

## European Council Conclusions A Powerful Tool

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*Ever since its creation in 1974<sup>1</sup>, the European Council<sup>2</sup> has dominated the EU agenda, even though at first lacking any legal status and devoid of formal decision-making powers. EUCO meetings elicit huge media interest. Hundreds of journalists cover every summit. Following those meetings is the best way to understand what goes on in the EU and where it is headed. That is why it is worth looking more in detail at how the EUCO expresses itself, namely via its conclusions.<sup>3</sup> Those conclusions are heard because they emanate from the most powerful representatives of the 27 Member States and the President of the European Commission. They take on a life of their own.*

*The Lisbon treaty stipulates in Article 15 (1) that the EUCO “shall provide the Union with the necessary impetus for its development and shall define the general political directions and priorities thereof. It shall not exercise legislative functions.” This loosely worded definition leaves a margin of maneuver for the EUCO. It caters for what the EUCO has done since its inception: agreeing on major decisions shaping the future of the EU, including treaty changes (Article 48 TEU) and conditions of eligibility for countries wanting to join the EU (Article 49 TEU); negotiating the Multiannual Financial Framework (MFF) packages; setting out political positions on key policies; tasking the Council and other institutions to progress with work on given files; commenting on major political developments outside the EU; reacting to acute crises and setting the framework for handling them.*

### What is the status of EUCO conclusions?

The conclusions, adopted by consensus, are not legally binding. This is logical because the EUCO meetings at the outset were purely informal meetings with no legal basis to decide anything by majority voting. The Lisbon treaty confirmed the general rule of consensus in Article 15 (4), except in some rare exceptions, all in the institutional sphere, where the EUCO has decision-making powers and votes by *Qualified majority*, like for nominations of top EU representatives, the Council configurations, and the rotating Presidency schedule (See Article 236 TFEU).

There were some very rare occasions in the past when one or more delegations would disassociate themselves from parts of the conclusions<sup>4</sup>, stating that they were not bound by them. This happened:

- in June 1985, when the EUCO in Milan called for the opening of an *intergovernmental conference* (IGC)<sup>5</sup> to change the treaties. Three Member states dissented (DK, EL, UK), but could not prevent the opening of the IGC, which was considered a procedural decision, subject to simple majority in the Council;<sup>6</sup>
- in autumn 1990 (Rome)<sup>7</sup>, the EUCO under Italian Presidency adopted the mandates for IGCs on a Monetary and Economic Union (EMU) and a Political Union (PU), which would lead to the adoption of the Maastricht treaty. The UK Prime Minister Margaret Thatcher entered reservations on several parts of the UP mandate and dissociated herself from the EMU mandate;

- in December 2019, the EUCO agreed on the objective of making the EU climate neutral by 2050. But the conclusions also state that *“Poland cannot commit to implement this objective as far as it is concerned, and the European Council will come back to this in June 2020.”*<sup>8</sup>

## HOW HAVE EUCO CONCLUSIONS EVOLVED OVER TIME?

EUCO conclusions have preserved their key characteristics, but they have evolved over the years. They were quite short and to the point initially; up until 1985, they took 3 to 6 pages. The European Monetary System (EMS) was launched in March 1979 with exactly sixty-three words.<sup>9</sup> Fontainebleau, in June 1984 dealt with the British cheque and the accession perspective for Spain and Portugal, in fewer than four pages.<sup>10</sup> But over time they became longer and longer. The December 1995 meeting in Madrid broke every record, with the conclusions, plus annexes, amounting to 130 pages.<sup>11</sup>

There were various reasons for this. For one, the Community started dealing with many new subjects over the years. But the primary elements were behavioural. The Presidencies used conclusions to mention their past successes, hence a proliferation of instances where the EUCO ‘welcomed’ this and that event or development. The Member States tried to use EUCO meetings to find solutions to issues that were of importance to them, but that were not on the agenda at all.<sup>12</sup> The diplomats pushed for using the conclusions to set out positions on issues of foreign policy. In June 1980, the EUCO in Venice adopted a ground-breaking declaration on the peace process in the Middle East<sup>13</sup>; in the ensuing years, it regularly came back to the issue, often adopting new statements that looked more like ritual incantations than policy directives. The habit settled in to address problems across the world at each meeting. No fewer than sixteen titles on foreign policy figured in the conclusions of the Lisbon EUCO in 1992.<sup>14</sup> In the same year, at the Edinburgh meeting, foreign policy matters took up 13 pages.<sup>15</sup>

With the inflation of words went an inflation in rhetoric. After the Danish referendum, saying “no” to the treaty of Maastricht in 1992, the “citizen” became the focus of attention and the target of flowery language. It no longer sufficed to say that the EUCO agreed on such and such a policy. The drafters felt the urge to add that the measures decided *“had a direct impact on the citizens”* and that the EU deeply cared for them. The summum was reached with the Laeken Declaration in December 2001. Here, the Heads do not speak to but for the citizens, who, we are told, *want this or that or feel strongly about this and that.*<sup>16</sup>

The less competence the Community has, the richer the rhetoric. And inversely. It is interesting to compare the sober language used when the leaders talk about the single currency and the profusion of concepts and epithets when they discuss employment.<sup>17</sup> No one would disagree that unemployment is a key concern across Europe. But did it really help that each Presidency invented its own new title or concept? Witness a Copenhagen *chapter on employment*, followed by a Brussels *Action plan against unemployment*, the Essen *General principles for employment*, the Florence *Pact for employment*, the Dublin and the Luxembourg *Declaration(s) on employment*, the Cardiff *Action for Employment*, the Vienna *Strategy*, the Cologne *Resolution on the Employment Pact*, the famous Lisbon *Strategy* of 2000, the Stockholm *Priorities for full employment*, the Sevilla chapter on Growth, employment and prosperity, the Brussels *Action for employment* in Brussels, and to crown it all the Austrian invention of *“Europe at work”*.

A first reaction to this exuberance came from the Heads themselves, in December 1999 in Helsinki, where they decided to limit the conclusions to fifteen pages.<sup>18</sup> They further spelled out the new rules at their meeting in Seville in 2002.<sup>19</sup> But things only changed with the arrival of a permanent PEC in 2009. This took away one of the elements leading to profusion: the rotating Presidency’s temptation to build the conclusions into reports on their own ‘achievements.’ Relapses still happen, but they are the exception, often justified by the fact that there are major decisions to be taken on such big files as the MFF.

Overall, the average length now fluctuates between 6 and 10 pages, and the conclusions are more focused as well as easier to understand.

They focus on the issues that are being discussed at the meeting and that are at the top of the EU agenda. That is why between 2008-14, the economic and financial handling of the sub-prime crisis dominated the agenda. From 2015, hardly any EUCO went by without adopting lengthy conclusions on the migration crisis. Brexit figured large after 2016. Discussions here took place in the Article 50 format, at 27, without the UK being present.<sup>20</sup> The COVID-19 then dominated the agenda as of March 2020, before almost disappearing from the conclusions after the Russian attack on Ukraine.

### HOW ARE EUCO CONCLUSIONS PREPARED?

In the old times, the process led by the Presidency was confidential, informal, and based on bilateral talks with delegations. The latter would discover the full draft only on the second day of the EUCO itself, just hours before Heads discussed them.<sup>21</sup>

Since then, the process has become more formal and transparent, and it is now set out in the Rules of Procedure of the EUCO. It is an iterative process, which allows for a progressive narrowing of the differences between delegations.

Five to six weeks before a EUCO meeting, an *Annotated Draft Agenda* (ADA) is prepared, under the authority of the PEC, by the General Secretariat of the Council (GSC) and the PEC's cabinet. Before finalizing the text, the GSC and the cabinet consult with the Commission, the rotating Presidency, and the EEAS, because they are all important players in the preparation and the follow up of the EUCO meetings; it is essential that they are on board from the start. There are often also informal oral contacts with the European Parliament, but the EP's voice is primarily heard at the meeting of its President with the members of the EUCO before each EUCO meeting.<sup>22</sup>

The ADA is then transmitted to the *Committee of Permanent Representatives* (Coreper) and the *General Affairs Council* (GAC), where delegations provide their comments and input. Two weeks before the meeting, there is a set of *guidelines* that set out in more detail what the PEC intends to get out of the EUCO discussion. Parts of the guidelines are in fact very close to draft conclusions. They concern areas where, if possible, the text should be agreed before the meeting and just endorsed by the Heads, to leave more time for them to concentrate on the politically important and most controversial parts of the agenda. After feedback has been received via Coreper, a complete set of draft conclusions is issued a few days before the EUCO and discussed again Coreper and the GAC. The GSC and the cabinet of the PEC then assess the state of the play, go through the numerous amendments proposed by delegations, and submit to the PEC a final draft for decision. The latter is sent to capitals two days before the meeting. It sometimes happens that on one or the other very difficult issues this text only contains a *pro memoriam* (PM.) mention, leaving the actual drafting to the Heads themselves.

In parallel, an informal process takes place, with constant contacts between the capitals and the Brussels players, including lots of bilateral and smaller group meetings. The Heads do not function in outer space, nor do they decide on their own in their castle. The result of their deliberations is the outcome of preparations at the national level, of countless meetings at the EU level, and of a constant dialogue behind the scenes. The European counsellors of the Heads (*Sherpas*) play an important role here. At the time of the subprime crisis, they would sometimes meet collectively in Brussels, which caused some rivalry with Coreper. But the *Sherpas* form a loose grouping; they cannot replace the much more structured work of Coreper. To make sure that no artificial barriers were erected, the format of the Sherpa meetings was soon enlarged to include the Permanent Representatives (PR) and one note-taker per delegation. Nowadays, there are only rarely *Sherpa* meetings. The last sounding with delegations happens in informal meetings with the Permanent Representatives in Brussels.



## HOW TO READ EUCO CONCLUSIONS?

When reading EUCO conclusions, one must be aware that they are the outcome of a compromise between 27 Member States with often divergent starting positions. It is useful to also consider the parts of a discussion that are not reflected in the conclusions. This usually shows that the time for agreement has not yet come and that further discussions are necessary. There are *weasel words* that reveal tensions behind the apparent agreement: adding that an action should be taken *as appropriate* signals that there is wriggle room for not taking it. When you see at the end of a sentence that an action will be taken *in full respect of the respective competencies*, you know that there have been exchanges on who should do what and that there are institutional sensitivities. At times, the leaders state that such and such a measure *is not a precedent*. This is proof that some delegations have accepted it with a degree of reticence and want to leave their options open for the future. This happened for instance with the RRF file, at the request of the so-called *frugals*<sup>23</sup>, who only signed up to the final deal as a time-limited exception in a particular situation (Covid-19). It will be interesting to see whether this restrictive position will survive the onslaught of new challenges. It is likely that the recourse to the issuance of common future debt to finance future-oriented investments will serve again in the future.

At times, Heads fight over apparently minor linguistic amendments. They may quarrel over whether they want to *warmly welcome*, just *welcome*, or simply *take note* of a proposal. At the June 1991 EUCO in Luxembourg the Heads discussed the Luxembourg draft for a new treaty (that would lead to the Maastricht treaty). The draft conclusions said that *“The European Council considers that the (Luxembourg) Presidency’s draft form the basis for the continuation of the negotiations...”* The Dutch Prime Minister then requested a “small” change, namely, to replace *the* basis by *a* basis.<sup>24</sup> The message was clear: the incoming Dutch Presidency wanted to propose an alternative text. Which they did, even though the amendment proposed in Luxembourg did not pass. In September, under the pressure of the other delegations,

the Dutch Presidency had to withdraw that text and return to the Luxembourg draft.

The language used in the conclusions often reflects particular sensitivities. The European Commission has the sole right of legislative initiative. That is why it usually does not take kindly to the EUCO requesting a Commission proposal. The solution here is to state things more nicely: *“The European Council ‘welcomes the intention of the Commission to make a proposal.’* This of course means the same: you will make a proposal.<sup>25</sup> One other remark: there are cases when the drafters of the conclusions resort to *bad English* to paper over differences. Translators do not like this a bit, understandably, because how should they translate an ambiguous sentence into the other languages? So, they call the competent service and ask for clarification. The answer in those cases is: *“sorry, but you just have to translate it literally.”* It is of course better to keep such instances to an absolute minimum. Finally, a little anecdote concerning the true significance of complicated concepts. At one of the EUCO meeting during the sub-prime and sovereign debt crisis (July 2011), the Finnish Prime Minister insisted heavily in having a reference to *“the need for collateral”* concerning the loans to Greece. The Greek Prime Minister put it in his own words, looking around the table: *“Anyone else around the table in need of a Greek island?”*

## HOW TO DRAFT EUCO CONCLUSIONS?

The primary objective of the conclusions is to set out the political direction of the EU and to provide guidance on key files. At the same time, conclusions are of course also a tool for communicating about Europe and its actions. The best communication is to be clear on who does what when and to show that the EU acts. In the light of this, maybe a few simple recommendations:

1. Keep the conclusions short: the longer they are, the more the main messages will be blurred. A text of 3 to 5 pages is read and *owned* by all the Heads and they will use it as a basis for their communication. A text of more than twenty pages will lead to different leaders concentrating in their press conferences on different paragraphs and



even indents, which gives the impression that either they were not in the same meeting, or that they are divided.<sup>26</sup>

2. Focus on the points discussed in the room: this goes together with point one. The conclusions are and should be seen as the voice of the Heads. This is a matter of ownership. The more you add wording on secondary issues that Heads simply endorse without having talked about the issue, the less credible the conclusions will be. As we have seen, the recent crises have forced the Heads to get to the essentials at their meetings and the conclusions reflect this.

3. Leave room for discussions without adopting any detailed conclusions: on important long-term challenges like climate change or energy policy, there should be room for the Heads to have an in-depth discussion, without having to worry about the exact wording of conclusions. Those discussions help drafting conclusions at a later stage. This was very much the idea behind the *Leaders' agenda* approach introduced by President Tusk after the Bratislava summit in September 2016. And when the Heads exchange views on sensitive relations with leaders of third countries it is not such a good idea to tell the latter and the world in writing what the conclusions are.

4. Look ahead, not back: there may be instances when it is worth highlighting past achievements, but this should not become a habit. The conclusions should focus on the future and be action oriented. In this context, endless reiterations of the same points and references to “agreed past language,” while sometimes necessary to reach agreement, should be avoided as far as possible. If necessary, there should just be a reference to the past document, rather than a complete quotation (often with some tweaking of the text which causes confusion).

5. Refrain from empty rhetoric: each paragraph should contain a key message setting out a position, or announcing a decision, or giving a tasking. Whenever possible, the language should be simple and straightforward and not indulge in too many epithets. The spinning is best left for the communication outside of the room. Appealing to “citizens” by gadgets and inflated rhetoric rarely works.

It is much better to let your deeds and actions speak for themselves.<sup>27</sup>

6. Be reasonably honest: papering over disagreements with superficial language is sometimes necessary, but it should be kept to a minimum. It breeds cynicism in the long term. There is nothing wrong with recognizing divergences of views and the absence of agreement; it is normal that things take time. The EU should be more robust in rebutting this constant talk about a “crisis” each time there is a disagreement in the European Council or between the institutions. It is the most normal of things. Creating unity out of divergence is precisely the reason for meeting in the first place. What counts is that there is an agreement at the end of the process.

7. Be clear about the follow up: conclusions only lead to results if there is adequate follow at the EU and the national levels. That is why Coreper's role of keeping an eye on developments is so important; it does so based on factual GSC notes that are issued after each EUCO, in cooperation with the rotating Presidency, the Commission and the European External Action Service (EEAS), and which explain who will do what, when and how. It bears repeating that the EU decision-making system requires the active participation of all the institutions and the Member States. No single institution, the EUCO included, can achieve anything without the full cooperation of the others.

## A CONCLUDING WORD

The EUCO is at the centre of what goes on in the EU. This is logical because the people around the table are the most legitimate representatives of their countries, together with the Commission President.<sup>28</sup> The EUCO conclusions provide the best summary of the key concerns that agitate the EU. It is therefore the perfect place to start from if you want to understand the EU.

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## Endnotes

- 1 The EUCO was not created by the treaties, it created itself. In December 1974, President Valéry Giscard d'Estaing invited his fellow leaders to Paris for a 'Summit'. He proposed to meet regularly and to have the meetings prepared by the Foreign ministers. With these measures, the leaders *de facto* set up a new 'institution'. It is only the Lisbon treaty many years later that will transform the EUCO formally into an EU institution.
- 2 For a general overview of the European Council history and functioning, see Blanchet, Cloos, Christoffersen, de Boissieu, Galloway, Gillissen, Keller-Noëllet, Milton, Roger, Van Middelaar, *National Leaders, and the Making of Europe (Key episodes in the life of the European Council)*. John Harper Publishing, 2015. See also the EuropeChat devoted to this theme at [www.tepsa.eu](http://www.tepsa.eu) (under Tepsa Voices)
- 3 Called *Presidency conclusions* before the treaty of Lisbon; after its entry into force, we are talking of *EUCO conclusions*. This formalizes them but does not change their nature in that the conclusions remain expressions of political guidance.
- 4 A more discrete way of signaling reservations are unilateral statements to the minutes. They have no real effect apart from signaling, and in some cases, from helping the leader concerned when confronting a critical parliament or public opinion.
- 5 Technically the term is a *conference of representatives of the governments of the Member States* (Article 48 of the TEU)
- 6 Conclusions of the Presidency, European Council in Milan, 28-29 June 1985, [https://www.consilium.europa.eu/media/20646/1985\\_june\\_-\\_milan\\_eng\\_.pdf](https://www.consilium.europa.eu/media/20646/1985_june_-_milan_eng_.pdf)
- 7 Conclusions of the Presidency, European Council in Rome, 27-28 October 1990, [https://www.consilium.europa.eu/media/20554/1990\\_october\\_-\\_rome\\_eng\\_.pdf](https://www.consilium.europa.eu/media/20554/1990_october_-_rome_eng_.pdf)
- 8 European Council conclusions, 12 December 2019, <https://www.consilium.europa.eu/fr/press/press-releases/2019/12/12/european-council-conclusions-12-december-2019/>. Poland came round to the overall objective a year later.
- 9 Conclusions of the Presidency, European Council in Paris, 13-13 March 1979, [https://www.consilium.europa.eu/media/20756/paris\\_march\\_1979\\_eng\\_.pdf](https://www.consilium.europa.eu/media/20756/paris_march_1979_eng_.pdf)
- 10 Conclusions of the Presidency, European Council in Fontainebleau, 25-16 June 1984 [https://www.consilium.europa.eu/media/20673/1984\\_june\\_-\\_fontainebleau\\_eng\\_.pdf](https://www.consilium.europa.eu/media/20673/1984_june_-_fontainebleau_eng_.pdf)
- 11 Conclusions of the Presidency, European Council in Madrid, 15-16 December 1995, [https://www.europarl.europa.eu/summits/mad1\\_en.htm#:~:text=The%20European%20Council%20expresses%20satisfaction,substantial%20contribution%20to%20implementing%20it](https://www.europarl.europa.eu/summits/mad1_en.htm#:~:text=The%20European%20Council%20expresses%20satisfaction,substantial%20contribution%20to%20implementing%20it).
- 12 At the Amsterdam EUCO, I remember being woken up at 4 o'clock in the morning of the second day because the German delegation wanted to get a declaration of the EUCO on the status of the German *Sparkassen*. (I was then Chef de cabinet of the President of the Commission). At the June 2006 EUCO, the Austrian delegation inserted at the last minute a reference to the fight against a rare illness called *epidermolysis bullosa*.
- 13 Venice Declaration, 13 June 1980, [https://eeas.europa.eu/archives/docs/mepp/docs/venice\\_declaration\\_1980\\_en.pdf](https://eeas.europa.eu/archives/docs/mepp/docs/venice_declaration_1980_en.pdf)
- 14 Conclusions of the Presidency, European Council in Lisbon, 26-27 June 1992, [https://www.consilium.europa.eu/media/20510/1992\\_june\\_-\\_lisbon\\_eng\\_.pdf](https://www.consilium.europa.eu/media/20510/1992_june_-_lisbon_eng_.pdf)
- 15 Conclusions of the Presidency, European Council in Edinburgh, 11-12 December 1992, [https://www.consilium.europa.eu/media/20492/1992\\_december\\_-\\_edinburgh\\_eng\\_.pdf](https://www.consilium.europa.eu/media/20492/1992_december_-_edinburgh_eng_.pdf)
- 16 Conclusions of the Presidency, European Council in Laeken, 14-15 December 2001, <https://www.consilium.europa.eu/media/20950/68827.pdf>  
**"They want** the European institutions to be less unwieldy and rigid and, above all, more efficient and open. **Many also feel** that the Union should involve itself more with their particular concerns, instead of intervening, in every detail, in matters by their nature better left to Member States' and regions' elected representatives. This is even **perceived by some** as a threat to their identity. More importantly, however, **they feel** that deals are all too often cut out of their sight, and they want better democratic scrutiny."
- 17 A good example of this can be found in the conclusions of the December 1995 Madrid EUCO: [https://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/ec/00400-c.en5.htm](https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/00400-c.en5.htm)
- 18 Conclusions of the Presidency, European Council in Helsinki, 10-11 December 1999, <https://www.consilium.europa.eu/media/21046/helsinki-european-council-presidency-conclusions.pdf>
- 19 Conclusions of the Presidency, European Council in Seville, 21-22 June 2002, <https://www.consilium.europa.eu/media/20928/72638.pdf>
- 20 The temporary appellation *European Council (Article 50)* was used for those meetings. The conclusions were issued as a strictly separate document from the EUCO conclusions.
- 21 As a former *Antici* (right hand of the Permanent Representative and part of a group helping to prepare Coreper meetings and playing a particular role during EUCO meetings), I remember the excitement of being woken up at five in the morning when the text of the draft conclusions was slipped under my door in the hotel. We *Anticis* then had to rush to get them photocopied and distributed to the members of the delegation for discussion over breakfast.



- 22 This first happened with an invitation to President Plumb in 1987. It became a standard practice as of 1990 when Baron Crespo became President of the Parliament.
- 23 The net payers with a particularly strong view on the need for budget discipline (Austria, Denmark, the Netherlands, and Sweden, occasionally Finland. Germany, although a key net payer, did not belong to this group, primarily because it had the Council Presidency at the time of the final negotiations.
- 24 Conclusions of the Presidency, European Council in Luxembourg, 28-29 June 1991, [https://www.consilium.europa.eu/media/20528/1991\\_june\\_-\\_luxembourg\\_eng\\_.pdf](https://www.consilium.europa.eu/media/20528/1991_june_-_luxembourg_eng_.pdf)
- 25 President Von der Leyen is more relaxed in this respect and does not mind having stronger language in the conclusions (with deadlines), because it strengthens her hand in the college and more generally!
- 26 Tactically speaking, it is better to start with a first draft that is “frugal.” For the simple reason that it is easier to add than to subtract text. It is also a fact that delegations propose lots of amendments and that they want to see some of their proposals reflected in the text. So, it is better to wait with some ideas until one or several Member States have asked for them. If you issue a draft of two pages you will get amendments on two pages; if you issue one of twenty pages, you will get amendments on twenty pages.
- 27 I used to apply a “negativity test” in drafting the conclusions. Try to put a sentence like “The EU cares for its citizens” into the negative. No-one would ever write that “The EU does not care for its citizens.” Well, in that case, drop the sentence altogether because it does not add anything.
- 28 In the press, particularly the British and American ones, you often have references to the “unelected bureaucrats or officials of the Commission.” We should remind them of the fact that the EUCO agrees on the name of the future President of the Commission, who then needs the majority vote of the EP. As to the Commissioners, their names are proposed by the various (democratically elected) national governments, then the Council endorses the Commission team before the EP votes on it. A very democratic process indeed. At least as democratic as the designation of the US government, in fact, which is not directly elected either. Which is not to say that the Commission is the European government; it is not, but it is a key EU institution.
- 29 The views expressed in this article are personal.





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