaty defined the Commission's independence in the following way (TEU, art. 9D, 3): "In carrying out its responsibilities the Commission shall be completely independent. Without prejudice to Article 9E (2), the members of the Commission shall neither seek nor take instructions from any Government or other institution, body or entity."

as an independent body in furtherance of its role as a party political executive. These changes have, above all, been directed at the role of the Commission president, whose chair became highly partisan through the Lisbon Treaty (TEU, art. 9D, 7), which in practice demands that he or she should originate from the party group that wins the elections. This role, together with the duty of the president to ask a commissioner to resign at the behest of the EP, stresses his or her role as a political guarantor of the Commission.

This practice, among others, is designed to balance the lack of party government and derive the best from parliamentarism in these conditions. The EP's approval of the Commission is preceded by hearings of the individual commissioners. This practice, as well as the approval itself, is highly compatible with the logic of parliamentary accountability. The lack of political programmes—either electoral or for the cabinet—nevertheless leads to the parliamentary approval being directed at the personal qualifications and backgrounds of the candidate commissioners rather than at their political views. This also remains the major perspective of the EP's control of the Commission throughout the electoral period.

What next?

At a general level, the contours of a semi-presidential system seem to provide an almost ideal framework for an analysis of the EU's political system. This system clearly has elements of parliamentary as well as presidential rule, and the relations between the EU institutions correspond surprisingly well to the political logic of semi-presidentialism.

In more traditional semi-presidential systems, the two heads of executives coming from different political parties has been apt to increase tensions between the two executives. In the EU's case, this risk is lessened due to the lack of party government on the one hand, and the collective character of the Union presidency on the other. The President of the EC is,

after all, supposed to represent the consensual view of the EC. Tensions originating in an ambiguous division of powers are much more likely, particularly in issues of overlapping competences such as initiating policies or representing the EU in external relations.

The EU currently represents a hybrid, even of semi-presidentialism, and if one attempted to anticipate the direction of its institutional development in the long run, one would have to hazard a guess between two major options. The first of these is that the Union will deepen its semi-presidential rule by moving into a real party government. The parties winning the European elections would form the 'Commission', which would become a political body, while a real opposition would emerge in the EP. This option might or might not coincide with the simultaneous development of the European Council in the direction of a normal presidency through the further accentuation of the role of the permanent president.

Development towards a true presidential regime would represent the second option, with the subordination of the Commission to one single head of executive, the president. This model would merge the current presidencies of the Commission and the European Council into one single EU presidency. The parliamentary principle would dissipate as far as relations between the European Parliament and the Commission are concerned, and both would play their own role in the EU's separation of powers.

Teija Tiilikainen

Director

The Finnish Institute of International Affairs

ISBN 978-951-769-278-6

ISSN 1795-8059

Cover photo: Council of the European Union

Layout: Tuomas Kortteinen

Language editing: Lynn Nikkanen

The Finnish Institute of International Affairs 2010

www.upi-fiia.fi