

Chapter 15

Crisis and Crisis Management in the European Union: The European Council and European Commission Revisited

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Abstract

In the literature on the multiple crises that have affected the EU for more than a decade, the European Council has invariably been cast as the EU's crisis manager. While not disagreeing that the European Council can play an important and sometimes unique role in addressing extraordinary and difficult challenges, this chapter argues that it is important to recognise both the limitations on the capacity of the European Council to undertake 'crisis management', and the ability of wider set of EU actors equipped with a range of policy instruments to engage when serious problems confront the EU. Reviewing the period of the Juncker Presidency, this chapter examines the role played by the European Commission to address crises in areas commonly assumed to fall within the ambit of intergovernmental bodies.

Introduction

In the now voluminous scholarly literature on the crises that have consumed the European Union (EU) since the failed ratification of the draft Constitutional Treaty, the European Council has generally been presented as the European Union's 'crisis manager'. Most accounts have taken the view that the European Council alone among EU institutions possesses the necessary authority to take decisions, mobilise and commit resources, and put in place protective measures and the appropriate institutional arrangements. The story of the EU's response to numerous crises has subsequently been told largely in terms of action taken by heads of state and government at summits or in other intergovernmental forms (Fabbrini 2016). Since decisions are held to have been taken in one or many

intergovernmental arenas, explanations for how the EU has reacted has been largely sought by reference to national preferences and the positions adopted by member states (Krotz and Maher 2016, Frieden and Walter 2017, Armingeon and Cranmer 2018, Moravscik 2019; see Csehi and Puetter 2017 for an overview). With the exception of the ECB (see Hjertaker and Tranøy this volume) and the financial and economic crisis, the assumption has been – exaggerating only slightly -- that the input of other EU institutions, notably, the European Commission (Commission) has been nugatory, and that the only meaningful interactions at the EU level have been those involving the member states.

This chapter contends that the view that the EU's response to crises can be told only in terms of the action taken by the European Council and the positions adopted by the member states is misleading. Although the European Council has unique authority and can play a key role where it chooses to intervene, the time that it can devote to any one issue is limited, its capacity for action is sometimes limited by a lack of agreement among heads of government, and it depends on other institutions for its decisions to be enacted. Nor is the European Council always uniquely competent to take action. Other institutions, notably the Commission, have responsibilities, resources in the form of staff, expertise, funding and other instruments, as well as a permanence, that may allow them to be more immediately responsive. There is also always a question of agency; namely, whether incumbents in leadership positions decide to frame a particular issue as a 'crisis', what actions they believe should follow, and how other actors in the EU system respond. These intra-institutional processes and inter-institutional interaction need to be taken into account.

Drawing on instances of crisis response on the part of the EU between 2014 and 2019, this chapter illustrates the importance of looking beyond the European Council when considering how the EU responds to crises. It considers four 'hard cases': Ukraine, the refugee influx, the second Greek bailout, and the wave of terrorist attacks in Europe. All four cases – external action, emergency eurozone measures, migration, security, and foreign policy -- represent both sensitive policy areas and relatively new areas of EU competence where the literature would anticipate a primarily intergovernmental response and a limited degree of Commission involvement.

The discussion below is divided into two parts. The first offers a brief critical review of the literature on the EU and crises. It argues that scholarly attention has been overly focused on the actions of the European Council and therefore the positions taken by member states, thereby overlooking the possibility that the Commission has played a key role. It then discusses the respective capacities of the European Council and Commission and highlights the importance of leadership. The second part considers how the EU has responded to four crises since 2014. Particular attention is paid to the role of the Commission.

The EU and crisis management

There is now a substantial literature on the difficulties, disruptions and challenges confronted by the EU over more than a decade. By definition, crises are extraordinary events, and it is no surprise that they have commanded high levels of attention. Scholars have investigated both the experience of individual sectors, and the overall impact and effects. They have also addressed the multiple aspects and dimensions of each crisis. The Eurozone and the refugee crisis have attracted particular attention (Buonanno 2016,

Niemann and Zaun 2018, Trauner 2016, Carrera et al 2015). The literature considers the positions adopted by individual member states and the EU institutions, as well as processes of preference formation (Laffan 2016a, Tarlea et al 2019, Schmidt 2019, Degner and Leuffen 2019, Fontan and Saurugger 2019, Kassim et al 2019, Morlina and Sottilotta 2019). The literature also examines the institutional consequences of the crisis and crisis measures, considering, for example, the extent to which particular institutions 'won' or 'lost' (see, e.g. Becker and Bauer 2016, Dehousse 2016).¹

According to a general consensus, the European Council has taken the lead or been the decisive actor in responding to moments of crisis (see Puetter 2014, 2015, Laffan 2016b, Dinan et al 2017). Whether the Commission has failed to deliver on account of partisan considerations (Hodson 2013) or an inability to propose measures that are acceptable to the member states, or simply that heads of government have decided to intervene, the European Council has invariably assumed responsibility. In these instances, the Commission's role has typically been restricted to the production of reports or studies for consideration by the European Council, or to the implementation of decisions following meetings of heads of government, in keeping with the conceptualisation of Eurozone issues and foreign policy as part of the 'intergovernmental union' (Puetter 2012, 2014, Fabbrini

¹ The reaction of national institutions, particularly parliaments, and media coverage at the national level, have also been extensively studied, with legitimacy an important theme. The erosion of trust and its consequences, and the spread of disillusionment with the EU and the forms that it has taken have been investigated, and the reforms in governance that need to be taken much speculated about.

2016) within the EU's dualist framework that has evolved since Maastricht (Puetter and Fabbrini 2016).

Since it follows from the focus on the European Council that the key to explaining EU action lies in the positions adopted by member governments, accounts have focused on processes of national preference formation on the part of national capitals. Some scholars have applied variants of liberal intergovernmentalism (Armingeon and Cranmer 2017; Schimmelfennig 2015). Others have used core concepts – 'preferences' and 'preference formation' – that are traditionally associated with liberal intergovernmentalism, but have incorporated them within competing theoretical perspectives. The latter include the 'new intergovernmentalism' (Bickerton et al. 2015), 'deliberative institutionalism' (Puetter 2016), or 'discursive institutionalism' (Crespy and Schmidt 2014).² (see also Section II this volume)

Many of these accounts see no or little decision-making role for the Commission. They also appear to discount input from the Commission as a factor in decision making by the European Council or otherwise shaping the EU's response, and pre-decisional interaction between the two institutions whether on the basis of cooperation, competition or rivalry as an important stage that influences the form taken by the final output, as well as how in practice they decide to divide labour. Yet, the Commission is a member of the European Council. It also has important competencies under the treaty that are engaged by crisis, as

² For a discussion of the use of 'preferences' and 'preference formation' by liberal intergovernmentalism and its critics, see Csehi and Puetter (2017). See also Kassim et al. (2019)

well as a responsibility to act in the general interest of the European Union (Article TFEU).

Indeed, the Commission is often best positioned to act first when a crisis emerges and often does, which has consequences for the EU's response.

Moreover, although the European Council was strongly empowered by changes introduced by the Treaty of Lisbon, its resources remain limited. Lisbon recognised the European Council as an EU institution for the first time, and entrusted the heads of government with responsibility for defining the general political guidelines for the EU. It also created the (semi-)permanent Presidency, which altered the operation of the European Council, separated the European Council from the Council of the European Union, and equipped the European Council with a leadership capacity that it had lacked hitherto. Importantly, Herman Van Rompuy, the first President of the European Council, worked organisationally on undergirding the Presidency with a strong cabinet that enjoyed close links with prime ministers' offices in the national capitals. He also strengthened the leadership role of the European Council by his creative use of convening power, establishing special summits devoted to a single topic and Eurozone summits alongside its normal meetings (Puetter 2015). As well as 'convening power', which enables him to bring heads of government together, the President can issue statements, which then guide the work of the other Institutions.

Despite significant strengthening since Lisbon and a broadening of its policy involvement (Puetter 2014, Fabbrini and Puetter 2016), however, the European Council's ability to deal with crises is not unlimited. Crises are dealt with by the European Council because the President of the European Council decides to table the issue at a normal summit or to call an

extraordinary meeting (Puetter 2014). Thus, the incumbent of that office plays a crucial agenda-setting role in defining an issue as a crisis. The reasons can be various, ranging from the inability of the sectoral Council to reach the necessary agreement, or an unwillingness on the part of the latter to endorse decisions that are 'too big', the fact that the crisis at hand is not easily covered by existing formations of the Council, to situations where the crisis has already been resolved by a sub-group of member states and the European Council is asked to rubber-stamp the results.

As well as lacking law-making power and its dependence on other institutions – including not only the Commission, but the Council of European Union -- to carry out its decisions, the European Council has limited bureaucratic resources. It can call on the Council Secretariat, which is some 3,000-people strong, but two-thirds of its staff are mainly concerned with logistics and a small proportion provide direct support for the President. Furthermore, since as presidents or prime ministers its members are mainly preoccupied with domestic matters, they have limited time to devote to EU matters,³ and multiple issues compete for their attention. Although the creation of the Presidency has created a degree of permanence, the capacities of the office should not be exaggerated.

Several further points are important. First, the very fact of calling a meeting of EUCO has consequences. It may force the Council to agree something before the meeting of the European Council takes place or it could paralyse or disempower the Council. Moreover, since conclusions of the European Council have force, it is rare that a crisis is solved on the

³ Indeed, they recently rejected a proposal to meet monthly.

day of a meeting. A key question is whether the sectoral Council is able to follow this up – the task of the rotating Presidency.⁴ Furthermore, it is important to note that national governments, following years of crisis, have become increasingly fragile and are more often coalitions. As a result, the Minister of Finance or the Minister of the Interior may come from a different party to the prime minister, which can lead to problems in coordinating national positions.

The Commission, by contrast, has considerable resources. As well as a staff of around 33,000, it commands very substantial policy and legal expertise, financial resources under various budgetary headings, and important political linkages to the European Parliament. There are also a range of sectoral, sub-sectoral and transversal instruments at the Commission's disposal.

As with the European Council, leadership is a key variable. Processes of presidentialisation following the Treaties of Amsterdam and especially of Nice have concentrated power in the hands of the Commission President (Kassim 2012; Kassim et al. 2013). The decision to respond to a crisis, to launch an initiative, or pro-actively to seek cooperation with the European Council, are largely in the power of a single individual. Different Presidents are likely to arrive at very judgements about whether, when or how to act. Their decisions reflect different values, different levels of experience and different evaluations of, for

⁴ Hence, European Council has evolved so that meetings routinely include reporting on progress of past decisions.

example, the importance of collaborating with the European Council (Bocquillon and Kassim 2019).

For these reasons, this chapter argues for a broader appreciation of the EU system in explaining the EU's response to crises and its management of them.

Revisiting the EU and crisis responses

The chapter draws on crises experienced during the Juncker Commission to illustrate the importance of these variables. The Juncker Commission, which took office on 1 November 2014, was the first to be headed by a winner of the *Spitzenkandidaten* process (Westlake 2015,;Christiansen 2016; Kassim and Laffan 2019). As a result of the decision of most European parties to nominate a candidate for the Commission Presidency ahead of the elections to the European Parliament in 2014, and with the strong encouragement of the European Parliament itself, the electoral campaign took on an EU-wide dimension, with parties setting out detailed policy agendas for the coming five-year term.

These attempts to programme EU action, however, were made at a time of considerable uncertainty. The EU was emerging from the worst economic, financial and social crisis it had experienced since the Second World War. The financial crisis which started in 2008 had led to a double-dip economic recession in the euro area, and unemployment peaked at 12 per cent towards the end of 2012. Even if the economic situation had started to improve in the course of 2013-14, protracted slow growth, if not deflation, was anticipated for the near future. More broadly, the crisis had had far-reaching political consequences. Populist and anti-establishment movements, old and new, were performing well across Europe, and

Eurosceptic and anti-European sentiment were on the rise. National governments had become weakened. Many had narrow parliamentary majorities and were composed of fragile coalitions. Mistrust between member states, especially between 'north' and 'south' was fuelled by tensions over unprecedented financial assistance programmes.

The political manifestos published in the run-up to the 2014 European elections reflected these concerns, putting economic recovery and social fairness at their centre. However, a series of new challenges arose. The EU was faced by what the then candidate for Commission President Jean-Claude Juncker termed a 'polycrisis', illustrating the multiplicity of sudden and severe problems the EU now confronted on top of the difficult economic and social situation the incoming Commission had inherited.⁵ This chapter examines the respective roles of the European Council and the Commission played in responding to five of these crises: Ukraine, the second Greek economic collapse, the migration and refugee crisis, security and the fight against terrorism, and Brexit. It focuses principally on intra- and inter-institutional processes, and, underlining the scope for contingency, the role that is played by key actors at particular points. It notes that there are different routes by which an issue

⁵ In its contribution to the EU27 Leaders' meeting of 9 May 2019 (COM(2019)218 of 30 April 2019), the European Commission took stock of its action over the previous five years and dedicated a chapter to 'Keeping strategic focus through challenges and times of crisis'. It mentions 'Grexit', migration, trade tensions, security and 'Brexit' as crises having required 'new forms of governance and management at EU level'. The relations with Iran would provide another interesting test case.

becomes a crisis, that crises assume different forms, and that there are different ways in which crises can be addressed.

Ukraine

In the EU context, external relations, especially those involving international conflict, are traditionally perceived as national and thus essentially intergovernmental matters, despite the existence of the High-Representative of the Union for Foreign Affairs. However, such a reading neglects the significance of EU actors and instruments. The case of the Ukraine illustrates the importance of the latter.

In 2013, the government of the newly elected President decided to suspend the Association Agreement that was being negotiated by Ukraine and the EU as part of a broader policy to strengthen the Ukraine's ties with Russia. Several months of demonstrations and protests led to a rallying of pro-EU forces and a change of government. In response, Russia launched a military intervention in February 2014, leading to the illegal annexation of Crimea in March 2014 and war in the Donbass region in April 2014.

As a traditional reading of EU action in external relations would have predicted, Berlin and Paris largely shaped the initial response on the part of the Union. France and Germany moderated the talks that led to the Minsk Agreements, and a fragile ceasefire between Russia and Ukraine. However, the Minsk Agreements were not the final word. The President of the European Council and the High Representative both played a role in steering and coordinating a broader EU response, essentially Europeanizing policy towards the Ukraine. In addition to backing diplomatic efforts, the European Council agreed a set of restrictive

measures against Russia, which were then later extended.⁶ The Commission also set up a dedicated Support Group for Ukraine, in April 2014, as a way to concentrate and coordinate the channelling of resources and supply of expertise in fields, including governance and the rule of law, justice and home affairs, economic governance, agriculture, energy, infrastructure, health, education, and communication.⁷

Building on the Association Agreement that was eventually signed in March 2014,⁸ the EU provided support on several fronts. First, alongside the International Monetary Fund, the Commission activated a number of programmes of macro-financial assistance to keep the

⁶ The operational side of a number of financial sanctions is administered by a service of the European Commission – the service for Foreign Policy Instruments – working in close cooperation with the European External Action Service.

⁷ This structure was built in the light of the experience gathered by the Commission through many years of technical assistance in the run-up to the EU's past enlargements and in Europe's neighbourhood. In turn, it served as inspiration for the creation in October 2015 of a new Commission service – the Structural Reform Support Service – specialising in technical assistance to the EU Member States.

⁸ The ratification process did not go smoothly in the Netherlands. Following concerns about the significance of the Agreement, the Dutch government organised an advisory referendum in April 2016, which rejected the law to transpose the deal. Following intense diplomatic efforts and legal work, notably from the European Commission given its competence in the field of trade policy, the European Council of December 2016 adopted a specific declaration providing reassurances and meeting Dutch concerns.

country afloat. Since the outbreak of the crisis, the Commission has disbursed a total of EUR 2.8 billion in macro-financial assistance through three programmes of low-interest loans -- the highest amount ever made available by the EU to a third partner. These programmes linked the disbursement of tranches to progress on reforms, for instance to fight corruption, which required close monitoring of developments on the ground, and interaction with the broader economic and policy dialogue.

Second, the EU stepped up its support for Ukraine's real economy. The biggest international donor to Ukraine, the EU was able to tap into an envelope of EUR 11 billion for direct support over the period 2014-2020. As Ukraine's largest trade partner, the EU also sought to provide new opportunities and strengthen trade ties. The EU and Ukraine signed a Deep and Comprehensive Free Trade Agreement, which entered force in January 2016, and will gradually reduce tariffs on goods and services. The EU also decided (in April 2014) to lift temporarily the customs duties on Ukrainian exports to the EU, a measure worth EUR 500 million per year. In parallel, the Commission -- through its Support Group -- rolled out technical assistance projects for capacity building in the public sector and for private sector development, and the European Investment Bank provided funding for dedicated projects. Third, the EU was concerned to prevent energy black-outs in the Ukraine and to strengthen the country's energy security. The Commission -- at the level of one of its Vice-Presidents -- took the lead in moderating regular energy talks between Russia, Ukraine and the EU. In

spite of a tense political context, this helped prevent major disruptions of gas delivery to both Ukraine and the EU.⁹

Fourth, the EU sought to boost political ties and people-to-people exchange. The political and cooperation provisions of the Association Agreement were provisionally applied as of November 2014, in anticipation of its entry into force. A bilateral Visa Facilitation Agreement was finalised in February 2014 and the EU approved visa-free travel for Ukrainian citizens in May 2017. Half a year later, more than half a million Ukrainians had made use of this new opportunity. Several cooperation projects in the field of education and research were also initiated.

This panoply of instruments, their rapid deployment following the 2014 crisis and further deepening over the years, illustrate the role that EU actors, including the Commission and the European External Action Service (EEAS) (see Maurer this volume), play in international crisis situations. They show how EU action in response to a crisis situation, includes, but also goes beyond, purely diplomatic efforts.

Averting 'Grexit'

As noted above, the scholarly literature on the financial and economic crisis in Europe between 2008 and 2013 tends to stress the central role of the EU's member states, as well as intergovernmental settings, including the 'Eurogroup', the regular gathering of euro area

⁹ The geopolitics of 'Nordstream 2' – the new gas pipeline between Russia and Germany – also played an important role.

Finance Ministers, and 'Euro Summits' (see, e.g. Puetter 2016). Such instances are not strictly speaking EU institutions, but they played a central steering role and been responsible for the most sensitive decisions, which often resulted in further intergovernmental arrangements, such as the European Stability Mechanism (ESM), Europe's new financial firewall. The focus on 'last chance' summits, which was a notable feature of media coverage, overlook the role played by other EU actors, including the European Parliament and the Commission, in designing new initiatives and operating new instruments, alongside the European Central Bank.

From the first attempt at a coordinated response through a 'recovery plan' in November 2008 to the 'Youth Guarantee' of 2013, from the changes to the Stability and Growth Pact brought about by the 'six-pack' and 'two-pack' legislation to the launch of the European Semester of economic policy coordination, from the Four Presidents' Reports on the future of Europe's Economic and Monetary Union to the wave of EU legislation passed to reform Europe's financial and banking sectors, much of the substantial work of containing and overcoming the crisis was undertaken by EU Institutions. By the time of the European elections of spring 2014, the economic and political situation had improved: most countries that had recourse to financial assistance from the euro area had exited their adjustment programmes, and only Greece was still due to complete its second programme. Yet, Eurozone reform remained unfinished and President Juncker's political guidelines – the programme he presented as candidate Commission President -- made the deepening of Europe's Economic and Monetary Union a central priority for the following five years. The political guidelines also included important messages for countries in need of financial

assistance: the end of the 'Troika'; the commitment to carry out a social impact assessment before any new programme; and greater accountability and parliamentary control.

These commitments were not intended to be put into immediate effect. With Greece gradually able to tap the markets in the course of 2014, no new programme was in sight. Yet, the election of a new government in Greece in January 2015 changed that prospect. After refusing such move at first, Greece requested an extension of the deadline of its programme from February to June 2015. As negotiations started, uncertainty led opponents of the euro, as well as those opposed to Greece's participation in it, to become more vocal. The risk of 'Grexit' – the exit of Greece from the euro – became especially severe in the early summer as Greece defaulted on a payment to the International Monetary Fund and introduced capital controls. Following a radical turn of political events, including a referendum, Greece requested a new financial assistance programme in July.

Detailed accounts of how this crisis unfolded have started to appear,¹⁰ which put a new light on the role played by actors including the staff of the Eurogroup and the Commission. While the Commission had been vilified by many in the new Greek government, it turned out to be an important channel of communication for Athens and a defender of Greek interests. With the direct intervention of President Juncker, the Commission provided constant behind-the-scenes assistance to convey the requests of the Greek government, often negotiating on its

¹⁰ See President Juncker speech 'Building the euro: moments in time, lessons in history', delivered on, 19 June 2019. For a fictional treatment, based on factual research, see Dendrinou and Varvitsioti (2019).

behalf, and moderating contacts between the Greek government with other member states and bodies including the European Central Bank, the International Monetary Fund, and the European Stability Mechanism. These efforts paved the way for a new Stability Support Programme which, for the first time, was submitted by the Commission to an ex-ante *social* impact assessment.

The Commission also designed a plan to support Greece's real economy. In July 2015, it proposed to scrap the co-financing requirements of EU funds and to frontload the EUR 35 billion planned for Greece under various funding programmes for the period 2014-2020. With the creation of its new Structural Reform Support Service in October 2015, the Commission provided and coordinated far-reaching technical support to help Greece build the necessary administrative support for reforms and boost the absorption of EU funds, with Greece becoming the best EU performer as a result.

In parallel, the Commission President took the initiative to coordinate a report on the deepening of Europe's Economic and Monetary Union, together with the Presidents of the European Parliament, the European Council, the European Central Bank and the Eurogroup, the so-called 'Five Presidents' Report'. This report was released in June 2015, at the peak of the crisis, as way to stabilise expectations about the euro area, assert its integrity and chart out a clear future.

The Euro Summit of 12-13 July 2015 is often mentioned as the moment when 'Grexit' was finally averted, with the decision of EU Leaders to move towards a new programme. Yet, much of the substance of the reforms still needed to be fleshed out and there was still a risk

of a further aggravating default of Greece on its debt later that month. It was only by activating a bridging loan of EUR 7 billion under the European Financial Stabilisation Mechanism, the precursor of the ESM, backed up by the EU budget, that the Commission was able to avert the risk of further financial accidents in Greece. The Memorandum of Understanding initiating a new Stability Support Programme was signed on 20 August 2015. Three years later, Greece emerged from its programme, with fiscal targets met, economic growth averaging 2% and unemployment falling. A total of EUR 61.9 billion had been mobilised in loans. Capital controls were lifted in September 2019.

Tackling the migration and refugee crisis

Migration featured as a priority for the European Council (2014) in its 2014-2019 Strategic Agenda and as one of the ten priorities of the incoming Juncker Commission. Migration was also made a designated Commission portfolio for the first time. The scale of the refugee crisis, however, was not anticipated. Towards the end of 2015, the United Nations High Commissioner for Refugees reported the largest number ever of displaced persons. With wars on the EU's borders and within the wider neighbourhood, the number of refugees arriving rose dramatically in 2015 from around 40 000 in May to more than 200 000 in October. For Europe, this was arguably the largest crisis since the Second World War. Ensuring a common EU response was an immediate challenge. In May 2015, the Commission announced a comprehensive 'European Agenda for Migration', while the European Council discussed the crisis at meetings in June, October and December. However, unilateral action, notably the re-imposition of internal borders along the so-called Western Balkans route, reflecting a rise in the salience of migration, domestic political pressures on

governments, and an increase in anti-migrant sentiment, threatened the unity of the EU and the integrity of the Schengen area.

The Commission took the initiative of holding regular conference calls with the 'sherpas' of the member states concerned. It also appealed to international and European financial organisations to secure additional funding. The need for coordination at the highest level was such that the Commission eventually hosted in its premises a meeting on the Western Balkans route in October 2015, where the leaders of eleven countries endorsed a dedicated action plan. The decisive step came a few months later, with the EU-Turkey agreement of March 2016, which led to a radical reduction in the number of arrivals.¹¹

Several new initiatives were developed very rapidly at EU level, often backed up by EU staff and funding. Several European operations were organised to rescue lives at sea.¹²

¹¹ See Smeets and Beech (2019) for an account of the Turkey agreement. While this agreement is mainly the result of high-level diplomatic efforts from national capitals, the European Commission laid the groundwork through a Communication on 'next operational steps for the EU-Turkey cooperation in the field of migration'. It also appointed an EU coordinator to monitor the agreement.

¹² Three operations were set up by the European Border and Coastguard Agency together with Greece, Italy and Spain (Poseidon, Themis and Indalo respectively) and a fourth – Sophia – was set up as a Common Security and Defence Policy operation. These operations are reported to have helped rescue 750 000 persons between 2015 and the summer of 2019.

'Hotspots' gathering staff of the European Asylum Support Office (EASO) , the European Border and Coast Guard Agency (Frontex), Europol and Eurojust were set up to assist frontline member states -- Greece and Italy foremost -- to facilitate the registration of asylum seekers (see Everson and Vos this volume). New mechanisms for the resettlement of refugees from outside the EU were also put in place. The concept of a European Border and Coast Guard (EBCG) was rapidly agreed, with significant new powers transferred to the corresponding Agency. New ways to support and engage with countries of origin and transit were developed through the creation of dedicated Trust Funds and the launch of an External Investment Plan.

By contrast, divisions among member states, which were reflected in increasingly tense relations between the Commission and the European Council, prevented the reform of EU legislation, notably in asylum. The Commission tabled 30 legislative initiatives in the field of migration between 2014 and 2019, but 16 remain on the table of the EU legislator. While the European Parliament was able to reach compromise on some files, the Justice and Home Affairs Council was very divided on others. The fact that member states were not always represented at the appropriate ministerial level is a symptom of the difficulties for the sectoral Council to follow up decisions of the European Council in this field.

For a number of member states, there was a case of 'too much, too fast, too far' in regard to the Commission's proposals. 'Too much', when instead of directives – allowing for a gradual convergence of legislation – regulations were proposed to harmonise sensitive policy domains. 'Too fast', when a second proposal for the EBCG Agency was presented before the first one was really finalised. 'Too far', when the Commission, early on in the crisis, proposed

a quota-like system of assessment of asylum applications based on principles of solidarity. Although a system informed by the latter was eventually adopted by the Council against opposition from a minority of member states, it has not yet been implemented. Moreover, a number of governments are now blocking attempts at a broader revision of the rules. The need for lasting solutions remains particularly obvious in the Mediterranean Sea. When a rescue vessel arrives on European shores, it is the Commission that plays the – largely informal and unnoticed – role of ad hoc coordination, contacting EU member states to ask them to volunteer to welcome a number of the refugees concerned and organising relocation. Thus, the EU system, although responsive and forward-looking at the peak of the crisis, was able to devise and implement a number of instruments, but proved unable to renew EU legislation.¹³ The migration case underlines the importance of looking beyond the actions of the European Council and member state preferences when examining how the EU responds to crises.

Security and the fight against terrorism

The shooting of the French cartoonists of ‘Charlie Hebdo’ in Paris in January 2015 was the first in a series of terrorist attacks on European soil -- Paris again, Brussels, Nice, Berlin, London, Stockholm, Manchester, Barcelona – between autumn 2015 to the summer of 2017. More than 300 people were killed and over 1 100 injured. For many observers, these attacks laid bare the limitations of bilateral and EU-wide cooperation in security.

Competences had only started to emerge at EU level for a decade. They also led to the

¹³ As incoming Commission President, Ursula Von Der Leyen promised a ‘New Pact on Migration’.

questioning of how the EU's internal and external borders functioned, and the Schengen area, with France deciding to re-establish internal border controls on security grounds, while several other countries did so in response to the refugee crisis.

After only a few months in office, the Commission issued an action plan - a 'European Agenda on Security' -- in April 2015. A year later, as the European Commissioner of British nationality decided to leave following the 'Brexit' referendum, the President appointed a Commissioner exclusively dedicated to security matters. A new 'security taskforce' was also set up within the Commission, which was able to cut across and draw on the expertise of several established Directorates-General. Since 2014, the Commission has proposed 22 legislative initiatives, of which 15 have been agreed by the EU legislator. These include: a law to criminalise and more heavily sanction related offences, restricted access to firearms within the single market -- legislation drafted by Commission services during the week-end following the 'Bataclan' attack in November 2015; improved interoperability of information systems; and revised rules on anti-money laundering and a Cybersecurity Act. Unfinished business includes the proposal to extend the mandate of the European Public Prosecutor's Office to fight cross-border terrorism and legislation removing terrorist content online. Beyond legislative action, effort has been expended in efforts to (re)build trust among European actors, as well as to strengthen operational cooperation between law enforcement authorities and with EU agencies. Some of these initiatives gained international recognition and have the potential to set new standards. In the wake of the 'Christchurch' attack, in May 2019, the President of the French Republic and the Prime Minister of New Zealand invited the President of the Commission to an international

meeting with other global leaders and CEOs of digital platforms to discuss the European approach to fighting on-line extremism.

Security concerns have also led to an increased focus on defence. Significant steps have been taken at EU level over recent years, ranging from pilot projects on industrial and research cooperation to the establishment of a fully-fledged European Defence Fund. As a measure of the achievement in the historical context of the EU's development, the congratulations offered by the President of the French Republic to the Commission for its work on security and defence matters in his remarks following the June 2017 European Council are richly symbolic.

Conclusion

Although the existing literature focuses largely on the European Council, this chapter has argued for the importance of looking across the EU system when investigating how the EU responds to crisis. Since the European Council is widely considered to be the EU's 'crisis manager', scholars have sought to explain the EU's response to crises in terms of the positions adopted by member states and ultimately in processes of national preference formation. However, this focus may be unduly narrow. The importance of other institutions has often been overshadowed by the 'summitry' associated with major crises. It may also lead to an underestimation of the EU's resilience.

The experience of the four crises shows that heads of government do not always take the lead or play the lead role when the EU is confronted by extraordinary difficulties. In three of the four cases -- the Ukraine, averting 'Grexit', and the refugee crisis -- the European Council

had significant involvement, while in the fourth – security and defence – it played a limited role. The attention of the European Council may be directed elsewhere, or member states may be divided on what course of action to take, thereby preventing the European Council (or the sectoral Council) from reaching a decision.

Moreover, the above discussion highlights the role played by the Commission and the range of instruments deployed by the EU in response to four crises experienced since 2014.

Contrary to the image of public bureaucracies as slow and unresponsive, the Commission demonstrated its ability to react to sudden threats or challenges. The cases show the range of resources at its disposal. They include the breadth and depth of specialist expertise amongst its staff, access to varied policy instruments, permanence, and relations with international bodies, as well as a capacity to improvise in the absence of pre-existing routines. Initiative on the part of Commission President was also important, underlining the role of agency.

As well as underlining the importance of looking not only at, but beyond, the European Council, the discussion also suggests avenues for future enquiry. First, since it is often argued that crises lead to creative solutions, legislation, financing instruments and structures, one possibility would be to examine the longevity of measures that were introduced as emergency responses. The quality of the legislation passed, or measures adopted, could be compared with those enacted during ‘normal’ periods. The comparison, particularly given the limited scrutiny given to emergency measures under ‘better regulation’ procedures, could be instructive. Second, the responsiveness of the EU system departs from the more traditional gradualism of EU affairs, which raises questions about the

ownership of EU decisions in the medium term. How do emergency measures adopted during the heat of a crisis fare when they are implemented at a later date by governments? Are they likely to be robust or are they the result of compromise under pressure and therefore difficult to put into practice?¹⁴ Third, what would detailed analysis reveal about issue attention during periods of crisis. The fact that crises overlap each other is of significance. For instance, it is clear that many EU Leaders were eager to close the 'Grexit' by the summer of 2015 to be able to refocus their attention and political capital on tackling the migration crisis – with Greece accidently at the heart of both. Is 'one crisis at a time' the best recipe?¹⁵

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¹⁴ A senior official often explains the extreme detail of the 'six-pack' and 'two-pack' legislation amending the Stability and Growth Pact through the metaphor of the 'curse of the trustless marriage': when partners lose faith in a relationship, they tend to put in writing long lists of commitments specifying all aspects of their mutual life. Such was the situation in Europe in 2011-13 in the midst of the economic and financial crisis.

¹⁵ Interestingly, while interests and actors differed somehow, a similar rhetoric of the EU needing to ensure that 'solidarity and responsibility' go hand-in-hand was mobilised in both the 'Grexit' and migration crises.

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