THE UPLOADING OF NATIONAL POLICIES IN THE EUROPEAN UNION

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This research addresses questions of policy transfer, specifically, policy uploading – the upward transfer of national policies to the European level. It contributes to three bodies of literature, namely, institutional theory, new governance, and European Union politics. The questions it addresses are why and how European Union member countries use the Council Presidency to upload their national policies, and what are the conditions needed for policy uploading to be successful. To answer these questions I use the case studies method and compare the Council Presidencies of the United Kingdom (2005), France (2008), the Czech Republic (2009), Sweden (2009), and Belgium (2010). For each case, specific national policies are looked at and I use process-tracing to identify the variables at play for successful uploading to occur.

Based on qualitative data, I find that the reasons explaining why countries attempt to upload their national policies during their Council Presidency supports what has been identified in the literature on venue shopping. In addition, many variables are important in explaining the occurrence of successful policy uploading. First, the country holding the Council Presidency needs to have the intent to upload its national policy and be committed to it, and it needs to be considered a superior option to the status quo. Second, being able to set the agenda, to shape policy content as well as possess a strong policy capacity contribute to the successful uploading of national policies. Although other variables may not be necessary for successful policy uploading to occur, they strongly influence it. The legal format the policy will take once it is

adopted influences the willingness the other Member have to make compromises. The distinction is made between soft law and hard law modes of governance. Another variable making the uploading of national policy easier is the convergence of interests on the proposal. This is true under all decision-making rules, but it is especially significant under more restrictive decision-making rules such as unanimity. Finally, the stage at which the proposal is presented matters. The success cases in this study have taken place at the beginning of the EU policy process.

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DEDICATION

I dedicate this dissertation to my mother, Ginette Barrière, and to my daughter, Jeanne Albert-Blais.

PREFACE

I would like to thank my mother, Ginette Barrière, who supported me throughout my university studies, and especially during my doctorate. Despite the distance, her loving encouragements were constant and helped me to achieve my goals. My grandfather, Roland Barrière, was also a great supporter.

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1.0   INTRODUCTION

As European integration progresses and more policy sectors fall within the Communities' decision realm, many authors have argued that Member states are losing their capacity to influence the policy process at the European level (Scharpf 1994, Marks, et al. 1996, Sweet and Sandholtz 1997, Hooghe and Marks 2001). Their arguments are based on the multi-level nature of the European Union, which has created a dispersion of decision-making authority usually reserved to the states, and the empowerment of supranational actors. On the other hand, some scholars argue that the Member states have remained powerful (Moravcsik 1991, 1993, 1998). This study speaks to this debate by looking at how Member states can still manage to steer the European policy process in their favour while they hold the Council Presidency by focusing more particularly on policy uploading.

Peters and Pierre (2005) identifies two ways Member states act in the multi-level policy-making structure of the European Union: they can transfer their policy capacity to EU institutions, or they can engage in multi-level governance processes to regain some of their lost policy capacity. By focusing on the Council Presidency, this research project is concerned with the latter. The Council represents the Member states in the European Union and it acts to safeguard their interests in the European policy process. Every six months, a country holds the Council Presidency. This position entails extensive responsibilities for the country holding it, especially prior to the adoption of the Lisbon Treaty in 2009.

During its Presidency semester, the Member state chairs Council and European Council meetings and represents the European Union during international summits (before Lisbon). Most countries holding the Council Presidency respect, to some extent, the impartiality principle, and are committed to a higher European goal when in this position. Despite these ideals and the criticisms the country holding the presidency may face when it violates the principle, many EU members decide to pursue their national interests while holding the Presidency (Tallberg 2006, Bunse 2009, Panke 2010b). I concentrate on this issue by looking more precisely at policy uploading.

Why is a Council Presidency trying to upload national policies? What are the conditions shaping the successful uploading of policies? These are the questions this study seek to answer.

I conceptualize policy uploading as the upward transfer of national policies to the European level. In essence, policy uploading is the opposite of Europeanization, commonly understood as the influence of Europe on national polities. Instead, with policy uploading, the relationship of interest focuses more generally on the influence of national elements on European politics and polity; and on policy, specifically. However, in contrast to Europeanization, policy uploading has received little attention in the literature. Given the multi-level nature of the EU, and the scope that exists for moving policies up, it is important to understand how the process works. This study seeks to contribute to this.

The Council Presidency is the most logical institution to look at for the study of policy uploading. With its ability to manage the agenda, the county holding the presidency can gain substantial powers and has opportunities that are usually not available to it. Moreover, the presidency is an important institution in both the Council of the European Union, in which ministers take decisions according to their policy area, and the European Council, in which heads

of state or government decide. These institutions represent the member countries in EU policy-making.

Scholars disagree on how powerful the Presidency of the Council really is. Some authors have argued that it is not powerful because of the role of the European Commission in policy-making, the limited time a country holds the presidency, and the administrative burden it represents (De Bassompierre 1988, Nugent 1994). On the other hand, in recent years, scholars have devoted more attention to the role of the chairmanship, how the presidency can influence decision outcomes, and how it may not exactly be neutral in conducting its role (Elgström 2003, Kollman 2003, Tallberg 2003, 2004, 2006, Thomson and Holsi 2006, Thomson 2008, Bunse 2009, Panke 2010b). As a basis for this study, I use this argument and consider that holding the EU Presidency for six months creates a window of opportunity for the uploading of national policies to the European level.

Using a rational choice institutionalism approach, the literature identifies roles and strategies that Member states holding the chairmanship can use to shape the outcomes of negotiations. Three types of behaviour of the chairmanship have been developed by Tallberg (2006): the EU presidency as an agenda shaper, as a broker, and as a representative. As the agenda manager, the presidency delimits and structures the agenda. It allows the Presidency to prioritize according to its political concerns. The role of brokerage facilitator emanates directly from the idea of the neutrality of the chair for managing discussions and negotiations among the members in order to facilitate the emergence of a compromise. However, it is possible for the chairmanship to steer towards its preferred outcome through unique access to information which can influence bilateral bargaining and concessions others are willing to make, by keeping in or out components of the texts, and deciding on the speed and frequency of meetings related to the

negotiations. Finally, the chairmanship is also delegated by the members of the Council the role of representation vis-à-vis third parties. These functions of the chairmanship are argued to have originated from functional needs (Tallberg 2006).

In the same vein, Bunse (2009) has shown that small EU states are able to influence bargaining outcomes while they hold the Council Presidency. Small states are defined according to their population: they are those with less than 40 million inhabitants.[1] She demonstrates that the political environment surrounding the Presidency, the existing preferences in the Council, the Presidency relations with the other two Communities' institutions (the European Commission and the European Parliament), as well as the skills of the office-holder are important in determining the Presidency's ability to pursue its interests and to adopt compromises acceptable to all Member States. Hence, holding Council Presidency can contribute to alleviating power differences between Member states within the Council.

Although Bunse has used a definition of small states based on the number of inhabitants, no consensus on what constitutes a small state exists in the literature. For example, Panke (2010) focused on the 'less than average' number of votes in the Council (less than 12.78 votes under the Nice Treaty) to study the influence small states have on the EU policy process and how they achieve it (but without focusing on the Council). Formal voting weight in the Council would in fact suggest that larger states are more powerful than smaller ones, when considered only as a single actor. However, other elements weigh in the equation such as the policy area under which a proposal falls because it would imply different decision-making rules (unanimity, qualified majority).

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[1] According to her definition, the small states in the EU are the Netherlands, Greece, Belgium, the Czech Republic, Portugal, Hungary, Sweden, Austria, Slovakia, Denmark, Finland, Ireland, Lithuania, Latvia, Slovenia, Estonia, Cyprus, Luxembourg, Malta, Romania, and Bulgaria. In other words, all Member States except for six: France, Germany, Italy, the UK, Spain, and Poland.

The adoption of the Treaty of Lisbon in 2009 brought with it institutional changes that will further affect the relative power of Member states whether they hold the Council Presidency or not.[2] One of the most important changes affecting the Council is the creation of the 'semi-permanent' Council Presidency for the European Council. Instead of been held by the head of government of a Member state, an individual is selected by the European Council for a mandate of 2.5 years in order to chair the meetings, coordinate the work of the European Council and to assure the external representation of the EU. Preliminary assessment on the effect of this new position in the European Council held by Van Rompuy from 2009 to 2014 (his mandate was renewed) suggests that it has tempered national grandstanding, solved the issue of uneven presidential performance, and of weak leadership (Dinan 2013). In addition, the Treaty brought with it changes in voting procedures depending on the policy area. The number of areas falling under qualified majority voting in the Council and the co-decisional procedure (with the European Parliament) have been increased. These institutional changes have potential to affect policy uploading.

Some of the lacunae of the work of scholars studying the EU Presidency show are the exclusion of domestic politics and the reliance on the approach that the member state is a single actor. Moreover, as Bunse (2009) points out, most of these studies have relied also on the study of formal powers. Discussions on the EU Presidency only look at the negotiations taking place between countries at the European level, only as a one-level game. By dismissing the dynamics taking place between the supranational and the national levels, and the complexity of actors involved in the achievement of national interests at the European level, scholars have set aside

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[2] Until October 31, 2014, voting arrangements remained the same as under the Nice Treaty.

variables that can be very useful in understanding how countries use the presidency differently and why.

One of the objectives of this research project is to bring the national level into the analysis of the Council Presidency and policy uploading. In order to do that, I will focus on the concept of policy capacity from the governance approach. This concept allows me to take into consideration the national capacities a Member state has for influencing the policy process, through the uploading of its national policy, while holding the Council Presidency. Even if a country is pushing for its interests while holding the Presidency, it cannot be considered the same thing as pushing for its policies, although policies do reflect interests. Many viable policy outputs can exist for any given interest. Hence, I look at specific national policies for each of my cases.

In order to answer my research questions, I look at three main case studies: the French Council Presidency of 2008, the Czech Republic Council Presidency of 2009, and the Swedish Council Presidency of 2009. For each of these, I look at two policy areas. For the French case I examine immigration and environmental policies, the Czech case focuses on energy and immigration policies, and finally, I look at active labour market policies and at carbon taxation for the Swedish case. I supplement these cases with two shadow cases. The first one takes place during the 2005 United Kingdom Council Presidency, and is the negotiations on the Working Time Directive. The final case I look at is Belgium's Council Presidency in 2010, for the information it can provide on the modifications brought by the implementation of the Lisbon Treaty. For each case, I used official documents, speeches, news coverage, and élite interviews to investigate the developments taking place in the different policy areas.

1.1　THE FINDINGS IN BRIEF

According to the findings, policy uploading as defined in this research project does not occur very often. They might even constitute exceptional cases. But there is some value in studying exceptional cases such as these because they can help us to better understand the underlying dynamics and processes at play and might support the original relationships posited in the literature, thus increasing their generalizability. But more importantly, they can help to uncover factors that were hidden or overlooked. In this study, successful policy uploading occurred only in two cases out of eight: under the French Council Presidency with the European Pact on Immigration and Asylum, and under the Swedish Council Presidency with the discussions on Europe 2020. It also partly occurred with the Carbon tax case (Sweden) with the adoption of the eco-efficiency approach (but not the tax).

The comparative analysis of the case studies in this book revealed interesting findings. The reasons explaining why countries attempt to upload their national policies during their Council Presidency supports what has been already identified in the literature on venue shopping. Countries holding the EU Presidency can engage in uploading based on the domestic situation they face with regard to the specific policy area (this was the case for France) in order to legitimize their choices (Guiraudon 2000). On the other hand, it is also possible for a country to engage in a change of venue out of concern for the common good (Princen 2009). This was the case of Sweden.

Many variables are important in explaining the occurrence of successful policy uploading. First, the country holding the Council Presidency needs to have the intent to upload its national policy and be committed to it. In addition, the uploading of its national policy needs

to be considered a superior option than the status quo. This constitutes the first necessary but not sufficient condition for policy uploading to occur.

Second, being able to set the agenda, to shape policy content and possessing a strong policy capacity contribute effectively to the success in uploading national policies. These variables are also considered to be necessary, but not sufficient. More precisely, the findings show that the earlier in the policy process the country holding the Presidency will push for its national policy, the more likely it is to be successful. Working on the content of the policy proposal and initiating the policy process without the European Commission proved to be very important for the Council Presidencies to maximize national policy uploading. How effective the administrative and political structures are (policy capacity), especially in the policy area one country is trying to upload in, are very important for policy uploading to take place. Specifically, the coordination of European policy at the national level, policy expertise and experience of high public officials and politicians, and the independence in the conduct of country's Presidency from the European institutions, are essential for enabling the country's Council Presidency to steer towards the uploading of its national policy.

Although other variables may not be necessary for successful policy uploading to occur, they strongly influence it. The legal format the policy will take once it is adopted influences the willingness the other Member have to make compromises. Policy proposals using soft law modes of governance at the European level are adopted more easily than harder forms. Another variable making the uploading of national policy easier is the convergence of interests on the proposal. This is true under all decision-making rules, but it is especially significant under more restrictive decision-making rules such as unanimity. Finally, the stage at which the proposal is presented

matters. The successful cases in this study have taken place at the beginning of the EU policy process.

Two variables did not play an important role in influencing the prospects for uploading: the concentration of executive power and governmental instability. In the former, power was sometimes shared between politicians in the various Council formation. In the latter, the general performance of the EU Presidencies facing governmental instability during their semester was not affected by this situation. They were able to conduct their day-to-day business, and push for their interests if intended.

These findings contribute to three bodies of literature, namely new institutionalism, governance, and European Union politics. My study contributes to the literature on European Union politics by furthering the knowledge we have on the roles and influence the Council Presidency can have on the European policy process. Holding the Council Presidency during the pre-Lisbon Treaty period created a window of opportunity for countries willing to use it for the uploading of their national policies. In addition, my findings highlight the importance of national variables for understanding how some member states have the capacity to directly influence the European policy process, through the uploading of their national policies. Interestingly, the distinction between large and small member states does not reflect an increase in the likelihood of successful policy uploading (for bigger countries), rather the policy capacity of a country holding the Presidency is more important; thus, reinforcing the importance of national elements into the analysis.

The concept of policy capacity, originating from the literature on governance, has not been used before to look at the European Union policy process, and with regard to policy transfer. This is another contribution of my book. Furthermore, by combining the usage of this

concept with new institutionalism to look into EU policy transfer, and more precisely, policy uploading, I offer to the existing literature a less restrictive approach to analyze how member states can directly influence the policy process.

1.2 ORGANIZATION OF THE STUDY

The next chapter presents the conceptual and theoretical framework employed in this study, which is based on new institutionalism and governance theories and concepts. The chapter first starts by describing the institutional setting in which EU policy-making takes place. I then offer a review on the literature on EU Council Presidencies and how they can affect policy-making. The following section of the chapter looks at the role of national executives in the Council before turning to a discussion on the influence of policy capacity and agenda-setting on policy-making. Then, I look more specifically into policy uploading in the European Union. I finish the chapter with a presentation of the research design for this study.

The following chapters (3, 4, 5, and 6) constitute the empirical part of this book. Each of these chapters is devoted to the presentation and analysis of case studies. In Chapter 3, I look at the French Council Presidency in 2008 and the cases of the European Pact on Immigration and Asylum, and the Energy and Climate Package. In Chapter 4, I examine the EU Presidency of the Czech Republic in 2008, focusing on Energy Security and Immigration Policy. In Chapter 5, I look at the Swedish Council Presidency in 2009 and focus on the cases of Europe 2020 and the Carbon tax. These are the three main Council Presidency cases for this study. Chapter 6 is different than the other ones and offers a presentation of two cases: the Council Presidencies of the United Kingdom in 2005, and of Belgium in 2010. Both of these are shadow cases. For the

UK, I look at the case of the Working Time Directive, and in the case of Belgium, at institutional reforms brought by the adoption of Lisbon Treaty. For each chapter, I first provide a general overview of the Council Presidency. I then look at the national context, and European policy coordination at the national level, before examining the policy uploading cases. For each policy case, I trace the developments that took place both at the national and European levels. After each policy case, I provide a preliminary assessment on variables that are important in explaining successful policy uploading (or not). Finally, I conclude the chapters (3, 4, and 5 only) with a comparative analysis of the two policies reviewed.

The aim of chapter 7 is to provide a comparative analysis of the cases and to assess the findings with regards to the study's hypotheses. Following these findings, I conclude in chapter 8 with a discussion on the implications of this research's findings and on the theoretical debates to which it contributes.

2.0   CONCEPTUAL AND ANALYTICAL FRAMEWORK

This research project has two objectives, one empirical, the other theoretical. The empirical goal is to explain the conditions needed for the successful uploading of national policies at the European level by countries holding the Council Presidency. In order to achieve this, I will look at three main case studies, the Council Presidency semesters of France (2008), the Czech Republic (2008) and Sweden (2009). In addition, I rely on the two shadow cases of the United Kingdom (2005) and Belgium (2010). To uncover the variables necessary for national policy uploading to occur, I look at the evolution of two policy proposals for each main case study. Through these cases I seek empirical evidence on the variables that contributed to the successful uploading of national policy.

The theoretical goal is to use the results of the empirical analysis and to draw conclusions on the uploading of national policies in the European Union (EU). In order to do that, I use a theoretical framework combining the "governance approach" (Stoker 1998, Hooghe and Marks 2001, Peters and Pierre 2005a) with "new institutionalism" (Hall and Taylor 1996). The governance approach enables me to introduce national-level variables into the analysis of policy-making and the Council Presidency, and to take in consideration variables that have been overlooked in the literature on the Council Presidency which have mostly been limited to the use of rational choice institutionalism. Specifically, I focus on the capacity the country holding the Council Presidency has to upload. The concept of policy capacity (Painter and Pierre 2005) is

central to my analysis. The combination of both approaches guide my empirical inquiry and serve as the basis for theoretical generalization.

In this chapter, I first start by presenting how the governance approach and new institutionalism help us to understand the policy process in the European Union, and specifically, policy uploading. Then, I look at how policy capacity matters in policy-making by putting it in the context of the European Union. I also discuss agenda-setting in the EU. Then, I review the institutional setting in which policy-making takes place at the European level, focusing on the Council. I will subsequently review the literature on EU Presidencies and policy-making. Following that section, I discuss the evolution of the role of national executives in the EU. Then, I present what policy uploading is and how it fits the literature on policy transfer. Finally, I conclude with the presentation of the research design for this book.

2.1 (NEW) GOVERNANCE AND NEW INSTITUTIONALISM IN THE EUROPEAN UNION CONTEXT

The governance and new institutionalist approaches to study the European Union provide more flexible frameworks than the traditional (neo-) functionalism vs. inter-governmentalism debate that has been prevalent in earlier EU studies of its institutions and decision-making (Moravcsik 1998, Branch and Ohrgaard 1999, Moravcsik 1999, Sandholtz and Stone Sweet 1999, Wallace, et al. 1999, Rosamond 2000). The usage governance and new institutionalist theories in EU studies increases the comparative value of the EU, its institutions and its policy process.

The governance approach was first concerned with "the steering action of political authorities as they deliberately attempt to shape socio-economic structures and processes"

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(Mayntz 2003: 27). As such, it was concerned with *what* governments were doing. On the other hand, new governance is not about what the governments do anymore, but rather *how* they do it (Pierre 2009). As such, "governance is a relational concept which includes at least two actors. It may involve hierarchical relationships of authority and control or reciprocal interaction based upon negotiation and mutuality. Governance may have a legalistic ring or be expressed in the arrival at a mutual understanding of common objectives, procedures and policies" (Lane 1997). In the context of the European Union, governance not only refers to the relationships between the member states' governments, the European institutions, and non-state actors, understood as "multi-level governance" (Hooghe and Marks 2001); it also refers to the format governing decisions take – 'modes of governance'. I look at these two aspects of European Union governance within this book, but the first one takes a prevalent place in this study.

Multi-level governance suggests that authority and policy-making are not only shared at different levels, but also that supranational institutions have independent influence on the outcomes, that all political arenas are inter-connected, and that national governments have lost control in collective decision-making (Hooghe and Marks 2001). In sum, the literature suggests that because of the complexity of the multi-level structure in the EU, member states have lost their capacity to directly influence the European policy process, or to govern effectively.

Primarily concerned with the uploading of national policies to the European level by member states' government, I use the concept of policy capacity, originating from the governance approach, because it encompasses structural and resource dimensions. This concept takes its root in the governance approach. Its origins, definition and how I use it in this book will be discussed in the next section. But I want to assess its strengths and weaknesses here. As mentioned before the advantage of using this concept in my analytical framework is to bring

national-level variables into my analysis of policy uploading and the Council Presidency. In addition, it directly speaks to claims that states are losing their capacity to influence and exercise authority on decisions. However, this concept is not without flaws. The major flaw facing this concept has to do with its measurement. Many scholars are using this concept broadly and without providing information about how to measure it. Hence, no common definition or common elements constituting the basis for its measurement exists in the literature. To remediate to this general weakness, I try to be as precise as possible with its definition and measurement.

The multi-level structure of the EU can be viewed not only with governance lenses, but also with an institutionalist one. Under this perspective, the institutional design of the EU shapes social and political life by providing restrictions on the behavior of social and political actors. The new institutionalism school of thought (March and Olsen 1984, Hall and Taylor 1996) emerged as a way to bring back institutions into the analysis of political phenomenon. It is composed of three streams, namely sociological institutionalism, rational choice institutionalism, and historical institutionalism. All three view institutions as important variables shaping the social and political life. They consider that institutions are providing boundaries to social and political actors. What distinguishes one stream from the other is with regards to their perception on the nature and functions of institutions. Consequently, each stream provides different conclusions as to the role institutions play in influencing actors' behavior and shaping political outcomes.

Most of the new institutionalist approach and concepts used in this book falls under the rational choice stream. According to Hall and Taylor (1996), four features characterize this approach. First, actors are considered to have a determined set of preferences, and they act in order to maximize these preferences. Second, scholars using this approach perceive political

processes as a sequence of coordination problems. Third, the actions of actors are explained according to their calculus (cost-benefit analysis) and the perception they have about the interests of the other players involved in the game. Fourth, this approach has difficulties explaining how institutions emerge in the first place.

The first tenet of rational choice is of importance for this book. As such, I take as a given the preferences of the member states holding the Council Presidency, according to the policy proposed or implemented already at the national level. The EU Presidency is considered to be a window of opportunity for member states to maximize their preferences through policy uploading. However, on the one hand, even if I consider preferences as a given and contrary to most studies using this approach, I do not consider the member state to be a unitary actor as I look into the core executive of each member state holding the Council Presidency, as well as into the role of high public officials. On the other hand, when looking into the interactions between the Council Presidency and the other member states and European institutions, I adopt this unitary perspective as it provides a good way to simplify the analysis.

Although rational choice is especially valued for its simplification of complex political outcomes, it is not without its own limitations. As such, the over-simplification of political realities is precisely one of the most common critiques this approach faces.

Within this research, I have adopted some concepts or literature coming from the rational choice stream. For example, I use the concept of veto player (Tsebelis 1995, 2002). Veto players are "individual or collective actors whose agreement (by majority rule for collective actors) is required for a change of the status quo" (Tsebelis 1995). According to the theory of veto players theory, the potential for policy change decreases with the number of veto players, the lack of congruence (dissimilarity of policy positions among veto players) and the cohesion (similarity of

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policy positions among the constituent units of each veto player) of these players. Using the concept of veto player allows me to capture the complexity of the EU institutional structure for looking into policy uploading, which can be perceived as a policy change in this framework. One of the weakness of this framework is the possibility for scholars to disagree on the number of veto players within the same institutional system.

In addition, I have used literature on venue shopping, which also takes root in the rational choice perspective (Guiraudon 2000, Pralle 2003). Based on a cost-benefit analytical framework, this literature looks into the motivations member states have for choosing to bring issues at different levels. Using this approach to study why the country holding the EU Presidency wants to upload its national policies enabled me to assess the motivations behind the choice for pursuing policy uploading.

2.2 POLICY-MAKING AND THE ISSUE OF POLICY CAPACITY AND AGENDA-SETTING

The concept of capacity is based on the consideration of two dimensions: structural characteristics and resource stocks a governing system (in this study it is represented by a country) possesses (Painter and Pierre 2005). Painter and Pierre (2005) distinguish between three types of capacities a governing system can possess: policy capacity, administrative capacity and state capacity. They constitute separate aspects of governing and they are interdependent. Administrative capacity refers to the management of human and material resources required to deliver output, whereas state capacity is based on the "ability the state has to mobilize social and economic support to achieve public-regarding goals" (basically, illustrating the relation between

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the state and society) (Painter and Pierre 2005: 2). Policy capacity is defined in the literature as the "ability to marshal the necessary resources to make intelligent collective choices about and set strategic directions for the allocation of scarce resources to public ends" (Painter and Pierre 2005: 2). Policy capacity is key to the other types of capacity as it offers the objects (policy) necessary for a state to act in the administrative and state capacity realms. Consequently, steering and strategies for effective governance are central to policy capacity (Painter and Pierre 2005).

In the context of the European Union, the policy capacity of EU member states appears to have eroded as a consequence of both external factors (i.e. globalization, cross-cutting issues, etc.) and institutional ones (Scharpf 1994, Hooghe and Marks 2001, Painter and Pierre 2005). Generally, it is possible for states to choose between two paths of action within the European multi-level structure: member states can transfer their policy capacity to EU institutions, or they can engage in multi-level governance processes to regain some of their lost policy capacity (Peters and Pierre 2005b). In the former, member states are influenced by the EU institutions and their governments can try to "piggy-back" on the EU's policy capacity for domestic purpose reasons. The latter is of particular interest for this research project. 'Playing the multilevel governance game' entails that member states will chose to explore or not different avenues (horizontal and vertical) to re-build their policy capacity (Peters and Pierre 2005b).

The policy capacity model in this research is based on the premise that some governments will better be able to promote and push for their national policies at the European level than others. As such, the ability of a country to influence EU policy-making is closely related to its policy capacity. In this book, policy capacity is understood in organizational terms and constitutes a quality of government. The capacity of a government will vary in function of the effectiveness of the administrative and political structures (Painter and Pierre 2005). "Policy

capacity can be gathered both from the analysis of the quality and quantity of institutional resources and from the success of specific outputs and outcomes" (Painter and Pierre 2005: 3).

Policy capacity is not set in stone: it fluctuates. It may be different from one episode to another, from issue area to issue area, and it may also change over time (Painter and Pierre 2005). Moreover, the institutional configurations at the country as well as at the European level will affect the policy capacity one country possesses. In the case of the EU Presidency, not only is the country holding the chairmanship dependent on its national policy capacity, but also potentially on EU institutions' policy capacity (Peters and Pierre 2005b).

A certain number of barriers to the efforts of the policy-makers to change, initiate, and implement policies exist at the European level due to the number of actors involved and its institutional design (Scharpf 1994, Tsebelis and Garrett 1997, Hooghe and Marks 2001). Moreover, as in the case of the national policy process, the outcome is highly dependent on the skills and resources available to the policy-maker. Resistance to a change in the status quo may exist simply because people have become used to behaving inside specific institutional settings.

The barriers related to policy capacity that a policy-maker may face depend on many factors. It may depend on the command of sufficient expertise and experience one has in a specific policy subfield. In fact, the less expertise and experience in the policy field the policy-maker has, the more likely the policy-maker will be dependent on its public servants. Therefore, it means that more people will be involved in the policy process and that the policy-maker is increasingly dependent on the information provided by others in making the decision. Other important variables identified in the literature point to the ability of the policy-maker to effectively manage the department he controls (Rose 1974). Although these elements have been

considered at the domestic level, they are extremely relevant at the European level as well when a country holds the presidency.

Policy capacity is not the only important variable to consider in the policy process. How an actor can manipulate the policy process is just as important (steering and strategies). The agenda-setting literature informs us about institutional setting and policy characteristics that may hinder (or not) the adoption of a given policy.

First, as mentioned before, the multi-level nature of the EU allows decision-makers to play with the different venues. Venue shopping (playing with multiple levels in the case of the EU) rests on the ability a decision-maker has to choose to deal with issues at the level that would enable him to reach its policy goal (Pralle 2003) or/and reduce his political costs (Guiraudon 2000). Three explanations exist in the literature to justify the shifting of issues from the domestic to the European level: first, a political explanation focusing on the circumvention of domestic constraints; second, a more practical and cost-benefit based explanation centered on the Europeanization of regulatory standards; and finally, a normative approach which explains the shift out of idealist or missionary considerations (Princen 2009).

Second, institutional characteristics differ from one venue to the other and from one policy area to another. For example, each venue does not have the same number of veto players and the voting rules depend on the policy area. Veto players are important elements to consider in the policy process. They are individuals or collective players whose approval is required for a policy proposal to go further (Tsebelis 2002). Consequently, the policy outcome is influenced both by the interests and the number of veto players. It is possible that a veto player may be able to put an issue high on the agenda but due to the characteristics of the venue the status quo might

be more likely to prevail. It is also possible that an issue will be kept off the agenda if the interests of other veto players are evaluated to be too far away from the proposed policy.

Third, many characteristics of the policy itself may influence the ability one has to upload it. How the issue is framed and how the proposed solution responds to the other members' concerns and interests are unequivocally important. By framing, Princen refers to the definition of the "nature of problems and solution as well as the appropriateness of the EU as a level of government." (2009: 39) The framing of a policy may make it more attractive to a larger number of decision-makers and foster the building of consensus around a particular policy proposal. Moreover, it has been argued in the literature that certain frames may have more weight than others in the context of the EU. This is the case for frames focusing on an economic logic and on European integration (Princen 2009).

2.3   INSTITUTIONAL SETTING

The European Union is a complex institutional structure in which many actors interact in the policy-making process, both at the domestic and European levels. The EU has a unique policy-making structure combining supranational and intergovernmental elements. Understanding policy making and power games within the EU is important because the EU's power to legislate has expanded over the years to areas usually reserved to nation-states. This is due in part to the increasing need for countries to find shared solutions for common problems. This has led many scholars to argue that member countries' power relative to the EU is eroding and that given the nature of the organization it has become more complex to influence it (Marks, et al. 1996, Richardson 2006).

Consequently, the study of the Council, becomes particularly relevant for understanding how countries can influence the policy process in the EU. The Council represents the direct interests of the member countries in EU policy-making process. The intergovernmental nature of the institution dominates, but informal integration in the Council has proven to promote supranational values (Lewis 2003) that affect the day-to-day business. In order to reach decisions, bargaining between states takes place. To supervise these bargains, a country holds the Presidency and chairs the meetings. The powers of the Presidency have grown since its creation in 1958, and it is now possible for the Presidency to influence the agenda and to promote its own interests (Bengtsson, et al. 2004, Tallberg 2006, Schalk, et al. 2007).

The Presidency rotates every six months between EU member states according to a pre-determined schedule (from January to June, and from July to December). The schedule considers the formation of 'trio presidencies' that include since 2007 one large member, a medium-sized state and a small country.[3]

In the Council of the European Union, the work is done in committees that are composed of the ministers from the member countries according to the subject at hand (i.e. foreign affairs, transport, social affairs, justice and home affairs, etc.). In each committee, the minister of the country holding the Presidency chairs the meetings. The countries' voting weight and the voting procedure to be followed are determined by Treaties. Depending on the policy area, decisions may require unanimity, simple or qualified majority, and may or may not follow a co-decisional procedure with the European Parliament.

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[3] Between 1995 and 2007, a trio was composed of at least one large member state and small ones.

In the case of the European Council and prior to the adoption of the Lisbon Treaty in December 2009[4], the Presidency is held by the Head of government or state of the country of which it is the rotation term. The European Council usually makes decisions by consensus, but it also depends on the existing Treaty provisions for the issue been under discussion.

The Presidency is a perfect example of an institution combining both supranational and intergovernmental elements, as the country holding it must promote the collective interests of the EU members and European integration, while at the same time many use the chairmanship to promote their national interests. The Council Presidency has been qualified by some scholars as a "quasi-supranational" institution (Lempp and Altenschmidt 2008), reflecting the duality of interests that exists within it.

Through its use of informal institutional mechanisms, such as the principle of presidential impartiality, the Presidency is considered to have supranational characteristics. Presidential impartiality entails that the country holding the Presidency is considered very powerful "and [should be] very much committed to a higher European goal and not to its national interests."(Lempp and Altenschmidt 2008: 13) This principle is well-guarded by the Council Secretariat, which emphasizes it when informing the holders of the Presidency of their responsibilities. However, the norm of neutrality is often challenged by states holding the Presidency (Tallberg 2006). If this principle was fully respected, the Presidency would represent only an additional burden for its holder as the president would not be able to use the powers associated to the position to its advantage. As a result, the country would be cut-off from negotiations that might involve its national interests.

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[4] With the entering into force of the Lisbon Treaty, a 'semi-permanent' presidency was created. The treaty stipulates that the president is elected by qualified majority and for a term of two and a half years, renewable once.

The interaction between the supranational and intergovernmental realities of the Presidency, combined with the existence of the principle of impartiality and its push by Eurocrats within the Council, created an invisible line countries should not cross in the pursuit of their national interests while holding it. Essentially, states 'may' pursue their interests, but it should not be obvious. The members who have openly challenged this norm through their actions as president received many criticisms and have ensued some reputational costs (Lempp and Altenschmidt 2008). Moreover, if such behaviour occurs at the beginning of the Presidency period, it may also result in difficulties reaching compromises in other areas. France faced these types of criticisms and difficulties during its 2000 and 2008 presidencies.

This duality of interests (supranational vs. intergovernmental) reflects what exists also more generally inside the Council as well (Lempp and Altenschmidt 2008). The Council is an institution created to provide the member countries with a forum for discussions, negotiations, and the ability to reach compromises while safeguarding their national interests at the EU level. The Council is constituted of many sub-institutions that support its work and the Presidency, namely the different Council's working groups, COREPER and the Council Secretariat. These are the institutions providing continuity to the Council's work.

The Secretariat is mostly composed of independent civil servants coming from member countries[5] (Peterson and Shackleton 2002). The secretariat is often considered to only have a supporting role in the work of the Council and the European Council, but some scholars argue that its role may be more important than originally presumed (Beach 2004, Christiansen 2006, Christiansen and Vanhoonacker 2008). Scholars have argued that the Secretariat has the opportunity to push for pro-integration ideals that it supports, despite the intergovernmental

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[5] In the case of the DG E dealing with CFSP, the policy unit is also staffed with national officials and military members.

nature of its work. Moreover, Beach (2004) argues that with its informational advantage and the legitimacy it enjoys, the Secretariat has even been able to exercise leadership in instances when the country holding the Presidency lacked it.

In the case of COREPER and the working groups, a similar development has occurred despite the appointments being made through national channels. As such, many have argued that individuals within the EU structures have socialized and developed as well as shifted their loyalty from the national to the supranational level (Beyers and Dierickx 1998, Egeberg 1999, Lempp and Altenschmidt 2008).

2.4   LITERATURE ON EU PRESIDENCIES, POLICY-MAKING AND AGENDA-SETTING

Because of the role of the Commission in policy-making, the limited time a country holds the Presidency, and the administrative burden it represents, the ability of a country to really use the position has long been questioned by scholars (De Bassompierre 1988, Nugent 1994). However, in recent years, scholars have devoted more attention to the role of the chairmanship (Tallberg 2003, 2004, 2006, Bunse 2009), how the Presidency can influence decision outcomes (Kollman 2003, Thomson 2008), and how it may not exactly be neutral in conducting its role (Elgström 2003).

The studies on the chairmanship produced by scholars mainly use the rational choice approach and focus primarily on the ability a country holding the Presidency has to manipulate the agenda. Three types of behaviour of the chairmanship have been developed: the EU Presidency as an agenda shaper, as a broker, and as a representative (Tallberg 2006). As the

agenda manager, the Presidency is expected to delimit and structure the agenda. The role of facilitating brokerage emanates directly from the idea of the neutrality of the chair for managing discussion and negotiations among the members in order to facilitate the emergence of a compromise. Finally, the chairmanship is also delegated by the members of the Council the role of representation vis-à-vis third parties. These functions of the chairmanship are argued to have originated from functional needs (Tallberg 2006).

Agenda-setting is an important aspect of policy-making and the Presidency, having the possibility to play with the agenda, is given a powerful role. An element often omitted from studying agenda-setting with the rational choice approach is related to the "who". Agenda-setting means that not only "*what* is being talked about [is important, but it also] depends on *who* is doing the talking" (Princen 2009).

Many resources associated to the Presidency give it an advantage over the other members. By holding this position, the Presidency has access to a set of power resources: privileged information and procedural control (Tallberg 2006). In terms of privileged information, it is possible to think that the country holding the chair will have a better knowledge of the preferences the other countries have in regard to different issues, that they can acquire technical knowledge over specific ubject matter, and that they can develop their ability to play with the formal rules as they know them better (Tallberg 2006: 30) .

According to formal leadership theory, the institutional design of the chairmanship also shapes how the Presidency will be able to push for its national interests within the system (Tallberg 2006). When a rotation system is adopted, it creates a reciprocity system between the states that enables them to give the chair some flexibility when it holds it.

Because most of the studies looking at the EU Presidencies have relied mostly on rational choice institutionalism to look at its effect on policy-making, and focus only on the European level, some of the lacunae the work of these scholars show are the exclusion of domestic politics and the reliance on the approach that the member state is a single actor. Moreover, as Bunse (2009) points out, most of these studies have relied also on the study of formal powers. Discussions on the EU Presidency only look at the negotiations taking place between countries at the European level, only as a one-level game. By dismissing the dynamics taking place between the supranational and the national levels, and the complexity of actors involved in the achievement of national interests at the European level, scholars have set aside variables that can be very useful in understanding how countries use the Presidency differently and why. These are some of the questions this research project seek to answer with the use of the governance approach.

2.5   NATIONAL EXECUTIVES IN THE EUROPEAN UNION

As the pace of the European integration process increased and as its nature changed by steeping on high politics areas, member countries' executives have faced an increasing burden on their offices (James 2010). This is reflected by the increasing role of the European Council, in which the national executives play a key function.

The European Council can be considered as the highest political body of the EU. It has evolved as an integral part of the decision-making machinery (Westlake and Galloway 2004, Hayes-Renshaw and Wallace 2006, Werts 2008). The European Council meets to make

decisions, create, and adopt guidelines, review and call for policy changes, etc. Essentially, the work of the European Council shapes the direction in which the EU institutions will go.

The number of meetings has drastically increased over the years, going from one per Presidency, to at least two each one, plus the informal meetings. In addition, with the increasing use of 'informal intergovernmentalism', and the pre-negotiation of agreements prior to the Council meetings, cabinets of national executives have empowered themselves even more, with the heads of state or government becoming the ultimate negotiators (Tallberg 2008, James 2010, Johansson and Tallberg 2010). "The European Council serves as the ultimate decision-maker on issues too complex or contentious for the Council of Ministers to handle, shapes the EU's collective foreign policy, coordinates member state policy on socioeconomic issues, appoints senior officials of the EU institutions, initiates and concludes constitutional conferences that amend the treaties, and effectively decides if, when, and how the EU should welcome new members."(Johansson and Tallberg 2010)

Despite the existence of formal guidelines defining the limits of the European Council's powers (i.e. through the treaties), informal practices give it a central role in all policy areas. "Operating (...) in the absence of a clearly defined role or explicitly delimited functions, the European Council has felt free to deal with whatever issue it likes in whatever way it likes. As a result, the heads of state or government have been, and continue to be, involved directly in all the important issues on the EU's agenda" (Hayes-Renshaw and Wallace 2006: 170). Moreover, because of the complexities of the issues dealt with in the specialized Councils, the European Council is often called upon because the issues are politically sensitive, or because issues cut across various Council configurations and may need a package agreement.

The increasing demands on the European Council are paralleling a phenomena discussed more and more by scholars of parliamentary democracies in Europe: the 'presidentialization' process of their regime (Bäck, et al. 2009). The 'presidentialization' process is understood as the result of Europeanization taking place among the core executive of a country, and it is argued in some cases to be the result of European integration (Bäck, et al. 2009). At the domestic level, "the reforms involved shifts in authority, discretion and resources in favour of the chief executive, and [are] explicitly motivated by the perceived institutional prerequisites for influence in the European Council." (Johansson and Tallberg 2010: 210)

2.6   UPLOADING POLICIES IN THE EUROPEAN UNION

One trend in the study of European integration has been to look at how the European Union policies affect the member countries. This constitutes the conventional conception of Europeanization as a top-down process of policy transfer (Radaelli 2003, Lenschow 2006). On the other hand, less attention has been devoted to the study of the upward process, that is, how domestic policies influence the EU policy-making, what I call "uploading".

I conceptualize uploading as a policy transfer taking place from the national to the European level. In the literature, policy transfer is defined as "a process in which knowledge about policies, administrative arrangements, institutions, etc. in one time and/or place is used in the development of policies, administrative arrangements and institutions in another time and/or place" (Dolowitz and Marsh 1996: 344). Based on this definition, and applied to the European Union, I define policy uploading as the transfer of elements surrounding national policies in one

country, such as knowledge, administrative arrangements, institutions, etc., to the European level.

The literature on policy transfer identifies the objects of possible transfer and the degree of replication it can take. Dolowitz and Marsh (1996) identify seven possible objects of transfer: policy goals, structure and content; policy instruments or administrative techniques; institutions; ideology; ideas, attitudes and concepts; and negative lessons. In this book, these elements of transfer guide the identification of the objects one country has been able to upload or not.

Beyond the objects of transfer, the literature on policy transfer suggests many degrees it can take. Rose (1974, 1993) identifies five different degrees of transfer: copying; emulation; hybridization; synthesis; and inspiration. Copying or emulation can be pictured to be at the upper end of the scale, with hybridization or synthesis being in the middle, and mere influence (or inspiration) been the weaker type of policy transfer. In the context of the EU, these conceptualizations suggest that the uploading of national policies to the European level can take many forms and dynamics.

Given the context of the EU and the aim of this study, three types of policy transfer interest me. First, copying or emulation refers to the transfer of a given policy in a national setting, replicating the exact same policy in another. Second, hybridization is constituted of elements from different national settings. Third, influence refers to the transfer of particular national ideas to another political setting. I am using these types of transfers in order to build my measure of policy uploading in the EU.

Many institutional variables will influence policy uploading in the EU. First, the institutional design of the EU and the absence of a government or "vertical axis of hierarchy" (Padgett 2003) allows for more or less fluid form of policy-making that incorporates a plurality

of actors. Consequently, the "institutional opportunity structure" (multiple access points, decision-making processes, and veto points) exists to influence the policy process (Padgett 2003). Depending at which stage influence occurs, the result will not be the same. Applied to the project of this book, it suggests that the possibilities for the occurrence of policy uploading will be different depending at which stage of the policy process it happens.

The European Commission is usually identified as having a stronger impact on the policy process as it is given the role of the agenda-setter (Pollack 2003) and of policy manager (Pierson 1996). This argument rests on the initiative prerogative the Commission possesses. This is especially true in the areas of community competency, based on the assumption that the Commission can draft its proposals without any outside influence and that the changes that can be made to them are limited. However, in practice, the Council Presidency has some power over the agenda, and given its role, the European Council sets long-term orientations to which the Commission is submitted.

The second institutional variable affecting policy transfer concerns the negotiating environment. It has the potential to shape national preferences (Padgett 2003), but it can also shape the result as the later depends on the ability of an institution or a country to reconcile the heterogeneity of national preferences (Héritier 1999). In the literature, some scholars distinguish between bargaining and problem solving negotiation environments (Bulmer and Padgett 2004, Bulmer, et al. 2007b). In a bargaining environment, a situation in which an actor is in the pursuit of self-interests and promotes adversarial exchange, the policy transfer outcome is argued to lead to deadlock or to the lowest common denominator solution. However, Héritier (1999) has argued that mechanisms such as issue-linkages, loser compensation, the alteration of preferences, or the creation of frameworks can take place during bargaining negotiations which in turn may result in

escaping deadlock in particular policy area. Thus, it may be possible to have more than lower common denominator solutions within a bargaining environment.

The second negotiating environment identified in the literature is one that focuses on problem solving (Bulmer and Padgett 2004, Bulmer, et al. 2007b). In this type of negotiating environment, negotiations are oriented towards common interests and policy transfer is argued to result in solutions that meet all members' interests. The problem solving environment concentrates on the exchange of information among the actors. Bulmer and Padgett (2004) argue that in a problem solving negotiating environment, emulation is more likely to succeed. Considering the practices of decision-making and the norm of consensus existing within the Council and the European Council, both negotiating environments seem to exist simultaneously.

Finally, the mode of decision employed affects policy transfer. Scholars have argued that as the number of veto points increases, it reinforces the use of compromise for policy-making (Tsebelis 1995, Tsebelis and Garrett 1997, Padgett 2003, Bulmer and Padgett 2004, Bulmer, et al. 2007b). Moreover, Padgett (2003) shows that copying or emulation is more likely to be found under less demanding majority rules.

The literature using the governance approach is also informative about the influence the legal format policies take can have on the prospect of agreement between actors. The distinction between different modes of governance, such as soft law and hard law instruments, has received considerable attention by scholars. It is generally considered that more authoritative legislative instruments (i.e. more based on hard law) are harder to adopt than less authoritative ones (based on soft law instruments), but they provide a more credible commitment as the costs associated with deviation from them are higher (Abbott and Snidal 2000). Many authors have demonstrated that European integration is influenced by both hard and soft law modes of governance (De la

Porte, et al. 2001, Héritier 2001, Trubek and Trubek 2005, Bruno, et al. 2006). The dichotomy between hard law and soft law is often represented in the literature on the EU by the Community Method opposing the Open Method of Coordination (OMC) (Héritier 2001, Scott and Trubek 2002, Trubek and Trubek 2005).

Based on these discussions, I argue in this book that the Presidency evolved into an influential institution providing the office holder with a comparative advantage to shape the EU's agenda and policy outcomes in line with its national interests, exemplified through policy uploading. Accordingly, I expect to find that there is an intentional push for the uploading of national policies to the European level from the country holding the Presidency (Hypothesis 1). Specifically, I hypothesize that uploading is more likely to occur in instances where the country wants to legitimize decisions on controversial domestic issues or avoid domestic pressure and political costs (Hypothesis 1.1). Because domestic situations are different from one Member state to another, not all the countries holding the Presidency will have the same success in uploading their policies. As such, I expect that the policy capacity of the country holding the Presidency, the concentration of executive power in a country, the policy proposed, and the individual holding the chair will affect the ability a country has to upload its national policies. More precisely, I expect to find that the stronger the policy capacity of a country, the more concentrated the executive power is and the more liked the leader holding the chair is by the other decision-makers, combined with a policy reflecting the convergence of interests of the members, the more likely the country will be able to upload its national policy (Hypothesis 2). In addition, I also expect to find that each of these variables may not weigh equally in each type of uploading (subtle or direct) (Hypothesis 2.1). Lastly, I evaluate the changes brought by the adoption of the Lisbon Treaty. I hypothesize that the creation of the 'permanent' Presidency will

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reduce the likelihood of domestic policy uploading because negotiations are managed in a more neutral manner, and desires for policy uploading are more apparent (Hypothesis 3).

2.7   RESEARCH DESIGN

In order to seek evidence for the evaluation of the hypotheses in this research project, I rely on the case study method. I follow a most-similar systems design, and rely on a small number of in-depth case studies. Using this method allows me to control for "concomitant variation" (Peters 1998). It strengthens my ability to make inferences based in part on the variables originally differentiating the countries selected for their Council Presidency. In total, 114 cases of Council Presidencies were available at the time of writing this book. The Council presidencies have existed since 1958, but the powers given to the institution, whether formal or informal were different then. Each of the Treaty changes of the European Union has modified the powers the European Council may exercise. For this reason, most of the cases have been selected after the implementation of the Nice Treaty. The main three cases are France (2008), the Czech Republic (2008) and Sweden (2009). The United Kingdom (2005) will serve as a shadow case. So, too will Belgium (2010), which is the only case selected after the implementation of the Lisbon Treaty, with the objective of suggesting how the new system has changed the uploading of national policies. Using shadow cases allows for some kind of external validity, as it can support the findings uncovered with the main cases on the effect of independent variables on the outcome (policy uploading).

The second element affecting the case selection on the variation in the countries' policy capacity. This is essential in order to test my central hypothesis that policy capacity matters in

explaining national policy uploading. This categorization of countries goes beyond the traditional 'big versus small' states distinction, although I also took this into consideration. Policy capacity brings additional nuances to the study of the Presidency because it relies more on qualities like efficiency and ability to use the relevant resources rather than quantity. The selection of the cases was first based on the Quality of Government dataset (Teorell, et al. 2011), which incorporates the World Bank's measure on government effectiveness[6]. Although the index measuring government effectiveness does not measure policy capacity, I used it as a proxy to guide the choice of cases. The results of the index show that the Czech Republic ranks the lowest (.93), then followed by France (1.60), The United Kingdom (1.93), Belgium (1.98) and Sweden (2.06). In parallel, I have I constructed my own general index of policy capacity of Council Presidencies, for which I considered two sets of variables: economic and administrative resources, and political variables[7]. I consider a country to have a strong policy capacity when it shows good quality use of the indicators. Consequently, the ranking of the cases on policy capacity changes. The Czech Republic remains with a low policy capacity. Sweden and Belgium are considered to have moderate policy capacity, and France and the UK have strong policy capacity. It is important to note that these apply only at the national level: policy capacity in a given issue area can be different.

The third variable taken into consideration is the level of centralization of executive power. As discussed in the theoretical section, the literature points to the centralization of power in the heads of state and governments. Consequently, it is quite possible that this concentration of power affects the ability of a country to upload its national policies. With its semi-presidential

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[6] The measure of government effectiveness combines indicators on the quality of public service provision, quality of bureaucracy, competence of public servants, independence of civil servants from political pressure, and the credibility of government's commitment to policy.
[7] Economic and administrative resources: budget allocated to the presidency (and how it is spend), organizational structure, expertise and experience of staff, use of Council Secretariat; political variables: experience of leaders, expertise of leaders.

system, France is considered to be a centralized country. On the other hand, despite its institutional design (semi-presidential), analysis on the Czech Republic has considered it to reflect a system where power is more diffuse than in similar systems (Brusis 2004, Zubek 2008). The United Kingdom and Sweden are both unitary parliamentary systems. And finally, Belgium is a federal system.

Other elements are different from case to case but have not driven the case selection process: variance in the degree of commitment to European integration, experience in holding the office of the Presidency, whether they faced governmental instability or not, differences in administrative traditions, and their interests in different policy areas.

For each main country-case, I look at two policy cases. The attempt was to have a success and failure case of each Council Presidency to better be able to identify the variables leading to policy uploading. Looking at how two instances of an event/non-event (of policy uploading) per country developed increases the number of cases and allows me to identify patterns and causes. They were selected according to priorities announced through interviews leaders offered in newspapers explaining their EU Presidency's work programme. For each case, I start by looking at the national policy in a given issue-area and then trace and analyze the developments leading to policy uploading during the Council Presidency, reflected by the adoption of elements of the national policy at the European level. Specifically, I employ process tracing for my within case analysis in order to map the causal processes at play. This tool permits to assess which explanation should be rejected or not in relation to the dependent variable (George and Bennett 2005, Bennett 2010).

I used a non-random, purposive sample made up of officials involved in their country's Council Presidency with whom I conducted semi-structured interviews. In total, I conducted 38

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interviews. These interviewees were mostly high public officials and politicians involved in their country's Council Presidency, and sometimes directly involved in the policy area under investigation. Validity and reliability are important issues to be concerned about for a researcher interviewing élites as the individuals questioned may express their bias view, or exaggerate (or downplay) their role. Hence, in order to maximize validity and reliability, I have used multiple sources for each of the Presidencies and policy areas under study in this book. It helped me to corroborate (by triangulating) the information obtained and to help reconstruct the events that took place (Tansey 2007). The interview consisted of semi-structured questionnaire protocol designed for each Presidency and policy area, but highly similar. The objective for having similar fundamentals between the cases is to facilitate comparison within and between cases, but also allowing for probing of informants (Tansey 2007). In addition, written primary and secondary sources consisting of newspaper reports, official documents, and archival materials.

Regarding the policy cases, I look at the European level at the European Pact on Immigration and Asylum and the Energy and Climate Package for the French Council Presidency (chapter 3); the Common Energy Policy and Immigration Policy for the Czech Presidency (chapter 4); and Europe 2020 and EU Carbon Tax for the Swedish Council Presidency (chapter 5). Each of these European Policies are first matched to their issue-area at the national level. Then I turn to the UK and Belgium shadow cases (chapter 6). I look at the Working Time Directive for the UK Council Presidency. I review the changes brought by the adoption of the Lisbon Treaty in the case of Belgium.

Finally in chapter 7, I compare the cases in order to identify the necessary conditions for policy uploading to occur (George and Bennett 2005). I assess the necessity of each independent variable -- intention (H1); domestic pressures (H1.1); policy capacity, concentration of executive

power, leadership, policy content (H2 and H2.1) -- by two standards. First, I examine which of these variables are observed in each case. Second, I expect to find that there is a causal link between the presence of an independent variable and the observed outcome, namely the successful uploading of national policy.

For its operationalization, I distinguish between two types of policy uploading. These categories are based on the literature on policy transfer and can be imagined as constituting a range of uploading. The first type is what I identify as *subtle uploading*. Subtle uploading can be defined as the transfer of ideas, goals and norms from the national to the European level. It is considered to occur when ideas, goals or norms entrenched at the national level in a given policy and expressed through official documents and/or speeches, and interviews with élites, find their place in official documents at the European level.

The second category is *direct uploading*. It is characterized by the replication of the majority of the elements (ideas in addition to, for example, policy instruments, etc.) of the national policy at the European level. The result is a copy, with or without changes, of the policy in use or projected at a certain time in the country. The easiest way to prove direct uploading has occurred is to look at the wording of the adopted policies at the European level.

2.7.1 Summary on the Selection of Cases

2.7.1.1 United Kingdom (July-December 2005)

The United Kingdom (UK) represents a case of centralized executive power, with most political decisions taken by the Prime Minister and his cabinet. Tony Blair, from the Labour Party, was the Prime Minister during the UK Presidency, and he is usually recognized to have exercised good leadership. In theory, the Prime Minister relies on his cabinet and is dependent on

the parliament. However, some scholars have argued that the country is experiencing the 'presidentialization' of its system and that the Prime Minister has acquired more power and autonomy vis-à-vis the parliament (Foley 1993, 2000).

Evaluations on the UK Presidency usually consider it to be a rather successful one, but not quite of its own making as it was heavily dependent on the other EU institutions (Whitman 2006a). Since the entrance of the UK in the European Union, the country held the EU Presidency six times. Most importantly, Tony Blair experienced the EU Presidency twice: in 1998 and in 2005. The 2005 UK Presidency program focused on three main policy areas: economic reforms and social justice, security and stability, and Europe's role in the world.

2.7.1.2 France (July—December 2008)

France also represents a case of centralized executive power, however in the hands of the President. France is a semi-presidential system in which the president of the nation is quite powerful when not faced with a co-habitation situation. This was the case of Nicolas Sarkozy, who was president during the French EU Presidency. He is recognized to have leadership, be proactive, and he is usually also characterized as hyper-active (Autret 2008, Barber 2009) .

France experienced a controversial EU Presidency, but it is usually accepted that it was a dynamic and somewhat successful Presidency despite some considerable drawbacks (Barber 2009, Dehousse and Menon 2009). The French Presidency's key priorities were on making Europe a model for sustainable social, ecological and economic development; making Europe more attentive to the rights, security and aspiration of citizens; and finally, reinforcing Europe's role on the international stage.

2.7.1.3 The Czech Republic (January – June 2009)

The Czech case is particular because of the division of powers that exist at the domestic level and how this is articulated: the power is quite diffused despite its semi-presidential structure. Vaclav Klaus who is the Czech President was not very involved during the country's EU Presidency, except during summits with third countries. Given the role of the President in the Czech Republic constitution, Vaclav Klaus has limited powers. However, he still has an influential role in his country and on European matters. His only legislative power is the right of veto on his country's legislation. He is also well-known to be a Eurosceptic.

In the Czech Republic, executive power is centralized in the hands of the government, but can be shared by many parties. The government is composed of the Prime Minister, the deputy Prime Ministers and of the ministers. Initially, the Czech EU Presidency started with Mirek Topolánek as the Prime Minister, who was from a center-right and Eurosceptic political party and who head also a center-right coalition government. However, in March 2009 he lost a vote of no-confidence, became a caretaker government and was eventually replaced in May by another independent caretaker government. At the head of this new government was Jan Fischer. The government of Jan Fisher was constituted of members of all political parties, and he was not associated with any of them.

Evaluations on the Czech Presidency generally claim that it was unsuccessful, or that the small successes it achieved were quite rare (Barber 2009, Benes and Karlas 2010). No particular leadership seems to have been exercised during the country's term. The EU Presidency of the spring 2009 was the first experience for the Czech Republic, and the second time a member from East Central Europe held the chair. The Czech Presidency focused on economics, energy, and Europe in the world.

2.7.1.4 Sweden (July – December 2009)

Sweden is another case of unitary centralized state. However, in the case of Sweden, bureaucrats and specialized agencies are highly involved in policy drafting and implementation (Pierre 1995). Besides, executive power remains centralized in the hand of the Prime Minister and his cabinet. Similarly to the United Kingdom, Sweden is also undergoing a process of 'presidentialization' which increases the concentration of power in the hands of the Prime Minister and his ministers (Bäck, et al. 2009). During the Swedish Presidency, Frederik Reinfeldt was Prime Minister and he was from the Moderate Party, a center-right party. He was at the head of a governmental coalition of center-right parties.

The evaluation of the Swedish Presidency is mixed. When it is argued that it was successful, the focus is on the efficiency of the Presidency in concluding final agreements on the constitution and on policy packages; whereas it is considered to be unsuccessful when the attention is put on policy initiation and implementation (Miles 2010). The Swedish Presidency's key priorities were economy and employment, climate, justice and home affairs, and Europe in the world.

2.7.1.5 Belgium (July – December 2010)

Again, the case of Belgium is the only EU Presidency that took place after the Lisbon Treaty entered into force in December 2009.

During the EU Presidency, Belgium was faced with domestic turbulence at the federal level. The country started and ended its EU Presidency with a caretaker government, as the differences between the Walloon and Flemish communities seemed irreconcilable and no compromise was found in order to form a new government. At the head of the caretaker government was Yves Leterme, from the center-right Christian Democrat and Flemish (CDV)

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political party. He is the head of a coalition government with other Flemish parties. Executive power is thus dispersed among many political parties.

In general, the evaluations of the Belgian presidency consider it quite efficient and successful (Le Bussy 2010, Leblanc 2010, Taylor 2011). According to the accounts of politicians and public officials in the newspaper, Belgium is recognized to be a great negotiator and to have great abilities in fostering the emergence of compromise. The Belgian Presidency program focused on three main areas: socio-economic priorities, climate and environmental concerns, and the European Area of Freedom, security and Justice.

3.0 FRANCE 2008 COUNCIL PRESIDENCY

This chapter examines the case of the 2008 French EU Council Presidency. It points to which variables are important in facilitating uploading for a country such as France, chosen for its strong policy capacity and centralization of power. In this chapter I focus on the issues of the European Pact on Immigration and Asylum and on the Climate and Energy package. Both were high on the French Council Presidency's priorities (French Presidency of the Council of the European Union 2008).

This chapter demonstrates that, despite its strong overall national policy capacity, France lacks capacity in the areas of energy and environmental policies. This relative weakness results from relying more on external experts than in the case of migration related policies. This resulted in more difficulty for promoting its own policies in that area, especially because the proposals were also well advanced in the EU policy process. More importantly, I suggest that the leadership exercised (or not) by a country within a specific policy area (whether it is a policy entrepreneur, a pusher, a laggard, or a fence sitter) and the role taken as the Council Presidency holder will impact the ability of a country to upload its national policies. France is a laggard in the areas of energy and climate change policies and took more the role of the broker during the negotiations, which diminished radically its ability to upload. On the other hand, in the area of migration policy France is a pusher and an agenda manager, which enabled it to upload its national policies at the European level by focusing on general goals in the proposed Pact.

The chapter is divided into five sections. The first presents a global analysis of the French Council Presidency and its priorities. The second section looks at the national coordination of European policies in France, which is heavily linked to policy capacity. The third and fourth sections examine the cases of the European Pact on Immigration and Asylum and the Energy/Climate Package. These two sections provide a survey of the national policy in France in the relevant policy area and discuss the pre-Presidency and actual Presidency period before providing an analysis of the case. The conclusion provides a comparative analysis of the two cases.

3.1   GENERAL CONSIDERATIONS

The French EU Presidency was controversial. On the one hand, analysts point positively at the dynamism of the Presidency period and the abilities France showed to accomplish many of its programme priorities and efforts to solve international crisis. On the other hand, France's actions undermined community institutions and actors, as well as other member states (Barber 2009, Dehousse and Menon 2009). France controlled its agenda, and took initiatives quickly when required, for example with the financial crisis and the Russia-Georgia conflict, without waiting for European institutional actors. Moreover, it often neglected its usual allies in the Council in favor of its own interests.

The French Presidency focused on three key priorities. The first was environment, energy security and sustainable development. The particular focus in that area was on the Energy-Climate Package, energy security, and financial regulation. The second priority was on "making Europe more attentive to the rights, security and aspirations of its citizens" which included

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immigration. And finally, its last priority was on Europe's international presence, with special emphasis on the CSDP, enlargement, the European Neighbourhood Policy, and the Union for the Mediterranean (French Presidency of the Council of the European Union 2008). However, as mentioned before, the French Presidency also faced many unplanned issues such as the Russia-Georgia crisis and the beginning of the financial crisis in Europe which had to be put on the agenda at the last minute because they required quick action. The financial crisis was of particular importance for the negotiations on the Energy/Climate package because economic concerns weighted more heavily in the balance than they would of otherwise.

3.2   NATIONAL CONTEXT AND COORDINATION OF EUROPEAN POLICY

France has a unique and complex configuration for the national coordination of European policies. The coordination system involves individuals from different departments and organizations, both at the national and European levels, but everything must go through the *Secrétariat Général des Affaires Européennes* (SGAE). The SGAE is under the direct supervision of the Prime Minister and the State secretary for European Affairs. Whether it concerns diffusion of European-level decisions downwards, transposition, or providing the French position to national actors at the European level, the SGAE is always in the middle- an unavoidable institution. The SGAE's main missions are to make sure French interests are promoted coherently in Europe and to coordinate the different actors in constructing French positions.

The SGAE can be considered to provide France with strong policy capacity, and this is reflected through its administrative organization. The director of the SGAE is a special advisor to

the Prime Minister. The SGAE is composed of civil servants originating from different departments for a term of three years. They provide specific knowledge on the issues of their department relevant at the European level. In addition, they develop and provide a general approach for European policy through their cooperation with other officers (Lanceron 2007). Work in the SGAE is divided according to the configuration of the European Council, and each group is in contact with many departments in order to define where France stands on particular issues and proposals. In theory, official French stands in European institutions are not allowed if they did not go through the SGAE in the first place. If something needs to be introduced by France or that a French position is needed at the European level, it always goes through the SGAE. In 2006, 186 individuals worked in the SGAE and 93 were top officials. However, the workings of the SGAE are usually considered to be more reactive to European proposals rather than proactive early in the European policy process (Auber and Desmaison 2009).

Despite these resources and the sharp coordination mechanism, its effectiveness is sometimes questioned for many reasons. A major barrier to effectiveness is the division of the executive in France. Even if the Prime Minister is directly responsible for the SGAE, Presidential involvement may occur in SGAE affairs, especially during a Council Presidency period. Also, officials of the SGAE critique the end result of their work because they are mostly making summaries, rather than finding compromises when divergences between actors occur at the national level. Hence, the political executive is solicited in those situations and is the only one taking the decisions (EurActiv.fr 2008a).

The role of the SGAE mostly remains the same during an EU Presidency, although its activities are significantly increased (Toute l'Europe 2008). During the 2008 EU Presidency, a

special committee for the French EU Presidency was created within the SGAE in order to support the work of the Elysée EU Presidency team.

It is worth mentioning that presidential and legislative elections took place in France during the spring of 2007. Although the President and the government remained from the same political party, the differences between Chirac and Sarkozy are significant. As a result of the elections, little was actually planned more than one year before France took the Council Presidency. Starting a few months before and continuing during the holding of the Presidency, inter-ministerial meetings of the ministers also took place every Tuesday (Challenges 2008c).

3.3   THE EUROPEAN PACT ON IMMIGRATION AND ASYLUM

3.3.1   Domestic Bases: French Immigration Policy

France is probably one of the countries in Europe that has made the highest number of changes to its immigration policy, especially since 2003 when a new impulse was given to its policy. In total, six amendments were made to the 2003 law. The most significant ones took place in 2006 and 2007. These three laws constitute the essence of France approach to immigration.

The first major change to French immigration policy was the regulation of the 26 of November 2003 on immigration and asylum (also called the "Sarkozy Law") aiming at creating stricter rules for immigration and asylum in France. The 2003 amendments were responding to adopted European directives that needed to be transposed at the national level or forthcoming ones, and to French political interests. The 2003 changes were inspired by security concerns and concentrated on the fight against illegal immigrants. It focused on stricter rules for the admission

of a foreign spouse and family members in France, the creation of an electronic database to collect information on visa applicants, the strengthening of discretionary power to the prefectures for decisions on immigration status renewals, and gave more precisions on the measures for removal and detention of illegal immigrants (Marthaler 2008).

The second significant change occurred on the 17th of May 2006, with the adoption of new amendments, commonly called "Sarkozy Law II". After the riots in the suburbs of Paris in 2005, the attention of politicians was put on the lack of 'Republican identity' and integration in French society that existed among the young immigrants or children of immigrants living in the suburbs. Riots were interpreted as an illustration of immigrant youth's unwillingness to integrate into French society and adopt its values. Consequently, the focus of the amendment was on immigrants' integration and in general, on a better selection of immigrants (Marthaler 2008).

The 'new' immigration policy focused on three main concepts: selective immigration (*immigration choisie*), circular immigration (*immigration circulaire*) and co-development, the integration into French society. Entrenched within these concepts, the policy had an overall aim to restrict illegal and family immigration. This second amendment reinforces the new strategy adopted by France towards the management of migration flux.

Selective immigration is seen as a change to France's immigration approach in 2006 because it was argued by politicians that the country had previously submitted to unwanted immigration (*immigration subie*), with particular reference to family reunification and illegal immigrants. Moving towards selective immigration meant that France aimed at a more active and utilitarian immigration, now desired, and in accordance with its labour market needs. It specifically targeted qualified workers, whether highly skilled or not. To implement this approach, the law creates a 'competence and talents card' (*carte de séjour compétences et*

talents), which authorizes the immigrant to practice any occupation of his choice. It is meant to facilitate the reception of immigrants whose talent is conceived as being an asset for the national development and international outreach (*rayonnement*) of France. However, its application was not to cover occupations highly needed (such as doctors, nurses, etc.) from immigrant candidate coming from sub-Saharan Africa. In line with the theme of selective immigration, third country nationals (TCN) have seen the length of their stay in France stretched out to now reach an 18 month period before being able to ask for their family to join them, instead of one year as it was previously.

Circular immigration and co-development are other innovations included in the 2006 amendments. The idea behind these changes is that France may need migrants with certain skills to fulfill market needs only for a short period of time. Immigrants would come to France, gain experience and make money, in order to ultimately go back to their home country. In doing so, by agreeing to go back to their home country, they will make their home country benefit from their experience and money gained in France. This idea is also intended to be fulfilled through the education of élites from third countries in France, who would go back to their home country after their training. In order to make these notions concrete and implement them, bilateral agreements with the emigrant countries are signed and quotas are set. Development aid is also attached with these bilateral agreements to create an incentive to respect the agreements.

With regard to integration the focus was put on the need for migrants to integrate themselves in French society. According to the policy, integration includes a number of mandatory components. It starts with the signature of a contract of reception and integration (*contrat d'accueil et d'intégration*). In order to reside permanently in France, the migrant must also demonstrate his willingness to integrate into French society by upholding French laws and

values as well as demonstrate his competency in the French language. In addition, integration is in part measured according to the number of years one had lived in France. In reality, most 'integration' measures are countered by the aim of restricting family reunification by setting new conditions to which an immigrant must submit, before being able to have his family join him (i.e. time in France, salary, living conditions, etc.). These measures were again modified in 2007. In addition to the previous mandatory integration requirements, it became compulsory to attend a class on French History, institutions and culture, and a meeting with a career counselor to facilitate professional integration in France. Each of these components are formalized with certificates which needed to be shown each time one requested for his status renewal.

Overall, Sarkozy's amendments were mostly driven by security concerns (fighting irregular immigration), which were also the cornerstone of Sarkozy's presidential campaign in 2007. With Sarkozy's election as President, subsequent changes were made to immigration policy, mostly of a logistical nature with the creation of the Ministry of Immigration, Integration, National Identity and Co-Development (MIIIC).[8] The creation of the ministry accelerated the application of the 2003, 2006 and 2007 immigration policy amendments, which became very important because of Sarkozy's promises during his electoral campaign. The policy was a way to respond to public pressure for a stricter control on immigration in France (Bertossi 2008). The 20 November 2007 amendments targeted family immigration. The reception and integration contract became compulsory for families, and parents were now responsible for their children's integration into French society. If the contract was not respected by the children, then the child support allowance would be suspended. Also, in suspicious cases, DNA testing became possible for finding a child's affiliation for immigration purposes, although it is used on a voluntary

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[8] Before the creation of the ministry, several aspects of the immigration policy were divided among different departments and coordination was difficult.

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basis.[9] In addition, the demonstration of sufficient material and financial resources had to be verified in order for an immigrant to have his family reunified. Moreover, through a circular in July 2007, quotas to be reached for expulsion were set: 25,000. Generally, the policy was confirming the approach taken previously by focusing on security and utility for France. To some extent, it also answered to human rights organizations' critics through minor provisions, such as the possibility to regularize immigrants on a case by case basis (Marthaler 2008).

3.3.2 Pre-EU Presidency Preparation Period

3.3.2.1 Elaborating the European Pact

The first reference to a European Pact on Immigration and Asylum was made in a press conference by Nicolas Sarkozy, then Minister of the Interior, after the December Council of Ministers in 2006. He declared that:

> "Because we are in a free movement area, every decision taken by a member state has consequences on its neighbor. This is the reason I proposed to my colleagues, also ministers of the interior, from the big six European Union country, who welcome by themselves about 80% of migrant in the European space, the adoption of a European Pact on Immigration. A first draft of this proposal has been presented and adopted by the G6[10]. The member states of the EU have to walk in the same direction. It is essential to establish a European policy of immigration on a voluntary involvement of states and on common principles: refusing mass regularization; introduce efficient and stable border control; a common measure for familial reunion and asylum; on the principle for expulsion of illegal migrants and delinquent foreigners except when particular protection is needed[11]" (Setton 2008).

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[9] Although DNA testing is possible according to the law as an experimental procedure for 18 months, it was in fact never implemented and finally abrogated in 2009 with the refusal of the new immigration minister to implement the experimental period.

[10] G6 is composed of France, United Kingdom, Germany, Spain, Italy and Poland. Together, they represent about 49% of votes in the Council. Although Sarkozy made this declaration, no copy of the proposal dating from 2006 is available.

[11] "Dans un espace de libre circulation, toute décision prise par un État membre a des répercussions chez ses voisins. C'est pourquoi j'ai proposé à mes collègues ministres de l'intérieur des six grands pays de l'Union européenne, qui accueillent à eux seuls 80% des migrants dans l'espace européen, l'adoption d'un pacte européen sur l'immigration. Une première esquisse de ce Pacte européen pour l'immigration a été adoptée par le G6. Les États membres de l'UE doivent marcher dans la même direction.

Hence, the ideas of the Pact were already well developed a long time before France took the Council Presidency. However, the Pact was not formalized at the national or European level until the 2008 EU Presidency.

France was in standby for the preparation of its EU Presidency for most of the Spring of 2007 as presidential elections were held. One major electoral campaign proposition of Sarkozy had to do with immigration. He promised to introduce annual immigrant quotas, take measures to reinforce the learning of French before the arrival of immigrants in the country, and the creation of a ministry of immigration. During the entire campaign he adopted a hardline towards immigration as he was also trying to appeal to the far-right electorate (Marthaler 2008). These promises are reflected in the 2007 French law, but national legislation was considered not enough due to the interdependence existing between European Union members in the area.

As soon as Sarkozy became president, the new French government was formed, and the work on persuading the other EU members of the necessity of the European Pact on Immigration and asylum started. Generally, only broad principles transpired from the bilateral meetings between France and other EU countries. The discussions focused mainly on the ban of mass regularization, the integration of immigrants in the host countries, the signature of agreements with third countries regarding circular immigration, co-development and the removal of their nationals from European territory if in irregular situation, and the coordination of removals in the EU.

Il est essentiel de fonder une politique européenne de l'immigration sur une démarche volontaire des États et sur quelques grands principes communs: le refus des régularisations massive; la mise en place d'une frontière extérieure efficace et stable; une règle commune d'asile et de regroupement familial; le principe d'éloignement des migrants clandestins et d'expulsion des étrangers délinquants sauf protection particulière."

On May 31st 2007, Sarkozy met with the President of Spain, José Luis Rodríguez Zapatero, in Madrid. Among other things, they discussed the idea of the European Pact. Without going into many details, Zapatero declared that he felt that an agreement on the Pact was not going to be difficult to adopt in the EU because the general objectives of the Pact on legal immigration mattered to every member, especially for the countries receiving the highest number of immigrants. He confirmed that Spain adhered to the majority of the principles discussed, sustaining that common action in the field of immigration was required, despite divergences between countries (Sarkozy and Zapatero 2007, Le Monde June 1, 2007). Spain also declared that it would not to pursue a mass regularization strategy in the future and that it would concentrate on processing demands on a case by case basis. France is strongly against mass regularization and planned to ban it by including the ban in the Pact. Spain's 2005 mass regularization had attracted vivid critics from the other EU governments. Mass regularization is criticized essentially because it is not a measure that effectively solves the issue of irregular immigration.

The project of the European Pact was officially confirmed to be on the agenda of the French EU Presidency with a letter from the newly elected President Sarkozy addressed to his Minister of immigration, Brice Hortefeux, on July 9, 2007 (Sarkozy 2007a). In this letter Sarkozy formally invites his minister to work hard to convince the other leaders of the EU to engage into the definition of a common policy for the management of immigration, to be concretized through the Pact.

Following this announcement, a tour of the European capitals led by the President and his minister began. The pre-presidential preparations for the adoption of this Pact were extensive. The most important countries involved in this tour were the United Kingdom, Spain, Italy and

Germany because they represent, together with France, the countries receiving almost 80% of immigrants in Europe (Rea and Tripier 2008). Most of the 20% leftover are shared between Poland, Portugal and Austria. However, the burden of immigration control is heavier on countries such as Malta, Greece, Spain, Italy and Cyprus because of their geographical location. This is also the case with countries on the Eastern border of the EU, but they do not receive as many demands as the Mediterranean countries. As the free movement of people is applied and customs lifted within the Schengen area signatory countries, migrants are able to benefit from it too. Consequently, once one enters an EU country it is easy for countries to lose track of individuals, whether they are legally entered in one country or not. This reality causes concern for France and other members; France wants to find ways to better implement border controls and admission through the Pact. Focusing on the big immigration countries has another advantage for France because they also represent a significant number of votes in the Council. If they agree on the principles and the specificities of the Pact, it is more likely that the other members might too.

In August 2007, Hortefeux went to Italy to meet with the Italian Minister of the Interior, Giuliano Amato. The two countries have been cooperating on the policing of their common border to fight illegal immigration for some time. French and Italian security officials work together in the same office to prevent illegal immigrants to cross borders by developing common action, sharing information, cooperate with judiciary procedures, etc. (Nice-Matin 2007). The Pact was discussed broadly during this meeting and in an official declaration, Hortefeux stated that both he and Amato were in broad agreement on immigration matters. Italy agreed not to pursue mass regularization anymore, and it supported the signature of agreements with countries such as Morocco, Tunisia and Libya to facilitate the return of nationals from these countries

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(Nice-Matin 2007, Rodier 2007). This position was reinforced again in November, when Sarkozy went to Italy and met with Romano Prodi and made similar declarations (Sarkozy and Prodi 2007).

In November, the German Chancellor Angela Merkel received Sarkozy. Cooperation between the two countries has been strong in the past decades, and is maintained by the holding of ministerial meetings biannually since 2003.[12] At that particular meeting, it was announced that France and Germany were launching discussions on a common immigration policy, to better be able to fight illegal immigration and to focus on integration (Calla 2007). It was sustained that by holding such discussions and finding common alignment, Germany and France would improve their joint strength on immigration discussions within the EU. Sarkozy and Merkel expressed different but complementary visions on immigrant integration while they attended field activities on the subject. Sarkozy focused more on the need for immigrants to integrate the host countries laws, values and culture, while Merkel, reflecting the country's recently adopted 'National Plan for Integration', concentrated her attention on the need to learn the host country language (Calla 2007). These approaches echo the leaders' countries respective immigration realities. Following this meeting, cooperation between France and Germany seemed to be going smoothly for the upcoming French EU Presidency.

3.3.2.2 The First Draft of the Pact: The First Test for French Propositions

As the EU Presidency came closer, 2008 began with the launching of the "official tour" of European capital. Hortefeux met with ministers responsible for immigration from all EU countries. A first draft of the European Pact on Immigration and Asylum dated January 28, 2008

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[12] Biannual meetings had been held between Germany and France since 1963, but until 2003, they only concerned the heads of State of the two countries.

started to circulate to prepare ministers and heads of state for discussions during bilateral meetings or larger gatherings. This first version of the Pact was only six pages long and differed from subsequent versions. It had a preamble and five sections also referred to as commitments: "protecting Europe better by controlling external borders within a spirit of solidarity; organizing legal migration on the basis of each EU member state's ability to receive, with a spirit of responsibility; organizing effective removal from the EU for foreigners staying there illegally; constructing a Europe of asylum; and promoting co-development and development aid" (Ministère de l'Immigration 2008b). The document contained many deadlines and instrument proposals.

The preamble provides information about the situation in Europe and what has been done up to this point in the area of immigration. However, it leaves out developments made at the Community level. It points to the need to adapt the migration flow to "Europe's capacity to receive it, insofar as the employment market, accommodation, and the health, education and social services are concerned" (Ministère de l'Immigration 2008b). From this introduction is also seems that the Pact sets the broad principles and instruments for a "veritable common immigration policy" and put clear boundaries between all actors involved in the policy with "a clear division of tasks and missions between the community and the national or intergovernmental levels, and on dialogue with countries of origins" (Ministère de l'Immigration 2008b). The rest of the document goes into detail regarding each of the specific 'commitments' it covers.

Under the first title, "protecting Europe better by controlling external borders within a spirit of solidarity", the Pact gives voice to security concerns and renders compulsory the issuance of biometric visas from January 2011, "and to progressively create joint centers for the

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issuing of visas, or joint European consulates." (Ministère de l'Immigration 2008b) It also proposes to give to the Frontex agency new resources such as a senior staff body, two headquarter agencies (one in the South of Europe and the other in the East) "with the capability to mobilize the means the member States commits to provide to Frontex on demand, and to equip it with a unit of trainers-inspectors by January 2009" (Ministère de l'Immigration 2008b). Another paragraph opens the door to coordinated watch of internal borders through the organization of bilateral agreements.

The second commitment regarding the organization of legal migration is at the core of this Pact. Regarding legal immigration measures, the Pact allows member states to implement their own policies if they are respecting the general principles of the Pact, while at the same time, includes specific instruments which states must adopt. The main idea is based on the shared "knowledge that migration must proceed from a double willingness, that of the member State and that of the migrant" (Ministère de l'Immigration 2008b). One of the measures confirmed in the Pact is the ban of mass regularization: "large-scale and collective regularization produce an important pull factor and it is hence agreed to do without them in the future. Regularizations will have to depend on a case-by-case examination, in exceptional circumstances, notably humanitarian ones, in response to some precise objectives. It cannot be a mean of managing migration flows" (Ministère de l'Immigration 2008b). This section also establishes the principles for 'chosen immigration': "the European Council notes the weak qualifications of immigrants towards Europe, [in comparison to those immigrating to the United States or Canada]. (…) Thus, member States will favour an immigration that is chosen and concerted, of a professional kind, within respect for their national specificities and while taking into account the situation of the employment market and of the talents and competencies they require" (Ministère de

l'Immigration 2008b). Regarding integration of migrants in host societies, the Pact says that "language courses and the assessment of professional competencies will be implemented in a systematic manner, including before entry into Europe" (Ministère de l'Immigration 2008b). Finally, it makes compulsory certain instruments: "the European Council recognizes the interest of the integration contract for third-country nationals who are admitted for long-term residence on their territory and encourages member States to propose it at a national level. This integration contract must be compulsory" (Ministère de l'Immigration 2008b).

The third commitment, concerning the removals of illegal immigrants, is also important because the implementation of these promises is usually not respected. "Only one removal decision out of three is executed in Europe. It is essential to respect the rule according to which a migrant in an irregular situation must either leaver voluntarily or be taken back to their country, throughout the European area. Moreover, member States must apply the principle, adopted in 2001, whereby removal measure taken by one of them is applicable in any location in the EU territory" (Ministère de l'Immigration 2008b). Measures included in the Pact are that "whenever necessary, member States must resort to joint return flight between several member states." It is proposed that Frontex supervise and coordinate these group returns. Also, it is emphasized that the agreements on readmission reached to this point at the European level are inadequate. "A truly global approach must be developed in order to reach tangible results in this domain. The European Council invites the member States and the Commission to support and enable the negotiation of readmission agreements by means of any diplomatic and commercial instruments. (…) the objective is to have the required legal instruments for the return of irregular foreigners to their country (…) whether this is through an agreement reached at the European level, or in the form of a bilateral agreement, or also through the use by member State of a bilateral agreement

reached by another member State (*mutualisation*) (…) within a delay of five years" (Ministère de l'Immigration 2008b). Finally, some attention is put on employers and landlords of illegals and the trafficking in human beings by punishing them more severely by harmonizing the repression methods in Europe.

Constructing a Europe of asylum is the fourth commitment included in the Pact. It aims at harmonizing rules existing in Europe, and to also find ways for asylum seekers to not be penalized with the intensification of border control "if they have the basis for obtaining a refugee status". The Pact goes further in sustaining the creation of a European support office in 2009, "and to establish some common guarantees in the field of asylum ad a uniform refugee status in 2010" (Ministère de l'Immigration 2008b). Another measure included in the Pact is the setting up by member states of "joint teams for the assessment of asylum claims, capable of intervening in border regions when there are mass arrivals of people, in 2009." It argues for the reinforcement of the external dimension of asylum policy, referring to the selection of the asylum seekers and the study of their files prior to their arrival on the European territory. Moreover, a delay of five years is given in order to achieve the creation of "the institution, procedure and common criteria for the assessment of asylum applications and the recognition of refugee status in Europe" (Ministère de l'Immigration 2008b).

Regarding the fifth and final commitment, on co-development and development aid, the focus is put on "the fight of the plunder of brains by avoiding to favour the definitive immigration of qualified people when their departure would have the effect of depriving the countries of origin of an indispensable resource for their development or for the populations' daily lives" (Ministère de l'Immigration 2008b). Only one example of individuals who would fit this category is given in the text, that of doctors from Africa. The Commission is mandated to

produce statistical data and a survey of best practices on what kind of compensatory instruments exist to this time, within a two year period. It also argues for the implementation of a clear circular immigration policy and the elaboration of instruments (i.e. tax incentive or banking products) that would enable migrants to participate in the development of their countries of origin and to facilitate money transfers. The Pact also more concretely pushes for the holding of consultation.

The six months prior to the French Council Presidency proved to be quite active for the Minister of Immigration with the continuation of the tour of European capitals. With the first draft of the Pact in hand, it was time to discuss the more specific issues included in it with the other EU members. The objective was to make sure it would get adopted in the Council. Most discussions concerned the need to stop mass regularization or more specific instruments included in the Pact (Avril 2008b, a, Barluet 2008). The meetings usually took a few hours, allowing for meetings with other countries on the same day. The first few months more often involved the Minister of Immigration, but the last months were characterized by the high involvement of the executive (both the President and the Prime Minister) and the Minister of Foreign Affairs. The French President was particularly active in the discussions on the Pact, and it was often referred to as "his" project. Most countries received a visit of one of the French executive or ministers, or were able to participate in discussions with them in a small group of countries, as it was the case for the Visegrad group[13]. However some exceptions exist such as Ireland, who did not receive or discuss the Pact with the French. The working document was presented only to high public officials and to politicians. Two large meetings were held to discuss it, one at the end of March

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[13] The Visegrad group is composed of Czech Republic, Hungary, Poland, and Slovakia.

and the other at the beginning of April, and each involving half of the EU members (EurActiv.fr 2008b, Le Nouvel Observateur 2008a).

The meetings that took place before July 1st were instructive as to what the positions of the other countries were on the different aspects of the Pact, what needed to be changed for its adoption, and what was actually intended by the French propositions. For example, in a meeting with Angela Merkel in January, Sarkozy gave more specificity on the proposition on the ban on mass regularization by declaring that it would involve that "each country agrees not to use mass regularization without having the authorization from the other members.[14]" (Pineau 2008b) This particular point on mass amnesties ended up been contentious with Spain. This was also the case with the Pact's migrant integration scheme, which revolved around compulsory measures to be implemented by the member countries, especially the integration contract. Spain, the Netherlands, and Italy were the first to react to the draft (Challenges 2008a, b).

Spain's position on the Pact was the most difficult for France as it criticized the measures included in the Pact. A report for the Assemblée Nationale (La Délégation de l'Assemblée Nationale pour l'Union Européenne 2008) confirms Spain's adherence to the long-term objectives of the Pact. However, conflicts exist over the use of mass regularization because of the historical reliance on this method by the country. In addition, the contract of integration was a sensitive topic in Spain because it had already caused controversies in the country during the last electoral campaign. Negotiations with Spain went on until the last day of June. The timing was important as the Pact was to be discussed on the first Council of Ministers meeting on the 6 and 7 of July (Le Nouvel Observateur 2008b). Italy's objections were similar to Spain. On the other hand, the Netherlands supported the Pact's direction (Pineau 2008a).

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[14] « (…) que chaque pays s'interdit des régularisations massives sans avoir l'autorisation des autres »

In the report to the Assemblée Nationale, it is observed that many countries found the first draft too oriented on the repression of illegal immigration (La Délégation de l'Assemblée Nationale pour l'Union Européenne 2008: 29). The compulsory nature of integration instruments were also causing heated discussions amongst the EU members, and reservations were expressed regarding the harmonization of asylum policy as proposed in the Pact. In sum, even after many months of promotion and discussion, many controversial elements of the Pact were still unresolved. Agreement on border surveillance and enforcement was less controversial.

Sarkozy went to the UK in order to promote this Pact and promote common action in the field of border control, immigration and asylum, for much of which the UK has opted-out from agreements at the European level. Sarkozy argued that involvement and commitment at the European level would help in solving long-term immigration issues (BBC News 2008). In the Assemblée Nationale's report it is mentioned that the UK favorably welcomed the Pact because of its focus on the fight on illegal immigration. However, the UK desires bilateral agreements over European ones as it prefers to conserve its sovereignty in the field of immigration. The UK particularly supported the proposals for the constitution of group flights for the removal of illegal immigrants, the ban of mass regularization, and the prospect of implementation of co-development and circular immigration. It has more nuanced opinions on the other sections of the Pact, although it approved the strengthening of Frontex, and supported biometric visas, it was more reluctant to create European consulates to address demands, and believed that every country should maintain its ability to decide how many and who is allowed to enter the country. The UK's strongest position is against the elaboration of a common European asylum policy because it wants to keep control over their national asylum policy (La Délégation de l'Assemblée Nationale pour l'Union Européenne 2008).

The same Assemblée Nationale document reports on Poland and maintains that it generally supports the Pact. However, many concerns were expressed on the precision of concepts included in the Pact and the deadlines included in it. Poland is also the only country that openly voiced its opposition to a permanent Frontex unit and the evolution of its structure and argued in favor of mass regularization for countries who wished to use it. Moreover, it wondered about the costs and financing involved for the implementation of the technologies mentioned in the Pact (La Délégation de l'Assemblée Nationale pour l'Union Européenne 2008).

In sum, these meetings show that all members agreed on the long-term objectives of the Pact, but not necessarily on the specifics. Members also vary in their willingness to delegate some of their immigration-related prerogatives at the European level, and on their vision for immigrants' integration.

On the 12th of June, Ireland's population rejected the Lisbon Treaty. It has been suggested that it radically modified the French intentions for the Pact as they wanted it to be formalized and not just been a political agreement (Lequesne and Rozenberg 2008). Moreover, the Pact's implementation would have been facilitated by the quick adoption of the Lisbon treaty and by the voting rules changes (Collett 2008).

In parallel to these developments, in early June, the Commission published a communication 'A Common Immigration Policy for Europe: Principles, Actions and Tools' (COM (2008) 359 final). It is important to mention because France faced many criticisms for not taking into consideration and try to integrate more from the Commission into its proposal (Ludlow 2009a). It shows that France really acted on its own.

3.3.3 EU Presidency Term

Much of the negotiations, and agreements on compromises were done prior to the actual Presidency, during bilateral meetings. As it was decided that discussions on the Pact would take place during the July Council of Ministers, it is no surprise to see that much of the action was done prior to the holding of that council. However, not all members had voiced their concerns at this stage of the proposal. After all, discussions between the 27 ministers had not taken place either.

A few days before the first council meeting of July 7, the second version of the Pact circulated. Many changes were made. Many contextual justifications for specific measures proposed have been left aside or watered down to please the other EU members. The general vision for European immigration and asylum policies is more developed in the preamble than it was in the first version, and it also integrates a little more the developments that took place at the EU level (i.e. the Commission's communication and previous developments in the field). In this second version, immigration is specifically mentioned as a positive contribution to Europe and to their home countries (Ministère de l'Immigration 2008a), and it acknowledged the need for countries to still limit it for maintaining good integration conditions in host countries. The preamble makes specific reference to both co-development and circular immigration. The structure of the document was also changed in an effort to try not to put systematic attention on the security-driven measures.

The points causing friction between the countries were slightly modified. Regarding mass regularization, instead of a simple ban for its use, it was now written that general and unconditional mass regularization should now be avoided and be limited to regularization on a case by case basis in the future, used in exceptional cases to be established within national

legislations, and for humanitarian and economic reasons. The previous version only referred to humanitarian case regularizations. The contract of integration was also left out of this new version and it was now only making reference to the need for "ambitious policies to promote integration" that would specify the rights and duties of immigrants, also focusing on language, employment, and European values (Ministère de l'Immigration 2008a). This document was considered to be a middle ground between the positions of Rome and Madrid on regularizations (Syfuss-Arnaud 2008).

On other points, the Pact was stronger, notably with temporary and circular immigration, which were now put placed as a priority. The use of quotas to implement this scheme was put forward in the Pact. It also reiterated the basic principles included in the previous draft: Europe cannot integrate all immigrants because it has limited capacities and these need to be taken into consideration.

On the 7th of July, an informal meeting of Minister of Interior took place in Cannes. The Pact was officially presented and discussed during this meeting. Before this meeting, Spain was seen as one of the major countries having issues with the proposal. Specifically, Spain's major issue seemed to be with having compulsory integration contracts for immigrants. Once France dropped the idea, Spain was satisfied and supported the Pact completely (Goldirova 2008a, Van Eeckhout 2008b). As the Pact was 'adopted' in this meeting, the spokesman for the UMP (political party of the French president) declared that the adoption of the Pact validated French immigration policy, which had been under attack around that time for its reliance on the idea of quotas (Ferenczi and Van Eeckhout 2008). The main differences between the version of the Pact before and after the Council meeting are not only Spain's demand but also the integration of the Pact into a more communitarian European process, which was not referred to in previous

versions (it lacked references to the Commission and/or process already in place) (Carrera and Guild 2008).

Five commitments are expressly stipulated in the 'final' version of the Pact. First, organizing legal immigration to take account of the priorities, needs and reception capacities determined by each member state, and to encourage integration. Second, control irregular immigration by ensuring the return of irregular aliens to their country of origin or a country of transit. Third, make border controls more effective. Fourth, construct a Europe of asylum. Fifth, create a comprehensive partnership with the countries of origin and transit to encourage the synergy between migration and development. It calls upon the European Council to adopt the concrete actions outlined in these five sections, in order to give shape to these objectives. The Pact is important for the EU insofar as it gives tools to be able to attract qualified immigrants, invite members to make their asylum procedures more coherent and reinforce the idea of a utilitarian selected immigration while fighting illegal immigration (Council of the European Union [1344/08]).

Another aspect of the July meeting was the creation of a 'European Asylum Support Office' in the area of asylum. France originally wanted to have an agency able to deliver visas (centralized agency) but other countries, especially Germany, were against the idea (Van Eeckhout 2008a). This idea was also present in the Pact and had been discussed during the pre-presidential period.

On September 25th, the Council of Ministers officially adopted the Pact in conformity with the version agreed on in July. Since the approval of the European Council was required, it was scheduled to take place at the October meeting, and was adopted without any problems.

On November 25th, at the Euro-African summit, the EU-27, with France at its head, already started to push for the conclusion of agreements implementing certain aspects of the Pact. Precisely, they wanted to sign agreements with the emigration countries in order for them to secure their development aid. This was heavily based on France's experience, in signing previously similar agreements with many African countries, with the exception of Senegal and Mali (Bernard and Van Eeckhout 2008).

3.3.4 Analysis

The periods before and during the Council Presidency show that France was very independent during the process for the adoption of the Pact. The French Presidency acted on its own, outside of the Community's institutions, and without their support or reliance on their resources for the elaboration, promotion and negotiations of the Pact. The Commission did not initiate the proposal and it was left aside by France. France's first draft completely omitted to take into consideration the developments that took place at the European level in the fields related to the Pact or the role of the Commission in it. In parallel, the Commission published a communication on "A Common Immigration Policy for Europe" (COM (2008) 359 final) with the objective of providing a new vision for a common policy for the EU. The Pact was shortcutting the Commission and intended to shape the Stockholm programme in 2009.

Nevertheless, the communication and the Pact do share some things in common. For example, they both insist on the solidarity of EU members in the area of immigration. Yet, their global visions are drastically opposed. The Pact promotes strong inter-governmentalism, whereas the Commission's communication focuses on the harmonization and creation of a common European policy vision which would require supranational supervision. Moreover, the Pact

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resembles more of an action plan promoting a general policy vision, not a 'common policy'. On the other hand, the Commission's communication does not contain any concrete propositions but tries to provide a common policy for Member states. Whereas the Pact strengthens the position of national legislations in the area of immigration in the EU, with the objective of setting standards but not necessarily aiming for harmonization; the communication suggests to work towards the harmonization of national policies, which had been under discussions for many years and previously agreed upon by the members.

The Pact reflects the attitudinal changes taking place in European societies. Indeed, the Pact is conservative and inspired by the political right that has become more and more popular in many EU countries (Collett 2008). Moreover, the general attitude among governments in Europe has been to try to retain power over immigration policy as it is a highly politicized area at the national level. In part because of this, France's push for the Pact with the other EU members was made easier.

Other factors helped the French to succeed in their endeavor. All EU members are concerned with immigration flows, even if their experiences were not the same. Many countries that used to be emigration countries became immigration countries with enlargements and European integration (Spain, Italy, Cyprus, and many East Central European countries). The EU members have different ways of handling migration and they are ineffective for dealing with it. In addition, policies aimed at attracting high-skilled workers in Europe are not well developed or implemented (Kahanec and Zimmermann 2010). Hence, countries are always unsatisfied with the status quo, creating a need for action in the area, especially for political purposes.

Therefore, even if The Hague programme adopted in 2005 and its forthcoming update, the 2009 Stockholm programme, set goals and the action plan, France decided to put on its

Council Presidency's agenda the theme of immigration through the adoption of the Pact. The Hague programme provided an action plan for 2005-2009, but was very general and not particularly ambitious (COM(2005) 184 final). Discussions on cooperation in immigration had been taking place at the European level for many years without providing concrete results as to what global approach to immigration the EU would adopt. Agreements were concluded only on specific directives without a common vision. The European Pact on Immigration and Asylum filled this gap at that time.

France initiated the Pact mainly out of national political motivations. Part of Sarkozy's electoral campaign in 2007 focused on the restriction of immigration. Many of the measures adopted at the national level had been controversial and France was seeking to legitimize its policy and approach to immigration. This is illustrated within the Pact by the high number of references to French immigration concepts such as "immigration choisie", "immigration subie", "co-developpement", and "immigration circulaire" contained in the Pact, especially in its first version, aimed at its domestic audience. Some of these specific expressions were sometimes diluted in subsequent and the final versions, but the ideas behind the concepts remained in the document. Moreover, many measures included in the first version were applied in France (i.e. contract of integration). Despite the dilution of French-specific vocabulary in the Pact in its subsequent versions, the project maintained its French color. This shows that the French Council Presidency was effectively able to upload its national immigration policy at the European level, through the use of agenda-setter and shaping strategies.

This is exemplified in the final version by the emphasis put on the limitation for immigration in European countries, the focus on security, and integration. The pact is the first document acknowledging that "the European Union (…) does not have the resources to decently

receive all the migrants hoping to find a better life here" ([1344/08]). In addition, it is also the only text giving importance to the concrete implication that changes in migration policies in one country can have implications on others, making "imperative that each member state take account of its partners' interests when designing and implementing its immigration, integration, and asylum policies" ([1344/08]). Furthermore, the EU documents referring to border controls or fighting migration usually use the expression of "irregular immigration". The Pact is the only document making references to "illegal immigration", the same as the national French immigration policy.

Circular immigration was discussed superficially in European documents (i.e. the Global approach to Migration from the Commission) preceding the adoption of the Pact, but France had been implementing this principle many years before the discussions took place at the European level. The Pact clearly makes reference to circular immigration and how it should be implemented, the same way the French immigration policy had intended. It stipulates that the principle is to "(…) enable those nationals to acquire training or professional experience and accumulate savings that they can use for the benefit of their home countries. (…) [with the aim of encouraging] temporary or circular migration, in order to prevent brain drain" ([1344/08]). Moreover, based on the model of the French agreements signed with third countries, it explicitly suggests that future partnerships with third countries from which many TNCs are originating should include provisions on circular immigration linked it to their development aid.

On integration, the Pact is more specific about criteria that should be taken into consideration when evaluating the integration of immigrants in the host country. These criteria undeniably originate from French concerns. The Pact adds an additional criteria for family reunification which was not included in the Family reunification directive of 2003 (2003/86/EC

), which is the knowledge of the host country's language. Overall, the Pact focuses much more on the responsibilities and duties of the migrants rather than that of the host country, reflecting what is in the French immigration policy.

The conclusion of the Pact also insures that actions will ensue from its adoption by mandating all actors involved in the formulation, adoption and implementation of the policy with specific goals. For example, the Commission was mandated to provide an annual progress report on the developments related to the Pact. Hence, even if the document itself is only a political commitment, it is a strong one.

Throughout the negotiations and the 'selling' of the Pact to the other members, the main ideas behind the Pact were not the object of conflict with the other members, rather it was mostly the specific measures proposed that caused disagreement. For example, this was the case with the integration contract, the ban on mass regularization and the creation of a European Asylum support agency. Given the inter-governmental nature of the document, and the flexibility it sometimes gives to EU members to implement policy instruments their own ways, the compromises were easier to make. In essence, the European Pact on Immigration and Asylum is an agreement on policy goals. With its adoption, the influence of the community's institutions in the area of immigration was weakened because it promotes actions directly between members and a form of cooperation outside of the community method (Carrera and Guild 2008, Ludlow 2009a). Consequently, the adoption of the Pact illustrates that including broad goals and measures, putting only minimal standards and leaving the possibility for member states to implement them according to their own national priorities, was a way to guarantee its adoption.

Another factor that facilitated the adoption of the Pact is related to its legal nature. The document does not actually have much formal power or a binding nature. Indeed, it is qualified

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to be only a 'political commitment', which means that any deviances from it would not have consequences for a member. The document was not even attached to the October Council's Conclusions, despite making many references to it. A political commitment is more normative in nature. Thus, disrespect of the Pact still has consequences for the signatories, remains significant for the Council and the EU in general, even if its legal nature is weak. It is also an important document because it touches a highly politicized area of public policy, which was highly mediatized. Any drift from it would probably be called out by others, involving mainly reputational costs, but could also create others.[15] Moreover, if the document was not important for the EU members, not as much time and resources would have been devoted to it, nor would the procedures by which it was adopted be so formal. The actions took by the Council and the Commission following its adoption underline the importance of the Pact.

Many directives and agreements directly related to the Pact were adopted following its approval. For example, the ministers of the interior or immigration adopted a common declaration in the conclusion of their meeting on integration in Vichy at the beginning of November, declaring that they "placed particular emphasis on the promotion of European values, the introduction of an integration programme with, for the migrant, a balance between rights and duties, priority for integration through employment, and special consideration given to the integration of women" (Présidence française du Conseil de l'Union européenne 2008). Moreover, many directives adopted in 2009 and the following years were pursuing the goals of the Pact. For example, in June 2009, the Council and the European Parliament adopted a directive relating to sanctions against illegal employers from TCN (2009/52/EC).

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[15] The mass migration of Tunisians to Italy following the revolution of 2011 shows that the non-respect of the ban on mass regularization by Italy has ultimately brought about a re-negotiation of the Schengen agreements, allowing for its suspension, which also has consequences for their own nationals.

France showed real policy leadership at the European level when proposing the Pact. It was actually more a pusher than an innovative policy entrepreneur. The French immigration policy was the inspiration for all of the ideas included in the European Pact on Immigration and Asylum, even with regards to the instruments proposed in it. The French leaders, especially President Sarkozy and the Minister of Immigration Hortefeux, were extremely knowledgeable in the policy area, which enabled them to better sell their Pact. Generally, in the field of immigration, France is known to be quite proactive, having its own vision on the matter. An additional element worth mentioning is that the policy frame used by France for the Pact was also coherent with the approach to the issue used by many of the other member states.

In conclusion, the Pact pushed by the French Presidency and adopted by the Member states can be explained by many variables. France was highly motivated for its adoption, out of national political concerns but also as a way to make sure its own interests would be secured in the upcoming renegotiation of the Stockholm program. France deployed many resources for its adoption and retained its independence from all European institutions throughout the negotiations, even undermining them with the adoption of the Pact through the strong promotion of inter-governmentalism within it. Moreover, the Pact itself revealed to be coherent with the positions of governments in power in the other member states.

3.4   THE ENERGY AND CLIMATE PACKAGE

3.4.1   Domestic Bases: The French Environmental Policy

France has a national reputation that puts it behind other EU members in the environmental area, because the country is usually many years behind in the transposition and implementation of environmental decisions taken at the European level. It is also one of the few countries defending and promoting nuclear energy as a 'clean' energy source. This was a big divergence and caused a blockage during the March 2007 negotiations on energy and climate change under the German Council Presidency (but it was ultimately resolved).[16] Consequently, it has been difficult for France to take a leading role under the environment, energy, or climate policies in Europe.

Two legal steps are worth noticing in France's environmental action in the area of fighting climate change and using renewable and sustainable energy. The first was taken in 2004, when France adopted a "Plan Climat" (Climate Plan), and its plan of action for 2004-2012. This policy essentially plans the implementation of the Kyoto Protocol at the national level. It is updated every two years. One of its aims is to bring back the greenhouse emissions to their 1990 level. Overall, the plan combines various regulatory, fiscal and incentives measures (Mission Interministérielle de l'Effet de Serre 2006).

The second step was launched in 2007, with the consultation of many actors involved in the fight against climate change. The *Grenelle de l'environnement* was to be the basis for France major catch up in the area of environmental policy and to demonstrate its ability to be more progressive in the area (Lacroix and Zaccaï 2010). This consultation focused on six themes:

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[16](Euractiv.com 2007)

biodiversity and natural resources, fight climate change and control energy demand, relations between the environment and public health, modes of production and consumption, issues of environmental governance and ecological democracy, the promotion of sustainable patterns of development favorable to competition and employment, genetically modifies organisms, and the management of waste.

Regarding the fight on climate change and the control of energy demand, many propositions were made by the group and later transformed into policies (but due to the speed of the French legislative system, they were not translated into policies and laws before 2009 and 2010). Generally, the measures focused on the reduction of consumption of energy, particularly in regard to transport and buildings (especially in the area of greenhouse emissions, energy consumption, and the production/use of renewable energy); the reduction of transport emissions to their 1990 level by 2020; making generally sustainable cities and territory; the introduction of clear economic signals to promote environmental friendly practices; and finally, to cease relying on carbon and reduce energy production (Ministère de l'Écologie 2007). Appendix A summarizes more precisely the main measures suggested under each of these themes.

As mentioned earlier, the *Grenelle de l'Environnement's* consultation involved many actors: not only were politicians involved, but every group was composed of leaders from the environmental sector, economical actors, as well as representatives from the European Commission. From the beginning France can only do so much on its own in this area. But this consultation was clearly a political project. With the development of this environmental policy, Sarkozy's ambitions were to "place France at the head of the European environmental policy" (Sarkozy 2007b). Other French government representatives went further in stating that: "France needs Europe to approve its national initiatives, take them over and bring them into international

negotiations. The support of community authorities are also essential if we want to implement a value added tax (VAT) at a reduced rate on ecological products respecting climate and biodiversity"[17] (Assemblée Nationale 24 janvier 2008).

This was probably the most innovative proposition of the new upcoming French national environmental policy. It intended to increase the environmental contribution for all fret trucks according to the number of kilometers driven in France, and to reduce or increase the VAT on products depending on their greenhouse emission for their production and transport. This measure however, cannot be implemented without the approval of the rest of Europe.

3.4.2 Pre-EU Presidency Preparations

The Climate/Energy package is not an idea that came from the French government directly. Indeed, it is the continuation of commitments taken during the 2007 March European Council under the German Presidency. The EU committed to reduce 20% of greenhouse emissions, 20% of energy consumption, and increasing to 20% the use of renewable energy for 2020 (this is known as the "20-20-20" targets) ([7224/1/07]). As the Kyoto protocol was coming to an end and international negotiations for a new agreement were on the international agenda, the issue was picked up for the next trio-Presidency which included Slovenia, France and Czech Republic.

Following the 2007 March European Council, the next step was to translate the objectives agreed on into actions. The Commission published its first proposal of the Energy/Climate

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[17] Translation from the author : « La France a besoin que l'Europe approuve ses initiatives nationales, les fasse siennes et les porte dans les négociations internationales. L'appui des autorités communautaires sera également indispensable si l'on veut mettre en place une TVA à taux réduit sur les produits écologiques respectant le climat et la biodiversité. »

Package in January 2008[18] which needed to be discussed and adopted by the Council and the European Parliament. However, progress was not made during the Slovenian Presidency, but a strong engagement was taken to reach an agreement between Member States before the end of 2008. "It is of utmost importance to adopt a legislative package before 2009, if the EU wants to play the leading role in achieving an agreement on a new international climate accord in Copenhagen in December 2009" ([7652/1/08]). Therefore, the French actions and proposals really take root into the European legislative process itself, and France faced a lot of pressure for making sure it would reach an agreement. Negotiations were going to be difficult, as France would have to determine how the work of meeting these targets will be divided between member states. Interestingly enough, France hired the head of the DG Environment, Peter Carl, to help with the negotiations as the French felt that this was going to be one of their "big battles" (Le Monde 2008).

Almost all member countries had some difficulties with some aspect of the targets contained in the Commission's proposals (Mahony 2008, Dehousse and Menon 2009). For example, even if Germany was leading negotiations in 2007, by the following year, it was one of the countries that had some issue with measures included in the proposal because it claimed the cost for the industry would be too high (Calla and de Vergès 2008). For their part, the Central and East European States had concerns on the implication of the greenhouse reduction on their economies and for their reliance on Russian energy exports (Dehousse and Menon 2009).

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[18] It actually involved four propositions, but they were grouped: COM (2008) 16; COM (2008) 17; COM (2008) 18; COM (2008) 19.

3.4.3   EU Presidency Term

The outlook for an agreement on the Climate/Energy Package was not convincing at the beginning of the French EU Presidency. In early August, a senior Polish government aide confirmed that the Polish government was "trying to find allies for [its] position [to stop the launch of a full auctioning of greenhouse emission for 2013], especially among new member states. It's possible to form a blocking minority and we are working on this" (Runner 2008).

Around the time of the October European Council the financial crisis was hitting hard and France also wanted to give priority to its European Pact on Immigration and Asylum during that meeting, so the French EU Presidency announced that talks on the Climate/Energy Package would be "short and concise" (Goldirova 2008b). Even if the package was on the agenda for December, the French Presidency decided to also put it the agenda for the October summit. The French Presidency wanted to include a strong political confirmation of the EU's climate change commitments and a list of issues on which member states had already reached a compromise in the summit conclusions (Kubosova 2008, Ludlow 2008). However, even on this common text no agreement was reached, so Paris decided to present the document only as a legally non-binding paper, called "Presidency guidelines for further work on the energy/climate change package" (2008 [14240/08]). Still, there was no consensus on these guidelines, which caused more conflict than anything else.

One group of countries had issues over the draft's language and questioned how fair and balanced the package was. "The Baltic states, Bulgaria, Hungary, Poland, Slovakia and Romania are not so convinced about its "balance", and are among those pushing for "some recognition" when it comes to CO2 emission cuts achieved by their economies between 1990 and 2005 - a period when eastern economies saw sharp economic - and thus also carbon emission - declines

following the end of Communism. The commission instead bases its burden-sharing calculations on 2005 figures" (Goldirova 2008b). Moreover, four delegations - from Italy, Bulgaria, Lithuania, and the Czech Republic - agreed with Poland for allowing their industry to buy their right to emit carbon dioxide by auction only from 2020, instead of from 2013 as envisaged by the Commission. Moreover, Italy was hesitant to adopt anything as it found it difficult to evaluate which industrial sectors would suffer the most because of international competition if the package was going to be adopted as it was (Ludlow 2008). Consequently, the prospects for consensus on the package in October were very slim. Moreover, Italy and Poland threatened to veto the whole package if it was going to be adopted as it was then (Dehousse and Menon 2009).

As a result, the Council mandated "the Presidency and the Commission to organize intensive work over the next few weeks in order to enable the European Council in December 2008 to decide on appropriate responses to the challenge of applying that package in a rigorously established cost-effective manner to all sectors of the European economy and all Member States, having regard to each Member State's specific situation" (Council October 2008). Getting to that commitment ended up been quite a challenge for the Presidency, as the Central and Eastern European countries proposed an amendment that specified no deadline, rather just a decision in a "timely manner", and more vagueness about what would be applied as conflicts prevailed (Ludlow 2008). Hence, Sarkozy and Donald Tusk, the Polish Prime Minister, met bilaterally in order to find a compromise for the mandate. Substantial concessions were given in order to reach that compromise: the need to take into consideration the specific situations of member states was made more explicit in the mandate and the European Council, which decides by unanimity, would be the ultimate decision-maker on the issue, rather than the sectoral Councils (Ludlow 2008). Nonetheless, the Presidency and the other governments that supported the original

proposal pointed out that the sectoral councils would still maintain the use of QMV where appropriate, so the European Council would be a "court of final political appeal" (Ludlow 2008). On the other hand, the supporters of Poland felt that they had secured a veto right with these compromises.

The period between the October and December European Council meetings was crucial in order to bring about a compromise, especially one that would also suit the European Parliament's interests. During this period, the French Presidency and the Commission showed openness for possible derogation that would have been limited in time and scope (Goldirova 2008d). In the Energy Council, Germany reinforced the critiques made by others because it found that the targets would be unfair to its automotive industry (Ludlow 2008). To get Poland and its coalition on board, the French EU Presidency offered a three-year long exemption from the regime to those countries that produce at least 60 percent of their electricity from coal and are poorly connected to the grids of other EU states. However, the idea was not supported by Poland who made the counter-offer to use a "benchmarking-auctioning approach" that suggests granting free allocations on the basis of actual production" (Goldirova 2008c). It was a dead end.

In November, Poland and its coalition met to organize their strategy for the upcoming European summit (Phillips 2008). Even when Sarkozy met with them to negotiate, the countries did not move from their position. At the end, the deal was concluded 48 hours before the December European Council. These last days proved how much independence France was able to get in order to draft compromises, as the Conclusions are usually prepared by both the Presidency in collaboration with the Commission and the Council Secretariat, then send to COREPER a few weeks before the European Council meeting. "Even though the Presidency's draft Conclusions contained a number of paragraphs about energy and climate change from 2

December onwards, however, the early drafts gave nothing away about the specifics of the package. It was not in fact until the afternoon of the 10th of December, 24 hours before the heads of state and government were due to convene, that the Presidency finally revealed its hand. The document, entitled 'elements of the final compromise' was made entirely in Paris. The normal channels were bypassed in other words" (Ludlow 2009a). Moreover, as the issue where highly technical, most negotiations had been done by national experts. Indeed, "the former Secretary of State Jean-Pierre Jouyet underlines how Heads of State and Government, unable to master the technicalities of the *dossier*, gave free rein to their experts to thrash out a deal" (Dehousse and Menon 2009).

The final agreement reached was the object of much criticism as the sectors identified as having the most significant risk of carbon leakage (that is, those in which the costs of the emissions trading scheme might lead firms to relocate outside the EU) would receive emissions permits free of charge, which would account to around 90 per cent of European manufacturing (Dehousse and Menon 2009). Germany, Poland and its coalition won as "the auctioning rate to be reached in 2020 for the industrial sectors not exposed to carbon leakage is set at 70%, with a view to reaching 100% in 2027, bearing in mind that the initial level in 2013 is set at 20%" (2008 [17215/08]). This is less than intended. Regarding industries exposed to carbon leakage, the definition was modified from the previous drafts to include more industries, which were given 100% allowances for free under the new emission trading scheme (Council of the European Union 2008 [17215/08]). In addition, instead of measuring the emission reduction in comparison to 1990, it was decided to measure it according to 2005 because data on emissions at this time point was more trustworthy for East Central Europe. As a result, it meant that the actual reduction of greenhouse emissions for the EU was 14% for 2020 and that the increase of the part

of renewable energy for consumption was 11.5% for 2020. Finally, Central and Eastern European countries were reassured by the creation of a fund to help them finance the transition to clean energy. As their energy production is primarily based on carbon, it signified substantial investment for them and this was one of the issues.

As the Climate/Energy package followed the co-decisional procedure with the European Parliament, the agreement had to be approved. The EP was supposed to have a vote on the proposal on a first reading before the Energy Council, but had agreed to postpone the vote until after the European Council met. Consequently, it meant that the EP had a very short period of time if it wanted to keep Europe's leadership in the area. Luckily enough and due to the efficiency of informal trilogues, the compromise was adopted on the first reading.

3.4.4   Analysis

Although France showed some ambition to pursue some of its 'new' national environmental policy measures at the European level before taking the EU Presidency, by the time Paris held it, the Climate/Energy package was already well advanced in the European policy process. As a result, France's ability to promote its national policies was quite limited. The negotiations on the Package during the French Presidency were about specific measures, which suggest that specific measures and an increase in complexity for negotiations may result in more difficulties to influence and upload policies, than with broader policy goals and vision.

In this case, Paris' ambitions are also questionable as it did not even manage to sustain its own national objectives in the final agreement. In reality, France's emissions reduction is equivalent to 14% in the Package, rather than the 20% promised at the national level (as a consequence of the change in the year of reference). However, regarding the use of renewable

energy, the objective was set at 23% which seems to be in tune with its national objectives. The Presidency played more the role of the supranational conciliator, rather than the interested national state. Environmental and energy policies were important at the national level for the population, as shown in the holding of the *Grenelle de l'environnement*, but the binding policy was in the making. Moreover, France's laggard status in the environmental and energy area made it even more difficult to really inspire and push for innovative amendments coming from the national orientations within the Package.

The French Presidency in the context of the Package involved many different actors. Because the negotiations had to be done in parallel with the European Parliament, the second counselor of the Permanent Representative was involved in the negotiations with the EP's rapporteur, while Jean-Louis Borloo (French Minister of Environment) and Nathalie Kosciusko-Morizet (State secretary of the Ministry of Environment) led the discussions in the sectoral councils. Moreover, the French presidency was supported by an external specialist in the negotiations, such as the ex-Commissioner for environment. The Presidency clearly lacked external resource expertise in this policy area. Hence, its policy capacity in this case cannot be considered to be strong.

The European institutions were quite involved in the negotiations. The Commission clearly had the initiative for the four proposals presented under the Energy/Climate Package, which set the baseline for future negotiations. However, the Package was significantly modified during the Council negotiations and the Presidency played a leading role in enabling this.

Overall, the negotiations were characterized by high conflict, even to the point of EU members threatening to use their veto. However, the French Presidency was able to reach an agreement with all members, and this constituted already a 'success' given the divergent

positions. In this context, opportunities for the uploading of the French environmental policy were almost nonexistent in this case.

3.5   CONCLUSION

The cases of the European Pact on Immigration and Asylum, and of the Climate/Energy Package, show how some variables can promote successful uploading of national policies at the European level and how some do not.

Unsurprisingly, the policy process and the decision rules followed are of great importance, but this does not necessarily constitute a barrier. In the case of the Immigration and Asylum Pact, Paris had the leadership all the way from the beginning to the final output of the Pact, which was not the case with the Package as the Commission initiated the proposals. Both cases involved the co-decisional procedure with the European Parliament, and in both cases the Parliament did not modify the decisions that were taken in the Council. Moreover, the unanimity voting rule was used in both cases in the European Council and it shows that when conflicts arise, as in the case of the Package, it can be used by opponents of the proposal, which would block even more the possibility of uploading. In terms of the policy process, these two cases confirm that trying to have influence on policies that are already at a later stage is more difficult, especially trying to upload, even when a country is holding the EU Presidency.

The role the Presidency took was also different in one case than in the other. In the case of the Pact, France played the role of the agenda-setter and shaper. In the second case, France acted more as an honest broker.

France's ambitions for uploading were not the same in both areas. France devoted much more time, money and resources on the preparation and selling of the European Pact on Immigration and Asylum to the other EU members than it did for the Package. The adoption of the Pact had an important political significance at the national level because it showed to the French population that France was able to influence European policy in line with its national interests. France's ambitions regarding the Climate/Energy Package were limited from the beginning for the reasons mentioned before, but also because it was likely more difficult to take leadership and try to upload policy since the country was lagging in this area in the first place. Moreover, its own national policies were in the making.

With regards to the holding of the Council Presidency, generally, France did not need to rely on the EU institutions as much as a small country would in order to conduct all the activities managed by the Presidency. Indeed, critics on the Presidency often pointed out how France put aside the leaders of European institutions (Barroso, Solana and Junker), and consequently the institutions they were representing as well (Ludlow 2009a) .

In both cases France aimed at legitimizing its policies by bringing ideas and measures from its national policies to the European level. Also, both issues were highly politicized and of great importance to all EU members. However, the degree of conflict was not the same, and neither were the specifics under discussion. From the beginning, the Pact on Immigration and Asylum reflected a certain convergence of opinion from the European political leaders in regard to the utility and control of immigration, and the need to harmonize asylum practices, even if it was consistently reflecting French policy. Interviews conducted with German officials involved in the area of immigration confirmed that they were all aware that France was pushing for its

own policy.[19] Divergences were noticeable only when specific instruments were discussed. Then, not surprisingly enough, the specificities of policy instruments were exactly what caused conflict in the Climate/Energy Package. In both cases, goals were agreed upon. Consequently, normative uploading seems easier than the uploading of concrete measures.

The nature of the proposal is also an important variable. The European Immigration and Asylum Pact represents a plan of action that was not integrated into the Conclusions of the Council Presidency properly speaking nor was it published in the Official Journal. However, all European institutions recognized the importance of the document and its centrality for upcoming legislative proposals. But because of this focus on more general policy goals, and despite sometimes having specific policy proposal objectives, most of the document promotes an orientation for future policies that suggests to the other members that they will also be able to influence those more precise policies. Hence, given this nature, it seems that uploading was easier in this case than with the Energy/Climate Package. The latter was composed of four directives, binding on the members after their adoption. Moreover, some members had more to lose than the others due to important industries in their country or given the nature of their energy production. Consequently, it was more difficult to influence the Energy/Climate Package with the aim of uploading.

Other noticeable differences between the two policy fields were the reliance on experts and how the coordination mechanism with the SGAE was used. Producing policies in the area of immigration and asylum does not require extensive knowledge. Moreover, in the case of France, the President had been Minister of the Interior for a long time before his accession to the Republic's Presidency. His minister of immigration also had the chance to know well his policy

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[19] Interviews were conducted in 2008 with 15 German high officials working for ministries involved with immigration and at the European Commission Delegation.

field and the other European actors as he met them often and was able to sell the pact to them without many troubles. However, in the case of the Climate/Energy field, experts took over the negotiations. Consequently, it might be more difficult to defend national interests and policies when the political élite is less present or when this knowledge is lacking. Moreover, France is more like a policy entrepreneur in the field of immigration, whereas it is a laggard in the environmental and energy fields.

The SGAE's role was more important in the case of the Energy/Climate Package than in the case of the Pact because more institutions were involved at all levels, requiring coordination and coherence. Because of the financial implications the Package has, interests between the Ministries had to be coordinated. The SGAE was also the link between the activities going on at the European level and the Assemblée Nationale. Moreover, as the vote in the European Parliament was important, the SGAE had to provide information to all French representatives on the French position in the hope that they would support it when the vote would come. On the other hand, the Pact on Immigration did not require as much coordination because it is based on the French national policy that was already implemented and fewer Ministries have interests on it. It seems the Pact was almost only played out at the highest spheres of the Council.

In sum, the two French cases suggest that conditions needed to facilitate policy uploading would have to be present from the beginning of the policy process, in order to have more influence and opportunities for uploading; to devote resources in preparing and selling the proposal prior to the policy process becoming entrenched; having expert politicians in the policy areas discussions harmonized; be an ambitious leader with the intention of uploading in the policy area; and finally, focusing on the uploading of policy goals in order to reach agreement

early on to therefore secure future policy instruments and measures that are aimed in the same

direction.

4.0   THE CZECH REPUBLIC 2009 COUNCIL PRESIDENCY

This chapter examines the 2009 Czech EU Council Presidency. It illustrates possible obstacles to national policy uploading in the EU, and how it is still possible for a country to promote its interests despite the absence of uploading and in the face of domestic political instability. The Czech Republic was chosen for its low policy-capacity and its centralization of power. In this chapter I focus on the issues of energy and immigration policies. Both of the issues were on the work programme of the Presidency, but energy policy was definitely more important politically, especially in face of the gas crisis that occurred during the first days of the Czech EU Presidency.

The chapter offers an analysis of two failed cases as the Czech Republic was unable to upload its national policies. In the case of energy policy, this results primarily from an already advanced policy process in which the major elements promoted by the EU Presidency were already broadly included, or it is the result of the absence of formal decision or orientation documents regarding long-term policy orientation. However, the Czech government was still able to promote its interests in the energy policy area through decisions on the funding of pipelines. In the case of migration policy, the lack of political interest at the national level in this area as well as the well-advanced legislative process proved to be a significant barrier for uploading.

The chapter is divided into five sections. The first presents a general analysis of the Czech Council Presidency and of its priorities. The second section looks at the national

coordination of European policies in Czech Republic. The third and fourth sections examine the cases of energy and immigration policies. These two sections provide a review of the national policies in Czech Republic in the relevant policy area and discuss the pre-Presidency and actual Presidency period before providing an analysis of the case. Finally, the conclusion provides a comparative analysis of the two cases.

4.1   GENERAL CONSIDERATIONS

The Czech Republic did not have experience holding the EU Presidency. Moreover, it was only the second 'new' Member State of the 2004-2007 enlargement round to hold the position, after Slovenia in the first half of 2008. Overall, it proved to be a difficult exercise for the country as it faced many challenges coming both from the domestic front as well as the international stage. Despite these obstacles, many analysts have concluded that the Czech Council Presidency had been moderately efficient in conducting daily business, considering the obstacles it faced (Benes and Karlas 2010).

One of the biggest challenges that the Czech government faced before and during the Council Presidency was national political instability. This situation affected the preparations for the EU Council Presidency many times, as they were delayed and/or changed orientation with the different actors involved in the government (Pehe 2008, Marek and Baun 2011). After the June 2006 national parliamentary elections, it took Prime Minister Mirek Topolánek a little more than seven months to form a government and win a vote of confidence. And only a few months later, the first Topolánek government collapsed and a new government coalition was formed. This second coalition government conducted the EU Council Presidency. However, the

formation of this new government did not diminish the tensions between parties, it was constantly under threat of confidence votes (it faced four votes during the period of January 2007 and before the holding of the EU Presidency), and despite many attempts to negotiate a truce between parties during the period of the Council Presidency, no agreement was reached (Benes and Karlas 2010, Marek and Baun 2011). Unfortunately, on March 24th 2009, this coalition government was dissolved following a no-confidence vote in the middle of its EU mandate. A technocratic caretaker government, headed by Jan Fischer, a non-partisan who was the head of the Czech Statistical Office, finally took over the rest of the mandate. However, the inability to put in place a caretaker government during the one and a half months following the no-confidence vote had the effect of finishing the EU Presidency politically (Kaczynski 2009).

The work programme for the EU Presidency was very ambitious at first, involving six-themed priorities in 2007 (Office of the Deputy Prime Minister for European Affairs 2007), but ultimately was reduced to three themes two weeks after the beginning of the Council Presidency. The priorities finally included in the programme were (1) the economy, with a focus on the single market and the global financial crisis, (2) energy, with particular interest on energy security, and (3) the EU in the world, with external relations focusing on EU enlargement, the Eastern Partnership and transatlantic relations (Czech Presidency of the Council of the European Union 2009b).

Due to the advancement of issues under the French Council Presidency, the tensions created by the harmonization of the 18-month work program for the trio Presidency, as well as conflicts within the European Commission, the program was substantially reduced. The French Council Presidency was able to push further than expected the issues on the agenda, for example by reaching an agreement on the energy-climate package, which consequently reduced the

activities the Czech Council Presidency would have to do during its term (Král, et al. 2009, Marek and Baun 2011). The relations with France were difficult during the preparation of the 18-months work programme, due to the two countries expressing diverging views on where the EU should be going with regard to the economic crisis. France had a more protectionist stand than the Czech Republic, who wanted to adopt a more liberal stand on dossiers such as the single market (Král 2008, Kaczynski 2009, Marek and Baun 2011). The issues over the 18 month programme had to be resolved with the intervention of the Council General Secretariat (Král, et al. 2009). Finally, the Czech Republic had inadvertently offended the European Commission by negotiating unilaterally with the United States on the extension of the visa waiver program for its nationals, instead of leaving the leadership to the Commission, which would have negotiated for all of the new members (Pehe 2008). Moreover, the Commission was unhappy with the delay in drafting of the work program of the Presidency (Marek and Baun 2011). As a result, the Commission decided to move ahead with the post-Hague program and budget reforms, but under the Swedish Council Presidency instead of the Czech Council Presidency, thus also depriving the Czech Presidency from another of its original priorities (Král 2008, Král, et al. 2009).

The European Parliament elections impacted the work-programme, but without necessarily reducing it. Starting at the beginning of April, the campaign for the early June elections of 2009 would have the effect of suspending most of the EU legislative process. Therefore, the first part of the EU Presidency was considered more important for the Czech Republic if it wanted to achieve its legislative agenda. Moreover, these upcoming elections meant that European issues would be even more important at the national level, in a country where the mix between national and European politics were already blurred (Kaczynski 2009).

The Czech Republic is perceived as a Eurosceptic country. Its President, Vaclav Klaus, was considered to be one of the most Eurosceptic head of state among the 27 members in 2009 (Král 2009). Because the Czech Constitution is not clear on the division of powers between the President and the Prime Minister with regard to dealing with the EU, an agreement had to be made prior to the EU Presidency. It was decided that the Prime Minister will hold the chairmanship of the European Council. Nevertheless, the influence of Klaus over the Council Presidency was still important as he would lead many bilateral summits and he was active vis-à-vis the domestic population. Politically, this could have many consequences as the elections for the European Parliament were coming up, and also for the government who faced constant threats of confidence vote.

An element that needs to be mentioned that might have impacted the credibility and legitimacy of the Czech Republic to lead Europe was that, by the time the country held the Council Presidency, it still had not ratified the Lisbon Treaty.

Taking all these elements into consideration, the Czech Council Presidency was starting its Council Presidency with many challenges, and faced many others during the chairmanship. Overall, Czech Republic spent almost as much as a big country on its EU Presidency, with a total of about €130 million (Marek and Baun 2011).

4.2   NATIONAL COORDINATION OF EUROPEAN POLICY

Since the Czech Republic's transition to democracy, the administrative design of its government has changed many times. Moreover, corruption is high in the civil service, and since 1997, all attempts to legislate in order to create an independent and professional civil service to address

the problem have failed or been delayed due to the absence of political support for it (Marek and Baun 2011). In general, the administration in the Czech Republic is considered to have a high degree of uncertainty, high politicization, and an overall low quality of staff (O'Dwyer 2002, Kaniok and Gergelova Steigrova 2014). These elements contribute to the characterization of the country as having a low policy capacity.

The system of coordination adopted for the conduct of its EU Presidency only modified slightly the semi-centralized system that it uses for regular EU business. The overall coordination of the Presidency issues was vested, at first, in the Deputy Prime Minister (DPM) for European Affairs Alexandr Vondra and his office, while the ultimate decision-making power was reserved for the governmental EU Committee consisting of all the government ministers (Benes and Karlas 2010, Marek and Baun 2011). Vondra was later replaced by *Štefan Füle*, as Minister for European Affairs, during the caretaker government.

The EU Committee plays a central role in determining the Czech positions in the EU. It is divided into two levels: the government level, chaired by the Prime Minister, where the Czech interests are formulated; and the working level, chaired by the DPM, at which these interests get promoted in the Council and COREPER (Marek and Baun 2011). This level exercises overall coordination and monitoring functions in decision making on EU matters, and it approves mandates for Czech ministers at the EU Council. The team DPM Vondra put together for the Czech Council Presidency was considered to be fairly familiar with the conduct of a Council Presidency. Its staff had participated in Council Presidencies of other countries in order to get accustomed with the administrative machinery of the Council Presidency (Marek and Baun 2011).

The EU Committee also supervises the work of the Ministerial Coordination Groups (MCG), which are the most basic level for the formulation of the Czech EU position. These groups are composed of experts and representatives from different ministries who are involved on a given issue, and chaired by the ministry of the main policy area. The MCG are responsible for identifying and formulating the Czech position on specific policy issues, monitoring developments in their area at the EU level, and represent the Czech Republic in the EU Council working committees (Marek and Baun 2011). In case of cross-sectional issues, two or more ministries share responsibility. In these cases, coordination suffers the most because each ministry has their own approach depending on the objectives, but mostly on who are their "clients" (Kaniok and Gergelova Steigrova 2014). The problem has been that no transparent and functional mechanism was created to resolve these conflicts. Moreover, most ministries lack expertise in EU affairs due to the short length of membership as well as the previous outflows of competent officials to EU institutions (Karlas 2010).

The Czech Permanent Representation, which is usually solely under the supervision of the Ministry of Foreign Affairs (MFA), was put jointly under the supervision of the authority of the DPM and MFA for the duration of the EU Presidency, this also played an important role in preparing and conducting the EU Presidency. This situation created some confusion at times (Král, et al. 2009). In addition, a new Ambassador was appointed only one year before the EU Presidency and had limited contacts and experience in Brussels (Pehe 2008). The number of employees of the Permanent representation doubled in size during the Presidency (an additional 110 posts were created) (Marek and Baun 2011).

Importantly, officials from the Czech government had no experience in holding the Council Presidency. The government invested in training for its Presidency by consulting with

previous Presidencies and modelling itself on the Austrian, Slovenian, Germany and Irish models (Kaniok and Gergelova Steigrova 2014). A central register of employees who received training relating to the EU was created.

The Prime Minister and the President of Czech Republic are not part of the general coordination system of EU Policy. However, they are sometimes still involved. The Prime Minister will usually intervene when the issues at hand are very political and significant for the country, if a conflict over an issue arises and cannot be resolved without the intervention of the PM, or when he has a particular interest in the issue been discussed (Karlas 2010). In the case of the Czech President, due to mainly his symbolic role, his influence rests on his ability to participate in discussions relating to the foreign policies of the country in which he is involved (Karlas 2010).

4.3   ENERGY SECURITY POLICY

Energy policy in the Czech Republic cannot be regarded as totally independent from the influence of the European Union. Many aspects of the Czech Energy Policy have been influenced through conditions that needed to be met before EU accession and the integration of the *acquis communautaires* at the domestic level (Černoch 2013, Vlček, et al. 2013). Moreover, it is still influenced by it through EU requirements and targets that must be met (International Energy Agency 2010). Despite this strong EU influence on energy domestic policy, the Czech government was able to shape its own energy policy, which is different from other Member States, and integrate strong national concerns, such as energy security, which will be the focus here.

4.3.1   Czech State Energy Policy

The energy policy framework of the Czech Republic is set by the *State Energy Policy,* adopted in 2004. The main objectives of the policy are to strive for independence from foreign energy sources, maximize the safety of energy sources, and to promote sustainable development (Ministry of Industry and Trade of Czech Republic 2004). The State Energy Policy is characterized by a high concern for energy security, which is expressed through an economic lens for the promotion of liberalization and the development of domestic sources of energy. In 2006, an Expert Group on Energy Security was set up by the government to monitor the situation in the country and to make recommendations to further insure all measures were taken to promote energy security (International Energy Agency 2010).

From the beginning of the transition to democracy in the 1990's, the Czech Republic made policy choices differing from the other Central East European (CEE) countries. For example, the Czech Republic was the only one to invest and inaugurate a new oil pipeline connecting its own oil to Western Europe as early as 1996 – the IKL Pipeline with Germany (Nosko and Lang 2010, Neuman 2011). Moreover, the Czech Republic contracted supplies of Norwegian gas and completed the building of nuclear power plants to insure its supply diversity. The strategy adopted by the government was to diversify not only its suppliers, but also the transit routes. On the other hand, only limited investment was made into renewable energies.

Although all EU candidate countries had to privatize and liberalize their energy market as part of the *acquis*, the Czech Republic's legislative measures and initiatives proved to be more efficient and beneficial to its population and companies. "Czech government through the energy policy choice and their foreign dimension assured that Czech consumers and companies paid lowest prices for their energy as compared to their neighbor to the east" (Nosko 2013: 111). The

Czech Republic is regarded as been the only CEE country that established an effectively functioning energy market (Nosko and Lang 2010).

Moreover, the Czech Republic is the third-largest net electricity exporter in the European Union, after France and Germany (International Energy Agency 2010). Electricity production is largely composed of domestic coal and nuclear. Natural gas only represents a complementary source of energy on the market. However, the Czech Republic imports almost all of its oil and gas requirements. According to Eurostat, the overall import dependence of the country is relatively low in comparison to the EU27 average. In 2009, it is estimated to be at the level of 28%, whereas the average for the EU is of 54% (Eurostat 2009).

For these reasons, it is interesting that energy security is still an important concern for the Czech government because its energy sources are relatively well diversified, and the country is not as dependent on energy imports as are many other EU Member States (Nosko 2013).

The focus on energy security in the Czech national energy policy can be explained through the influence of domestic politics and foreign concerns. The Minister holding the office is very important in shaping the direction that the energy policy will take. Martin Riman was the Minister of Industry and Trade in the Topolánek government, and he was criticized for not focusing enough on the environment and sustainability. Moreover, he was in favor of breaching territorial limits on brown coal mining, as well as building additional nuclear facilities (Vlček, et al. 2013).[20] This approach caused political conflicts amongst the coalition parties in the government, and a special independent commission to assess long-term energy requirements in the Czech Republic was set up in order to make propositions that could be more aligned with the Green Party's interests (less nuclear and coal energy) (Vlček, et al. 2013). However, the report

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[20] The Minister that replaced Riman in the Fisher government, Vladimir Tosovsky, pursued a similar trend but focused even more on the development of domestic sources of energy (Vlček, et al. 2013).

was never officially published because criticisms over the independence of its experts were raised, and the conclusions of the report, supporting diversification of energy sources and legitimizing nuclear energy, could have led to an early fall of the government with the removal of the Green Party support in the coalition (Vlček, et al. 2013).

The opinion from citizens is also quite important in the field of energy in the Czech Republic. Even if the country does not face an immediate energy threat, opinion polls have suggested that the public is quite worried and sensitive to these issues (Nosko and Lang 2010). According to results of PEW surveys, Russia is perceived as an energy threat by the population in the Czech Republic, much more so than in the other CEE countries, even during the years when no energy crisis occurred (Nosko and Lang 2010). Hence, the government was able to invest public money more easily into projects of energy diversification.

At the implementation level, the Energy Regulatory Office (ERO) sets the rules for business activities in the energy sectors as well as the rules for trading. Its creation was mainly due to EU stimulation during the candidacy period: all candidate countries had to create a regulatory office (International Energy Agency 2010). Another institution is also involved in the implementation of the energy policy, the State Energy Inspection (SEI), which performs only a monitoring function, based on the demands coming from the Ministry of Industry and Trade, the ERO or of its own initiative. It monitors conformity with the Energy Act.

Beginning in 2009, the country started a review of its policy to further achieve a balanced energy mix, with preferential use of all domestic energy sources and maintain excess production of electricity, in order to make sure it remains relatively independent of foreign energy sources. Moreover, plans to prepare a specific energy security strategy were under discussion.

What is important to retain from the Czech Republic's experience is that the evidence suggests that "prioritization of security in energy policy, on the long-run, does not come at a cost to other policy aims and priorities, as it did not have negative effects on either the GDP or employment" (Nosko 2013: 112).

4.3.2   Promoting Energy Security at the European Level

4.3.2.1 EU Presidency Preparations

Czech politics show that the orientation policies take can be very much influenced by the actors' opinions in the issue. In the case of the Czech EU Presidency, a dominant actor in the formulation of the energy security policy at the national level was involved in the preparations of the Czech work program establishing the priorities for the EU chairmanship. Alexandr Vondra, who was the DPM for European Affairs and responsible for the preparation of the EU Presidency, was a strong 'Atlanticist', meaning that he takes the view that the "EU needs to play a more important role in providing security guarantees in Europe and in stabilizing its neighbourhood" (Stritecky 2010: 165). Many speeches given by Vondra during the years prior to the Czech EU Presidency demonstrate this position. For example, he depicted Russia as an energy security threat during a conference in 2007 by declaring that the "unjust manipulation or interruption of energy supplies is as much a security threat as is military action. Post-soviet countries have been experiencing that on a daily basis, as Russia's appetite for using energy as a political tool is growing" (Vondra 2007b). In addition, he later emphasized the importance of the EU by stating that "a genuine external energy policy is not thinkable without a strong single energy market. The two complement each other and cannot be separated" (Vondra 2007a). These

declarations also illustrate that for the Czech Republic, energy security cannot be dissociated from its economic element.

Of course, not only is the personalization of political issues such as energy security important for setting it as a priority on the EU Presidency agenda, it was also made possible by the support of this view by a majority of political actors at the national level, notwithstanding their political party affiliation (Stritecky 2010).

On a practical side, no particular actions were taken during the preparation period to promote the energy security priority beforehand. As mentioned in an earlier section, most of the efforts during the months prior to the EU Presidency were devoted to the training of officials and civil servants, and the decisions over the work program.

4.3.2.2 Council Presidency Term

The Presidency term started with momentum for the Czech government regarding its agenda on the promotion of energy security at the European level, as opposed to a focus only on the environmental aspects of energy policy. In early January, a gas conflict over payments between Russia and Ukraine arose and created an energy supply problem for eighteen (18) EU members (Euractiv.com 2009c). The CEE countries were the most affected by this crisis (Euractiv.com 2009h). It even led to the involvement of the EU in resolving the conflict between Ukraine and Russia. The gas crisis prompted discussions on energy security within EU institutions, and it openly revealed the interests of some member countries in the energy sector as preferring to promote security, more or less at the expense of the environmental targets, in order to secure a diversity of energy sources (Euractiv.com 2009c). Thus, the gas crisis had the effect of confirming the need of energy security discussions at the European level and legitimizing it on the agenda of the Czech EU Presidency.

Another result of this crisis was that it revealed the discrepancies existing between the EU Members States with regard to energy dependence on imports, routes and suppliers. Western Europe was far less affected by the Russian Gazprom cut than the CEE countries. Table 4.1 compares energy dependence on imports according to countries.

Table 1. Energy Dependence (%), Decreasing Order

Geographic location	Year 2009 (%)
EU (28 countries)	53,7
Malta	99,9
Luxembourg	97,5
Cyprus	96,3
Ireland	88,8
Italy	83,3
Portugal	81,4
Spain	79,1
Belgium	75,5
Greece	67,6
Slovakia	66,2
Austria	65,1
Germany	61
Latvia	60,4
Hungary	58,5
Finland	53,8
Croatia	51
France	50,9
Lithuania	49,9
Slovenia	48,4
Bulgaria	45,1
Sweden	36,7
Netherlands	35,8
Poland	31,6
Czech Republic	27,2
United Kingdom	26,3
Estonia	22
Romania	20,3
Denmark	-19,7

This table shows the extent to which an economy relies upon imports in order to meet its energy needs. The indicator is calculated as net imports divided by the sum of gross inland energy consumption plus bunkers. It is for all energy products. (*Source:* Eurostat)

The table shows which countries are the most vulnerable: most EU countries have a high dependence on imports. The gas crisis also raised the question of solidarity between member states in face of future crisis, and the necessity for a common European energy policy, whose development had stagnated since 2007 due to divergence between the Commission, the European Parliament and the Council on what form it should take.[21] The Czech Presidency understood the strategic opportunity before them in this area. Topolánek stated that "in the future, Europe must speak with one voice and maintain a clear vision of its energy policy. My primary objective as President of the European Council is to lay the foundations of such a common policy and such common vision" (2009). And Vondra added that "the Presidency must not lose the political momentum generated by the crisis and must harness it to bring about a rapid adoption of short-, medium- as well as long-term measures that will strengthen the EU energy security. This is how we intend to use the spring European Council" (2009).

Part of the legislative agenda on energy policy was inherited during the Czech EU Presidency. This was the case with the Second Energy Review, which was set to be adopted during the Czech EU Presidency. The Review is a comprehensive blueprint for the EU's future energy policy that includes orientation and targets. The Commission's Communication for the Review was published in November 2008, and reached the European Parliament and the European Council during the first months of 2009. As exemplified by the following section of the Review, the energy security orientation was already substantial in it before it reached the EP and the Council:

> "While each Member State is responsible for its own security, solidarity between Member States is a basic feature of EU membership. With the internal market for energy, specific national solutions are often

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[21] For a review on the discussions that took place between 2006 and 2007 on energy security and the various proposals made by the Commission, the European Parliament and the European Council, see Natorski & Herranz Surralles (2008).

insufficient. Strategies to share and spread risk, and to make the best use of the combined weight of the EU in world affairs can be more effective than dispersed national actions. For these reasons, energy security is an issue of common EU concern.

Given these global developments, the EU needs to take action to secure its energy future and to protect its essential energy interests. The EU needs to intensify its efforts in developing an effective external energy policy; speaking with one voice, identifying infrastructure of major importance to its energy security and then ensuring its construction, and acting coherently to deepen its partnerships with key energy suppliers, transit countries and consumers" (COM (2008) 781 final: 3).

Moreover, the review specifically addressed issues such as the infrastructure needs and the diversification of energy supplies, external energy relations, oil and gas stocks and crisis response mechanisms, and energy efficiency. The Commission identified the projects for which priority should be given. These included the Baltic interconnection plan, the Southern gas corridor, Liquefied natural gas, the Mediterranean energy ring, the North-South gas and electricity interconnections, and the North Sea offshore grid.

In early February, the European Parliament (co-decisional with the Council on energy issues) adopted a report on the Review which contained specific demands to be included in the review or future actions to be considered. In its report, the EP calls for a more ambitious diversification plan and the further extension of supply routes and sources to the Caspian region, with the mention of the Nabucco pipeline, which was not in the Commission's Review. Moreover, the EP report encourages the Commission to revisit the 2004 Security of Gas Supply directive to include an emergency action plan, both at the EU and national level, and to incorporate some kind of energy security clause in the cooperation agreements with transit and producer countries to ensure that commercial dispute would not lead to supply disruption in the future (European Parliament 2009).

Finally, the European Council took place on March 19 and 20th. Czech Republic chaired and concluded the discussions on the Review, with its approval. Similarly to the EP, the European Council also called for the Commission to propose a regulation concerning measures to safeguard security of gas supply. The Presidency pushed in more detail "for a review of the strategic energy infrastructure and of the networks of major producing and transit countries, advocating the review of the rules for oil contingency stocks and raised the issue of energy solidarity" (Král, et al. 2009). Furthermore, the European Council Conclusions calls on the Commission for the drafting of measures to achieve priorities of the review and to propose a new EU tool for energy security and infrastructure for the beginning of 2010 (Council of the European Union 2009 [7880/09]). It also promotes diversity at the domestic level by encouraging investment in every country's own energy resources, and supports the use of nuclear energy as well. In sum, the European Council Conclusions really focused on energy security, at the expense of the Copenhagen Conference preparations and sometimes with lesser consideration on climate change goals, such as the reduction in the use of nuclear power in the EU.

Most importantly during the meeting, the Czech EU Presidency launched a general discussion of positions on the 2010-2014 Energy Action Plan, focusing mainly on the external dimension of energy security, but for which no formal document has emerged (Král, et al. 2009, Ludlow 2009c). Another important issue raised during the European Council for which a compromise had to be reached was on the founding of pipeline projects. Foreign Ministers had previously been unable to find a compromise in their meeting because they were divided on which project they would fund with the €5 billion reserve there could use (Pop 2009). Ultimately, the Czech EU Presidency, with the support of the CEE countries and of the European Commission, was able to secure funding for the Nabucco pipeline during the March European

Council, despite the opposition of countries such as Germany (Benes and Karlas 2010). From the beginning Topolánek stated that "this (Nabucco) was an absolute priority [during the EU Presidency]. Our partners see it in the same way, and we have agreed on this at the Visegrad-four meeting" (Euractiv.com 2008). Hence, bringing the project back on the table was contentious, as other projects for the 'Southern corridor' were also considered and supported by bigger EU countries (Euractiv.com 2009a). In order to make concrete advancements on the 'Southern Corridor', a summit was organized in Prague on May 8, 2009 (which was also an informal Energy Council meeting). One major concretization of the EU Presidency during that meeting was to secure the final negotiations on the Nabucco project under the umbrella of the EU (Czech Presidency of the Council of the European Union 2009a).

4.3.3   Analysis

At first glance, it may seem that the Czech Republic somewhat succeeded in uploading its energy security policy focus at the European level. The Czech Presidency often spoke of the subject as if energy security was not a concern present at the European level. The discourse adopted by the political leaders of the EU Presidency gives the impression that Czech actors, with the help of its CEE supporters, was able to impose their vision. But it would be misleading to adopt this view. Awareness over the diversification of energy sources and suppliers was already a major concern at the European level and for individual Member States despite a lack of common EU action (as shown in the Second Energy Review). Coupling this with the on-going securitization of EU energy policy indicates that the Czech Presidency was capitalizing on a vision already shared by others.

What the Czech Presidency has been successful with is the concretization of these principles and in bringing them further than first intended, establishing the pressing need for EU solidarity and independence in the energy area as well as succeeding in the promotion of its interests regarding the diversification of route and supply projects that would receive funding with the Nabucco pipeline. In sum, it was able to lay the foundation of a future common EU energy policy and legitimize the continued investment into nuclear energy, which became questionable over the previous years. The European Council endorsed the initiatives already set out in the Second Strategic Energy review and mandated the Commission for a new EU Energy Security and Infrastructure Instrument by 2010 and took actions on the development of a Southern Corridor. With these in mind, the Czech EU Presidency seem to have taken the role of the agenda setter, but not quite of a shaper. The impact of the gas crisis between Russia and Ukraine cannot be excluded from these achievements. The gas crisis created a momentum which enabled the conclusion of discussions that had been back and forth on the EU's agenda.

The case also show that strong cooperation between the Commission and the Czech EU Presidency existed. This factor contributed to the swift advancement of dossiers in the area of energy policy, which did not stop with the new caretaker government, as revealed by the discussions on the funding of the Nabucco pipeline. Hence, it appears that during the second part of its Presidency the Czech Republic took on more of the role of honest broker in the negotiations over the funding of energy projects.

4.4 IMMIGRATION POLICY

4.4.1 Czech Immigration Policy

Immigration policy in the Czech Republic is headed by the Ministry of the Interior. The main principles of the policy are vague and general. They focus on the elimination of all forms of illegal immigration and other illicit activities by means of measures taken on the basis of international cooperation as well as measures adopted at the national level; they aim to insure that measures taken in the area does not hinder legal migration and support those forms of immigration that are beneficial to the country and society in the long term; and seek to cope with migration-related consequences of humanitarian crises and eliminating the reasons for such phenomena the with the cooperation of Czech Republic in global and European communities (Ministry of the Interior Czech Republic 2015b). The legislative proposals are supposed to take these principles into consideration. However, at the legislative level, most of the Czech Republic's immigration policy is based on European regulations and directives that had to be transposed into national legislation at the time of integration in 2004 and thereafter (European Migration Network 2008). The Czech government has not been as innovative in this policy area as other countries, because immigration (legal and illegal) does not represent a strong public policy challenge and it does not engage its population in divisive opinion that could have electoral ramifications.

Nevertheless, two initiatives meant to increase and encourage the arrival of foreign workers in the country are worth noting as they illustrate the relative independence Czech Republic developed in the area. The first one was created in 2003 and was aimed at the recruitment of skilled workers from outside the EU, as a response to a noticeable flow of skilled

workers to the EU-15 from Czech Republic (Macáková 2011). The *Selection of Qualified Foreign Workers* encourages foreign workers to apply for a residence permit after a period of 2.5 years instead of 5 years, and they had to already have a work permit. The selection is based on a point system, that includes criteria such as age, education, language skills, work experience, but no specific occupation or professional requirements are set (Drbohlav, et al. 2009). At first, only immigrants from specific source countries could apply for it, but it was later expended.

The other initiative of the Czech government was the creation of a *Green Card*, which started to be implemented in January 2009. Its aim is to support short-term immigration of high skilled-workers with specific free labour vacancies, as a way to supplement the *Selection of Qualified Foreign Workers.* The Green card holders are able to bring their family with them. Employers must prove that the job they offer has been vacant for a long time and does not impede on the preferential treatment that Czech and EU nationals are entitled to (Drbohlav, et al. 2009).

The *Selection of Qualified Foreign Workers* and the *Green Card* measures show the liberal approach the Czech Republic has developed towards immigration policy. It points to the different reality the country faces with regard to immigration in comparison to Western Europe. Immigration is perceived as a tool for the economic development of the country as the entrance in the EU created a demand for more workers (European Migration Network 2008, Ministry of the Interior Czech Republic 2015a).

Regarding the fight against illegal immigration, the positioning is based on the *Action Plan of Combat against Illegal Migration*, which was adopted in 2004. The Plan focuses on the prevention and control of illegal immigration, includes penalties, and outlines inter-ministerial as well as international cooperation in the area (Ministry of the Interior Czech Republic 2015a).

Again, most of the measures included in this Plan are legislative measures transposed at the national level from the EU. Due to the location of the country, the Czech Republic did not have to face the same challenges as the other CEE countries that entered the EU in 2004 and 2007.

4.4.2 Justice and Home Affairs (JHA) – EU Level

Most of the agenda of the Czech EU Presidency in the area of Justice and Home Affairs is inherited, limiting the scope for the Presidency to influence its content and process. From the beginning, the government did not show strong commitment in the preparation of the Presidency in this area. As mentioned earlier, despite the willingness of the Presidency to first start working on the new Stockholm Programme, its attempt to include it on its work programme proved to be unsuccessful. Moreover, most of the actions taken in the JHA field during the six months of the Czech EU Presidency were not contentious issues between the Member States (Monar 2010). Hence, work in the JHA area proved to be taking place much more at the administrative level than at the political one: the Council mostly confirmed what had already be negotiated before.

The developments that took place in the area of Justice and Home affairs during the leadership of the Czech Presidency show how, in this case, the national and the European levels can sometimes work in parallel or complementary manner. Two directives relating to legal and illegal immigration that were adopted during the Presidency semester are worth considering here.

The first one is the 'Blue Card Directive' (Council Directive 2009/50/EC) on the condition of entry of third-country nationals for highly qualified employment. The directive was adopted during the Czech Presidency after been under discussion for almost one year. The creation of this card, which combined a residence and work permit for its holders, was first supposed to compete internationally with similar instruments, such as the US 'Green Card'

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(Monar 2010). However, the end result is not what was intended because Member States still have the choice to maintain or introduce similar skill selective national immigration arrangements that could be more attractive than the EU Blue Card. Moreover, at the adoption of the directive, the UK, Denmark and Ireland had already signified that they would opt-out from it, as they have similar immigration schemes that go further (Monar 2010).

The second directive adopted during the Czech Presidency in the area of immigration concerns its illegal aspect, with the sanctions of employers hiring illegal migrants. The Directive 1009/52/EC aims at providing for minimum standards and sanctions against illegal employment of third-country nationals. According to this directive, employers (both companies and individuals) are obliged to require the holding of a work permit from the third-country nationals as a condition for their employment. Financial sanctions are applicable for non-compliance and can increase according to the number of illegal workers employed. Moreover, employers might even have to support the cost of return to the country of origin if such a procedure gets to be carried out.

As most of the developments in the area of JHA took place at the administrative level, no political statements appear in the European Council Conclusions during the Czech Presidency, and the directives were only joined to them. In addition, JHA were only discussed during the June 2009 European Council, but not with the leadership of the Presidency. Cyprus, Greece, Italy and Malta, who faced a recent flow of illegal immigrants, drafted the paragraphs in the Presidency conclusions calling for the solidarity of other EU members in dealing with this phenomenon (Ludlow 2009b).

4.4.3 Analysis

The case of immigration policy and JHA under the Czech EU Presidency clearly reflects the failure and lack of intention for the uploading of national policies by a country holding the chairmanship. As most of its agenda was inherited, the Czech Presidency was more reactive in character with efforts aimed at managing only what was unavoidable (Drulakova 2010). This situation can be partially explained by the lack of interest at the national level in the immigration issues as the country is more a transit country than a target one, and that JHA was dealt at the administrative level rather than the political one during the Presidency.

This case also exemplifies how a country can remain impartial when an issue comes up, such as large illegal immigration flows, because of their lack of interests in the area, which could be conducive to taking the role of the honest broker when contentious issues arise.

4.5   CONCLUSION

The cases of energy and immigration policies during the Czech EU Presidency illustrate how a country can fail at uploading its national policies at the European Union level. Interestingly enough, these failures are not due to the domestic political instability present in the country during the EU Presidency period, which provoked a change in government for the last part of the mandate. Nor are they due to the active involvement of other European institutions, which has, in the case of the European Commission, been a strong ally for the EU Presidency in the activation of its short-term agenda.

In the energy area, the Czech EU Presidency failed to upload its national policy but succeeded in promoting its interests. This case specifically show how policy uploading is not the same thing as defending its interest. Energy security was a recurring theme at the European level since 2006, despite no concrete European action in the area due to the willingness of the Member States to keep their own prerogatives. Hence, the Czech EU Presidency put it back on the agenda, but did not upload its national policy or drastically shape the EU policy outcome, especially with regard to the Second Energy Review, which was already far advanced in its proceeding. Moreover, with the gas crisis, it is evident that the issue of energy security would have been on the European Council's agenda, but it is not clear that without it, the prioritized Czech elements might have led to detailed discussions or decisions in the energy policy realm as it did. The crisis created the opportunity for other discussions to take place on the future of a common European energy policy, but not formal adoption of any kind was published. The influence of the Czech Presidency was most important with regard to the settling of funding on pipeline projects.

In the immigration area, the Czech EU Presidency failed to upload national policies in part because political will and intention did not exist from the beginning. This lacunae can be explained by the fact that the issue of immigration does not raise high stakes at the national level in the Czech Republic. Moreover, the Czech Republic is not an innovative country in the area of immigration policy. Most of its legislative framework on migration is based on European and international legislation. It is more difficult to promote different avenues to policy when they do not exist in the first place. Finally, the work programme of the Czech EU Presidency in the area of Justice and Home Affairs was mostly inherited and did not leave space for EU Presidency initiative.

To summarize, this chapter showed that domestic political instability might not impede the general performance of an EU Presidency, and that in the case of Czech Republic, it was not a factor contributing to the failure of policy uploading. In addition, this section confirmed how important political will and intent for uploading of the actors involved in the EU Presidency is, and how being too far along in the EU legislative process is an obstacle to influence.

5.0   SWEDEN 2009 COUNCIL PRESIDENCY

This chapter examines the 2009 Swedish EU Council Presidency. It demonstrates which variables are important in facilitating uploading for a country such as Sweden, chosen for its strong-moderate policy capacity and centralization of power. In this chapter I focus on the issues of Europe 2020 Strategy and on eco-efficiency, specifically the EU carbon tax. The first case was officially on the Presidency's work program, and was considered quite an important priority for the Presidency, On the other hand, only discussions on an eco-efficient economy in the realm of environmental policy were on the agenda, despite an announcement from the Presidency that it would push for the adoption of an EU carbon tax.

This chapter shows that Sweden was able to upload its broad principles of its national policy in the area of labour/gender equality at the European level, in part because it is a leader in these policy areas and because it devoted enough resources to promote its interests. Moreover, ministerial expert politicians were essential in securing this outcome. However, being a leader in a policy area does not guarantee successful full-uploading, as the second case on eco-efficiency and the EU carbon tax demonstrate. Policy instruments remain difficult to upload, especially when unanimity is required in the Council.

The chapter is divided into five sections. The first presents a global analysis of the Swedish Council Presidency and its priorities. The second section looks at the national coordination of European policies in Sweden. The third and fourth sections examine the cases of

Europe 2020 and the EU carbon tax. These two sections provide a review of the national policy in Sweden in the relevant policy area and discuss the pre-presidency and actual Presidency period before providing an analysis of the case. Finally, the conclusion provides a comparative analysis of the two cases.

5.1   GENERAL CONSIDERATIONS

To prepare for their Council Presidency, Sweden had to plan it under two different sets of rules (Miles 2010). Whether or not the Lisbon Treaty was going to be adopted and when it would take effect was still undecided and this shaped the preparations for the Presidency. In addition, the Swedes were faced with many external international factors they had consider: the recession started earlier but was then hitting Europe hard, the financial system was destabilized, unemployment was rising, etc. The impacts and responses to the economic crisis by EU members were different from one to another, and created some domestic political disruptions among some of them (Langdal and von Sydow 2009a, Miles 2010). Consequently, this situation created barriers in some policy areas, but also created a window of opportunity in others. Therefore, the original intended EU Presidency programme was quite different from the one implemented.

General assessments made by analysts on the Swedish Council Presidency are usually evaluating the Presidency as quite ordinary (Center for European Reform 2009, Langdal and von Sydow 2009a, b, Miles 2010). The Swedes were able to bring some policies to their final agreements, but few were actually initiated and implemented by them. Considering the context in which it was taking place, some analysis even presented it with only small possibilities in which Sweden was able to exercise a coordinating role (Center for European Reform 2009).

The major contribution of the Swedish Presidency was the adoption of the Lisbon Treaty, to which it devoted a great deal of resources and time as it was a top priority in the programme, with the new appointments for the positions of the President of the European Council, of the High Representative for the Common Foreign and Security Policy, and of the European Commission. The other priorities of the work programme focused on the economy and employment, climate change, the Stockholm Programme, EU Strategy for the Baltic Sea and external relations (particularly on the European Neighbourhood Policy and enlargement) (Regeringen 2009, Government of Sweden 2010, Miles 2010).

5.2   NATIONAL CONTEXT AND COORDINATION OF EUROPEAN POLICY

The coordination system was modified many times since the accession of Sweden in the EU in 1995 in order to increase effectiveness, and with the aim to maximize the influence Sweden can have at the European level (Mazey 2000, Ruin 2000, Miles 2005, Jacobsson and Sundström 2007, Persson 2007). The coordination of national EU policy in Sweden can be considered as somewhat decentralized. On paper, the Prime Minister's Office plays a pivotal role ensuring overall responsibility, coordination, and management of all activities regarding EU policy through the help of the EU Coordination Secretariat (*Kansliet för samordning av EU-frågor*) (Miles 2005, Government Offices of Sweden 2007, Persson 2007, Government Offices of Sweden 2009), but the PM Office is in fact only rarely involved except when issues of political dignity are raised, or when inter-ministries conflicts arise (Larue 2006).

The EU Coordination Secretariat directs horizontal coordination in the Government offices. "It coordinates Government Offices preparations for meetings of COREPER and for the

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general affairs section of the General Affairs and External Relations Council, and assists the Prime Minister's Secretariat with preparations for meetings of the European Council" (Government Offices of Sweden 2009). The Secretariat is divided according to policy areas that coincide with the divisions of departments within the Swedish administration and the organization of the Permanent representation (Larue 2006, Government Offices of Sweden 2009).

Each ministry remains responsible for their respective policy areas and to represent Sweden in the Council of Ministers, but with prior discussion and approval of the position to be taken. "Before a ministry can present its view on a particular EU matter, it must first consult with the Prime Minister's office, the Ministry of Finance's Budget Department and the Ministry for Foreign Affairs' EU Department, as well as any other ministry affected by the particular matter at hand" (Persson 2007: 213).

Despite the decentralization of its coordination system, Sweden is very effective in developing its positions for the beginning of negotiations at the working group level (Panke 2010a). Resources are devoted in establishing the country's position early on in the European legislative process because the government believe it is the best way to maximize its influence on policy outcomes (interview #13, and #14). Moreover, it usually provides for instructions that are solution oriented and well supported by technical expertise (Mazey 2000, Panke 2010a). Inter-ministerial conflicts are also a rare occurrence (Panke 2010a).

Prior to the beginning of the Presidency semester, a total of about 200 temporary extra staff were hired in order to make sure Sweden would be able to fulfill its responsibilities (Government of Sweden 2010). Training for all civil servants involved in the Presidency works was offered starting in early 2008. Moreover, special attention was devoted to training

individuals (ministers, state secretaries, and their political staff) who would be involved in negotiations and meetings, providing them with techniques to enable them to perform well in their functions during the Council Presidency (Government of Sweden 2010).

During the 2009 Council Presidency, Sweden functioned the same way it usually does with regard to coordination of EU policy. Only two temporary offices were created: one to deal with the logistics of the Presidency and the other with its communications. An interesting political element taking place during the Swedish Council Presidency was that Prime Minister Fredrik Reinfeldt requested a 'period of consensus' from the other parties involved in the coalition and the opposition in order to pursue the Presidency as efficiently as possible (Johansson, et al. 2012). This aspect is important because the Swedish parliament has a scrutiny power over EU affairs, which could prevent the government from actively pursuing its position if conflict arose.

5.3   THE ACTIVE LABOUR MARKET POLICIES: SHAPING THE RENEWED LISBON STRATEGY (EUROPE 2020)

5.3.1   At the National Level: The Swedish Labour Market Model

Sweden's Active Labour Market Policy (ALMP) is composed of two main overarching objectives: to aim for a well-functioning labour-market, and to achieve full-employment and increased prosperity through good, sustained and sustainable economic growth (Anxo and Niklasson 2006, Magnusson 2007, Olsson 2007, Cook 2008). The Swedish Model is based on the work-first principle, which is articulated through measures increasing employment by

making it more worthwhile to work, measures that make it easier and less costly for employers to hire and creating better conditions for entrepreneurship and competition. In addition, the ALMP is used not only to facilitate the transition of workers from unemployment to employment, but also to assist in the integration of marginalized or excluded workers in the labour force (Anxo and Niklasson 2006).

> "The Swedish Government's overall goal is to restore the work-first principle and fight labour market exclusion. This will be achieved by measures and initiatives making it worthwhile to work, making it easier and less costly to take on new employees and making it possible for more enterprises to start up and grow. With this basis, more people will be given the chance to get a job and earn a wage. At the same time, the conditions for improving welfare will be created" (Government Offices of Sweden 2008: 1).

ALMP has known many changes over time, but the overarching objectives have remained the same. The major changes made to ALMP started in 2006 with the newly elected Reinfeldt's center-right government, which gave the policy a more neo-liberal color. "The government introduced a reduced income taxation for low and medium income earners, introduced in-work tax credits and reduced unemployment benefits to make work pay. Moreover, the government shifted the insurance funding burden to individuals by increasing the self-funding component of unemployment insurance, reducing the income ceiling for sickness insurance and removing the co-financing requirement for employers. In addition, the government increased labour market flexibility by expanding fixed-term contracts, cutting hiring costs to employers and reformed the Swedish Labour Market Administration. Finally, reductions to company and wealth taxation combined with the easing of regulation to further transferred resources to business" (Cook 2008: 5). This measures were not without political consequences: Swedes were unhappy with these

reforms, "but it was still acceptable for them if we were able to bring back growth involving jobs and not jobless growth" (interview #13).

In order to achieve the ALMP general goals, the government created many programmes aimed at particular segment of the population. The most important ones are:

(1) The *'Job and Development Guarantee'* is aimed towards long-term unemployed who benefit, or not, from unemployment insurance (Government Offices of Sweden 2008). Under this program, individuals get help finding a new job and can participate in activities such as job training, work experience, subsidized employment and skills development. However, a job useful for society will be assigned if the limits of 450 days for parents with children under 18, or for over 300 days for singles is reached.

(2) The *'New Start Jobs'* program alleviates the social contributions and provide a generous tax credit to employers who hire persons receiving unemployment or sickness benefits, disability pension or social assistance for more than a year, or for newly arrived refugees (Government Offices of Sweden 2008). The employers' relief lasts for a maximum period of five years. Regarding people who have reduced capacity to work as a result of a disability, who usually face difficulty finding a job regardless of the economic situation and depend more on special initiatives to enter the labour market, the Swedish government has created special initiatives in labour market policy such as wage subsidies, development employment, security employment, sheltered employment with public sector employers and sheltered employment at Samhall AB, etc.

(3) The *'Job Guarantee for Youth'* is aimed at individuals aged between 18-24 years old. A reduction in the total levy of social security contribution and the payroll tax is available

to them. Moreover, funding is available to them for apprenticeship and vocational training.

(4) Measures for workers aged 65 and older were also adopted. Individuals remaining in the labour market receive a higher in-work tax credit over 65 years old, and employers get relief over a certain contribution.

(5) The *'Step-in Jobs'* are intended for the newly arrived immigrants. The program works in conjunction with the offering of Swedish language training, and incentives are given to employers to hire them and facilitated their integration into Sweden's labour market.

One general target exists for these programmes: the aim of the government is to achieve 80% employment rate and an unemployment rate below 4%. Specific targets are set for each programme with that one in mind and they are reviewed every year. Hence, beyond the implementation of the programmes of the ALMP, the most important role of the employment agencies helping the unemployed becomes the matching between the potential workers and the employers' need.

An additional feature specific to Sweden in ALMP is the role social partners play in the implementation of the policy and programmes. Collective agreements are made between the actors involved in the ALMP. With these collective agreements, the system can be adapted to the varying conditions that exist in different parts of the business sector. The social partners can also take responsibility for the development of a modern and well-functioning working life through their own initiatives. Thus, the Government safeguards the Swedish model where conditions in the labour market are to a large extent regulated by collective agreements. The combination of contractual arrangements with the social partners, policies aiming at life-long learning, with

active labour market policies, and social security availability is sometimes conceptualized as 'flexicurity' – a mixture of flexibility and security in the labour market.

In June 2009, the government presented specific measures aimed at further promoting gender equality in the labour market and the business sector. Sweden is already a leader in the area of gender equality, but some challenges still remain. Although the country has the highest proportion of women active on the labour market in the EU, a pay gap remains between women and men, and with the economic crisis, women are considered more vulnerable than men because they have a tendency to already have more precarious positions on the job market. The initiatives included in the 2009 strategy aimed at "combat gender divisions in the labour market and business sector, promote gender-equal conditions for entrepreneurship, increase gender-equal participation in working life and enhance gender equality in working life conditions" (Regeringskansliet 2009a). Specifically, gender equality is seen as necessary for economic growth to be achieved and sustained.

Thus, some labour market programmes were specifically designed to encourage women's entrepreneurship and professional development. The general objective of first programme was to increase the number of women starting their own business, for example through the use of start-up grants for unemployed women, and to increase growth among more companies run by women. With regards to professional development, the aim was to increase the number of women employed as experts and managers by offering them training (Regeringskansliet 2009b). These measures were supported in a wider perspective by the articulation of policies such as parental leave, policy for the conciliation of work-family life, etc.

Administratively, the ALMP used to be decentralized in its implementation, with the national, regional and local levels having autonomy in their different roles to play and targets to

achieve. Early in 2009, the government fused the national and regional levels in an effort to make the implementation more effective, uniform and fair for the public (Government Offices of Sweden 2008). Moreover, the management is done through objectives, not administrated based on regulation and directives. Thus, the system combines conditions for a flexible and efficient labour market policy (Anxo and Niklasson 2006). Sweden's spending on ALMP is one of the highest in Europe.

5.3.2   At the European Level: Influencing Europe 2020

Active labour market policies touch multiple areas of action at the European level. The same is applicable for the Lisbon Strategy/Europe 2020.[22] At the time Sweden took over the Council Presidency, discussions on the post-Lisbon Strategy had only been limited. However, the evaluation of the Lisbon strategy diverged among the actors involved, but the constant point was that a delivery gap existed and should be resolved in the next one (Euractiv.com 2009e). Only six Member States met the targets of the Lisbon strategy at the beginning of 2009. These countries were Finland, Greece, the Netherlands, Poland and Spain (Willis 2009). Despite these outcomes, the strategy was neither considered to be a success or a failure by most actors involved. However, this was not the case of Reinfeldt, who declared that the Strategy had been a failure (Euractiv.com 2009i).

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[22] The Lisbon Strategy was the main EU framework orienting policies for growth and jobs from 2000-2010. Europe 2020 is the following ten years strategy.

5.3.2.1 Pre-EU Presidency Preparations

The Lisbon Agenda (or Strategy) was ending in 2010 and a new one needed to be revised for the next ten years in order to guide the economic growth strategy of the EU. Spain, which would hold the Council Presidency during the first semester of 2010, was designed to be the country leading the adoption and discussions of the new agenda. However, Sweden's intentions were also to influence the orientation the new strategy would take during its Presidency, and announced an early start to discussions on the renewal of the Agenda, even implying possible adoption before Spain would take over the Presidency. "Preparing and setting the framework" for the strategy was the objective declared by officials of the Swedish government. Moreover, the Swedish' government writes in its work program that it aims at "adopting conclusions on the new EU strategy for growth and employment for the next ten years (i.e. the next Lisbon Strategy) ahead of the European Council" (Regeringen 2009: 27). Hence, in this context, the adoption during the Spanish Presidency would be only a formality.

The Presidency programme clearly sets the ALMP on the Council's agenda and the orientation it should take. The government writes that "an active labour market policy for better adjustment and mobility in the EU's labour market, more effective matching, increased skills development, and more entrepreneurs are important factors in dealing with the job crisis in the short and long-term" (Regeringen 2009: 4). In addition, on June 4th, in an article in the *Financial Times*, Prime Minister Reinfeldt and his Minister of Finance Anders Borg declared that the Lisbon strategy had been a failure and that in the future "the successful implementation of the Lisbon Strategy requires more efficient benchmarking and evaluation and robust institutional frameworks underpinning increased productivity and long-term growth" (Reinfeldt and Borg 2009). It is important to mention the government did not intend to achieve these objectives at the

expense of its and other national governments' prerogatives. The Presidency programme clearly states that "the responsibility for labour market policy lies with the Member States. The added value of the EU is in the exchange of experience and commitments to take measures at national level that increase employment for women and men throughout the EU" (Regeringen 2009: 6). Therefore, the Swedish government clearly supports and persists in using the open method of coordination in the ALMP area.

The ALMP became important for the Swedish council Presidency because the economic crisis was hitting Europe harder than expected, consequently having effects on employment and requiring actions for short and long-term reforms, and the dissatisfaction over the discussions that took place during the Czech Council Presidency on the future of the Lisbon Strategy. To be sure, the normal schedule of events in the planning of the Europe 2020 strategy did not go as anticipated by actors: delays were created by the postponing of the adoption of the Lisbon treaty, the Czech government was not able to conduct effective discussions on the future of the Lisbon strategy, and the nomination of the President of the European Commission was further delayed. These elements affected the drafting of the framework and the timing for public consultations on it.

Gender equality was also an important element of the work programme of the Presidency with regards to economic growth and employment. Two draft directives relating to gender equality and the labour market were already in the making at the time Sweden took over the Presidency. These directives aimed at the reconciliation of "work and family life and provide increased health and safety protection: equal treatment of self-employed women and men and measures to improve health and safety in the workplace for workers who are pregnant" (Regeringen 2009: 28).

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5.3.2.2 The EU Presidency Term

Discussions on the post-2010 Lisbon Strategy started early during the Presidency term. An informal Employment, Social Policy, Health and Consumer Affairs Council (EPSCO) with employment Ministers took place in Jönköping on June 6-9, with the aim of providing short-term solutions to safeguard employment during the economic crisis and to bring in a more social dimension. "By taking active measures, we can tackle labour market exclusion and increase labour participation to better face the challenge of an ageing population" declared the Swedish Minister of Employment Sven Otto Littorin (Euractiv.com 2009m). At the outcome of this informal meeting, the Presidency saluted the broad consensus reached on "labour market inclusion [and on how it] can be increased by using tools such as the common principles of flexicurity and active inclusion strategies as well as preparing for the jobs and skills of the future, including Life-Long Learning strategies" (Littorin in Euractiv.com 2009m). These elements are characteristics of the Swedish approach to labour market policy described earlier.

In order to make future propositions more concrete, a ministerial working group was set up to discuss the issues related to employment that should be included in the post-Lisbon Strategy. The group met on October 19-20. In this meeting, agreement existed amongst the ministers involved on the continued accuracy of the Lisbon Strategy and that it should be maintained. However, they pointed out that demographics, such as population ageing, needed to be further integrated in it. Moreover, they identified six topics that should be part of the new strategy: (1) skills and education, (2) flexicurity, (3) social cohesion, (4) macroeconomic and public finance stability, (5) productivity, competitiveness, small businesses, and (6) energy efficiency, energy security and eco-efficient economy (Council of the European Union 2009 [16551/09]). Special mention was made regarding the social dimension of the Lisbon Strategy.

In addition, the report from the ministerial working group to the EPSCO Council proposes that "inclusion in the labour market, the creation of jobs and keeping people in employment should be considered the main elements of the social dimension of the Lisbon strategy (…) and that concrete proposals should be put on the table" (Council of the European Union 2009 [16551/09]: 2).

On November 25, 2009, the European Commission officially presented and launched consultations on the next post-Lisbon agenda ten-year strategy (COM (2009) 647 final). Stakeholders had until January 15, 2010, to comment on it, and the aim was for the Commission to present a more detailed plan at the March 2010 Council. The draft proposal included all of the six themes identified within the ministerial working group and paid particular attention to the problem of demographics in Europe and inclusion on the labour market. However, no particular attention was put on gender equality. Moreover, although flexicurity and the fight of exclusion from the labour market were both present in this draft, the revision of the Lisbon strategy for 2008-2010 already mentioned these themes (COM (2007) 803 final). Because the document is meant to be a framework for actions, no specific measures are stipulated in it regarding the implementation of the themes in the Member States.

Discussions on the post-2010 Lisbon Strategy were independently following their course in the council configurations. An EPSCO Council was held on November 30 and December 1st 2009. During the Council, policy debates based on previous meetings' work were held on how to recover from the crisis and preparing the post-2010 Lisbon Strategy as well as on gender equality for the strengthening of growth and employment (Council of the European Union 2009 [16611/2/09]). Both of these matters led to the adoption of Council conclusions, without any mention of the Commission's draft proposal. In the conclusions adopted on the first debate, the

emphasis was put on inclusion in the labour market (Council of the European Union 2009 [16214/09]). Concerning the conclusions of the second debate, they specifically address the issue of the creation of programmes aimed at women entrepreneurs, and "invites the incoming Spanish Presidency, with the support of the Commission, to use its best endeavours to ensure that both gender mainstreaming and gender-specific issues are prominently reflected in the post-2010 Lisbon Strategy and in future employment and social policies (…)" (Council of the European Union 2009a). Both Conclusions are in line with Sweden's Council Presidency agenda.

Moreover, during the EPSCO Council meeting, a political agreement was reached on a draft directive on the principle of equal treatment between men and women engaged in an activity in a self-employed capacity. This proposal for a directive had already been discussed in the Council during the Czech Presidency as the proposal from the Commission dated back to 2008.

If actions of the Presidency on Europe 2020 in the different Council formations are considered more generally, conclusions were adopted in all of those that were concerned, namely, the ECOFIN Council, the EPSCO Council, the Competitiveness Council, The Environment Council, The Transport, Telecommunications and the Energy Council, and the Education, Youth and Culture Council. There was also an "initial discussion in the General Affairs and External Relations Council" (Government of Sweden 2010: 27). High level conferences and informal Council meetings were held "to identify and agree on the areas that the future strategy should focus on and lay the groundwork for a good decision during the Spanish Presidency" (Government of Sweden 2010: 28). "These included the importance of promoting external and internal openness and a well-functioning internal market, ensuring sustainable public finances for future investment and welfare, increasing the labour supply and reducing

exclusion, showing the link between gender equality and economic growth, creating a greener economy and an innovative business climate, and promoting investment in human capital and research" (ibid.)

Despite the efforts and resources devoted by the Swedish government to bring the renewed Lisbon strategy in the discussions before the spring 2010 European Council, only general advances were made. Limited elements reached the European Council, who is responsible for the ultimate adoption of the strategy. Indeed, in the European Council's conclusions of the December meeting, only four paragraphs are devoted to the new EU 2020 strategy and no documents were annexed to it. The Conclusions reiterate the need for a new strategy and stipulates that the general objectives of the strategy should be to "improve competitiveness and increase the EU's sustainable growth potential" (European Council 2009 [EUCO 6/09]: 7). Moreover, it identifies priorities the framework should take into consideration such as "how to ensure sustainable public finances whilst preserving investment and social welfare, how to establish inclusive and efficient labour markets, how to further strengthen the internal market, and how to fully exploit the reciprocal benefits of external trade and openness (…), the benefits offered by a greener economy, the improvement of the business climate, and the enhancement of the knowledge base in our economies. In this context, every effort should be made to ensure economic, social and territorial cohesion and gender equality" (European Council 2009 [EUCO 6/09]: 7). In addition, the only mention on the draft proposal of the Commission is that the European Council takes note of it.

5.3.3 Analysis

In light of the developments that took place during the Council Presidency term, no controversies emerged and it was relatively easy for Sweden to try to upload some concepts and priorities present in its national policy in the area of ALMP. The intention to upload general principles was also set from the beginning: "because we couldn't do much on the legislative level on ALMP, what we did was to promote these principles and disseminate our best practices, so we don't make the same mistakes as before (…) we tried to influence developments in the long-run" (interview #13).

Many factors can explain why the issue was not controversial. First, many other Member States already have similar ALMP in place. Moreover, the updated version of the Lisbon Strategy (2008-2010) already used new concepts such as flexicurity, which also combines elements present in many countries. Finally, countries with limited means to go forward with these measures were still open and interested in ALMP. Because the general ALMP aims which existed in many other member countries were similar to those in Sweden, Sweden was able to push further for the integration of gender equality in the next strategy.

What is interesting in this case is that Sweden played the role of the agenda setter and shaper. Through its leadership, it put discussions on the future ten-year strategy back on the agenda because it was unsatisfied with the no-result of the discussions under the Czech Council Presidency (Ludlow 2009c). The Agenda 2020 was perceived by the Swedish government to be the best way to influence the trajectory of the EU social and economic dimensions for the years to come, especially because the legislative process at the EU level in the social area is limited (interviews #13, and #14). Moreover, it pushed for the inclusion of new topics in the strategy, such as gender equality.

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Many variables can explain why Sweden had facility in promoting its approach to the ALMP area. First, the object of uploading. As mentioned before, no controversies and opposition existed in these matters and why they were important to be included in the next strategy. The only potential difficulty faced with regard to the Swedish proposition was the ability of certain countries, particularly Central European ones, to implement ALMP despite their openness because their financial means was very tight especially due to the economic crisis (interview #14).

Second, the use of conclusions for policy-making makes it easier for other countries to accept the decision because conclusions can be considered as soft-laws. They are binding but represent a soft commitment from the Member States. They set the direction Member States are taking as a whole through the EU, but do not involve punitive consequences if the country does not respect it. In essence, they are a political commitment.

Third, the reliance on the OMC in the area of the Lisbon Strategy/Europe 2020, and particularly with regards to employment policy, makes it easier for other Member States to accept general orientations in the framework, as they know they can still influence the benchmarks that will be used to evaluated their country's performance, its national directions and implementation in the future. Moreover, even if recommendations are made for their country regarding the reforms they should make to achieve their national objectives with regard to the general framework's objectives, countries remain powerful in deciding whether or not they want to comply with the proposals aimed at them as they are only responsible for the transposition of European policy at the national level in this area. The fact that Sweden openly supports the use of the OMC in this area, despite criticisms raised on the implementation/transposition of the Lisbon Strategy 2000-2010's objectives in many countries, sends a signal to the other member

states. For this reason, perhaps it becomes more important to influence the framework and the benchmarks, than the actual outcome.

An additional feature of this case is that most of the work was conducted in the Council and its different formations. Again, this shows that the issue was not controversial amongst the Member States. In fact, the European Council's December Conclusions basically served as a rubber-stamp for the work that had been conducted in all of the Council formations during the semester. The acknowledgement of the European Council through the Conclusions is still important because this is the proper institution designed to make decisions on such a strategy. Hence, the inclusion of the Council work in the European Council's Conclusions made it even more binding. Moreover, it locked in the priorities that needed to be included in the future Commission's proposal.

5.4   ENVIRONMENTAL POLICY: PROMOTING AN ECO-EFFICIENT FRAMEWORK TO ADOPT 'GREEN' POLICY INSTRUMENTS

5.4.1   Environmental Policy in Sweden

Sweden has a very innovative and extensive environmental policy, using a variety of policy instruments. The country is considered a frontrunner in the area (Kronsell 2004, Jänicke 2005, Fouché 2008). The overarching goal of Swedish environmental policy is to achieve sustainable development while encouraging economic growth. It centers around sixteen (16) environmental quality objectives, for which legislation have been passed; they constitute the Swedish *Environmental Code* (Karlson and Kuznetsova 2007). These quality objectives center on

elements such as climate change, energy, chemical reductions, water quality, public health, etc. (Ministry of the Environment 2004) Overall, the precautionary approach is used. Many general principles are entrenched in the code: the burden of proof is on the companies to make sure they are as environmentally friendly as they can be. The polluter pays principle is also applied. The monitoring and reporting of the policy is shared between different governmental and non-governmental entities.

One of the particularities of Sweden's environmental policy is its assumed transversal nature, touching not only on the environmental sphere, but also on the social and economic areas. As such, many economic instruments (essentially a 'green tax system') have been designed to achieve environmental objectives, as research in Sweden found that regulation alone was not enough (Johansson 2000a). A carbon tax was introduced in Sweden in 1991, in complement to the more general system of energy taxes (Johansson 2000a, b, Ministry of the Environment 2004). Sweden was one of the first European countries to adopt such an instrument.

The logic of the carbon tax is that it affects everyone: from the individual to companies. A carbon tax is a fee placed on greenhouse gas pollution. It puts a monetary price on the costs imposed on the national economy, communities and the planet by greenhouse gas emissions and the global warming they cause. The idea behind the adoption of this instrument is that it would encourage a shift by households, businesses and industries to cleaner technologies, which would in turn increase the demand for energy-efficient products (i.e. an increase in biomass and biofuel use) and help spur innovation and investment in green solutions.

The carbon tax has different levels according to the sector to which it is applied. For example, the tax increases in areas that use fossil fuels such as transportation and heating. In addition, the tax is quite high for households and the service sector (27 euros per ton in 1991 and

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114 euros per ton in 2011), but low for sectors subject to international competition (7 euros in 1991, 34 euros outside of EU ETS in 2011 – zero within EU ETS) (Institute for European Environmental Policy 2014). Over the years, and due in part to the establishment of such instruments, Sweden was able to challenge the idea that reducing CO_2 emission will slow down economic growth: between 1990 and 2006, while reducing 9% of its emissions, Sweden's economy enjoyed a 44% growth in fixed price (Johansson 2000b, Fouché 2008).

5.4.2   Towards European and International Negotiations on Environmental Policy

Since the accession of Sweden in the EU in 1995, the country played a very important role in the elaboration of a European-wide environmental policy (Liefferink and Andersen 1998). The country often seeks to go further into strict regulation, rather than try to move towards the most common (often lower) denominator.

5.4.2.1 Pre-EU Presidency Preparations

Intending to initiate discussions in meetings during the Presidency on the establishment of market instruments at the European level such as green taxation, the Swedish government commissioned a report "A European Eco-Efficient Economy, Governing climate, energy and competitiveness" from the *Stockholm Environment Institute*, an independent international research institute (Nilsson, et al. 2009). The institute provides knowledge, expertise and policy advice to the Swedish government on environmental matters. The government relies heavily on the support of the institute for the country's political endeavours in climate and environment matters, almost creating a relationship of dependence to it (Statskontoret 2010).

The report serves as the basis for Sweden's efforts to promote its environmental policy agenda at the European level. It introduces and promotes a new concept at the European level: an "eco-efficient economy"[23]. The idea behind this term is to combine environmental policy with mainstream economic policy in order to achieve competitiveness. Market-based instruments, new standards, and governance tools are proposed to be used towards the achievement of more environmental friendly activities and initiatives. They are thought to be an efficient way to "internalize the costs of pollution created by economic activity" (Nilsson, et al. 2009: 3). The report covers many sectors of the economy and praises the combination of different instruments, but one that comes back often is the creation of tax to lower carbon dioxide emissions.

In May 2009, a few months before Sweden took over the EU Presidency, the government announced that it would be formally pursuing the elaboration of a carbon tax at the European level during its mandate (EurActiv.com 2009n). This will was reiterated later in June by the Swedish Prime Minister Reinfeldt when he declared that "we need to initiate discussions on how economic instruments can best be utilised in climate policy. I believe tools such as a carbon tax and emission trading, if designed well, can play a key role in addressing climate problems" (Euractiv.com 2009d). The EU's emissions trading scheme (ETS) was considered inadequate by Sweden as it covers only around 40% of the greenhouse gas emissions (EurActiv.com 2009j). Despite the boldness of Sweden's announcement, the discussions over the adoption of an EU-wide carbon tax would not be the first ones taking place on this issue: discussions over different European Commission's proposals took place since the early 1990's. Carlgren, Sweden's Minister of Environment, and other politicians had been criticizing the European Commission for delaying the debate on the adoption of this tax (EurActiv.com 2009n). By the time it was put

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[23] The term « eco-efficient economy » was not created by the Swedes. The *World Business Council for Sustainable Development* first introduced this concept in the early 1990's. (World Business Council for Sustainable Development 2000)

on the Swedish Council agenda, many countries in Europe had adopted similar practices of eco-taxation. It was the case of the United Kingdom, Ireland, Denmark, Finland, and the Netherlands. In addition, France was thinking about introducing a carbon tax for 2010 (EurActiv.com 2009g).

In tandem with Sweden's announcement, a European Commission's draft for a Council directive amending Directive 2003/96/EC restructuring the Community framework for the taxation of energy product and electricity began to circulate in mid-summer 2009 (Paleokrassas 2009). The Commission's initiative, proposed by the Commissioner for Taxation and Customs Union, Laszlo Kovacs, precisely aimed at creating an EU-wide carbon-tax (COM (2009) XXXX). The proposal aims at harmonizing practices among member states since there were concerns that national carbon taxes would distort competitiveness and the internal market, and it pursued the objective of creating an incentive to attain EU carbon reduction goal. There was also general agreement amongst Commission officials that the EU-ETS was not enough to attain the 2020 targets, and that energy taxes could efficiently supplement it (Rankin 2009). Hence, the idea of the EU-wide carbon tax had been floating for many years, but without any action taken to concretise it. Sweden's announcement and Council work program was the impetus needed by the Commission to go ahead with the proposal (EurActiv.com 2009b, Rankin 2009).

5.4.2.2 The EU Presidency Term

When Sweden took over the Council Presidency in July 2009, the Climate and Energy package had already been adopted under the French EU Presidency in 2008, so the specific targets to achieve were set and not under discussion. As the Copenhagen conference was going to take place in December, one of the main objectives of the Swedish Presidency was to find an EU agreement to bring to the table at the international post-Kyoto negotiations. The members needed to demonstrate that the EU would make considerable efforts to achieve its goals, and to

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help others achieve theirs. Financial discussions pertaining to the achievement of internal EU environmental goals and how the EU can support the developing world in achieving theirs were of particular importance. Discussions and possible adoption of the tax was seen as a strategic way to leverage greater commitments at the international stage, as discussions on funding had stalled: "The revenue could be used both to compensate lower-income households and also to build trust between developed and developing countries, simply putting money on the Copenhagen table", Kovacs said (Euractiv.com 2009f).

The first discussions on the EU carbon-tax took place during the informal council meetings between ministers in July (from 24-26, with the environment ministers) and October (1-2, with the economics and finance ministers). Much of these meetings looked at the upcoming Copenhagen negotiations, but they also involved discussions on a long-term approach to the environment in the EU, with the objective to promote Sweden's approach to an eco-efficient economy and the creation of the EU carbon-tax (Sweden Ministry of the Environment and Ministry of Enterprise Energy and Communications 2009). "The focus of these meetings was how coordinate the political agendas for climate change, energy efficiency, innovation and competitiveness – with the aim of creating synergies and safeguard growth and sustainability" (Ministry of the Environment 2009). The Swedish environment minister, Andreas Carlgren, declared that "Sweden can set a good example by showing how the climate challenge can be combined with initiatives to strengthen the economy. During the Presidency, we want to highlight EU job and growth opportunities by investing in energy efficiency, renewable resources and recycling" (EurActiv.com 2009l).

The informal ECOFIN meeting proved to be the most important as the EU finance ministers talked precisely about the EU carbon tax covering sectors not part of the ETS (Collins

2009). However, the introduction of the carbon tax was only generally discussed during that meeting. Moreover, the Taxation Commissioner Laszlo Kovacs declared that he was not expecting "to come to an agreement on a CO_2 tax before Copenhagen" (Collins 2009) and that "there were not many reactions [during the meeting] but those reactions were all positive" (Euractiv.com 2009f). Only the Commission's draft was presented at the meeting.

On October 29, the Environment Council meeting took place and centered on the renewal of the Lisbon strategy, which was coming to an end in 2010. This meeting was the cornerstone in the adoption of an eco-efficient approach for the EU: the Council conclusions reflect this by integrating the concept for the development of a post-Lisbon agenda framework (Council of the European Union 2009b). Moreover, in the Conclusions, the Commission is invited to propose initiatives to mainstream eco-efficiency in the new Lisbon strategy and to "develop proposals on market based instruments (…) as foreseen in the Commission's green paper on market-based instruments" (Council of the European Union 2009b: 4). Although the carbon tax is not specifically identified in the Conclusions, it is nonetheless one of the instruments present in the Commission's green paper to which it refers, and it had also been recently under discussion (COM (2007) 140 final). Consequently, this meeting proved to be important for the endorsement of an eco-efficient approach for the EU by all member states and to set the agenda for the development of an EU-wide carbon tax.

The international context with the upcoming Copenhagen conference and institutional obstacles made it even harder for the submission of a proposal to be decided within a short time-frame. Indeed, tax decisions require unanimity in the Council and the adoption of the Lisbon Treaty was still in limbo. Therefore, discussions on EU-wide carbon taxation would take time,

especially considering that some countries want to retain their taxation prerogative or maintain their low prices (EurActiv.com 2009b).

Many discussions on the carbon tax took place at the ministerial level, but they never reached the European Council: none of the European Councils' Conclusions refer to it (Council of the European Union 2009 [15265/1/09], European Council 2009 [EUCO 6/09]). Moreover, no formal proposal ended up been presented during the Swedish Presidency despite the country's push. In spite of this lack of activity, many countries started to raise their voice against the project, namely the UK and many Central and East European countries, the same protesters as with the Energy and Climate Change package (EurActiv.com 2009b). At the end, the proposal for an EU-wide carbon tax was left to the next Commission to come up with a formal proposal to present to the Council, as it was obvious that the proposal would not have make the cut in the Council during the Swedish Presidency. (EurActiv.com 2009b).

5.4.3 Analysis

This case is not an entirely failed example of policy uploading led by the Swedes because they were able to set the agenda for future initiatives, and to frame them. This is demonstrated by the endorsement of the concept and approach of eco-efficiency, which was brought about by the Swedish Presidency in EU's vocabulary, and the identification of precise market-based instruments to be proposed in the future, like the EU-wide carbon-tax. However, policy uploading did not occur with regard to the adoption of the carbon tax.

Many variables made it difficult for the Presidency to specifically pursue the adoption of the carbon-tax. First, the international context, with the economic crisis and the upcoming Copenhagen conference for Climate Change, made it difficult for the Presidency to devote the

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resources necessary to effectively push for negotiations on a carbon-tax. Most resources involved in the environment/climate dossiers were assigned to the preparation of the Copenhagen Conference and securing EU's position for it. The economic crisis created enthusiasm with the concept of eco-efficiency, but simultaneously generated concerns with specific market-instruments measures for certain EU countries.

Secondly, institutional changes taking place were also an impediment. Despite an existing draft proposal from the European Commission, which could have made things easier for the Presidency, the timing was mediocre. The European Commission's mandate was coming to an end in early 2010. Thus, it would have been difficult to pursue the project of the carbon tax with two different commissioners, as the EU legislative process takes a long time.

Thirdly, with the Lisbon Treaty being implemented, not only does unanimity need to be secured in the Council, but the European Parliament also needs to approve it in order for the carbon tax to be adopted. The division of interests among members in the Council during the Swedish Presidency's semester would likely cause a unanimity vote to fail. Some EU members were reluctant to adopt an EU-wide carbon tax because they want to keep their fiscal autonomy and felt that adopting such an instrument at the European level would interfere with their sole competency. This situation can explain why the tax had only been discussed during informal Council meetings.

5.5   CONCLUSION

This chapter illustrates how Sweden played the role of agenda-shaper during its Council Presidency, and succeeded in uploading some aspects of its national policies at the European

level. The uploading of general policy aims occurred in both cases looked at, but with the EU carbon tax, Sweden did not achieve it. This shortcoming in uploading the EU carbon tax supports the argument that policy instruments can be more difficult to upload than general policy objectives, despite other favorable factors being present such as expertise and being a leader in the policy area. However, it is true that the EU carbon tax had not been officially put on the Presidency's work programme, and that the international agenda relating to environmental policy had already charged, hence limiting resources devoted to the issue. Henceforth, the extent to which Sweden really wanted to push for the adoption of the EU carbon tax during its Presidency is also questionable. It seems that Sweden was trying harder to put the issue back on the agenda for the future, than trying to reach a decision on it during its term. For this reason, not only was Sweden an agenda-shaper with eco-efficiency in the environmental realm, but it was also an agenda-setter when considering discussion on EU Carbon tax and the actions it produced.

Although the policies discussed in this chapter are concentrated in two different areas, employment and environment, they both touch on a broader policy narrative on long-term EU economic growth used by the Swedish Presidency. Within this context, an interesting differential feature of these two cases is how the economic crisis created an opportunity for action, or not, and how the Presidency used it. Whereas, in the case of the discussions on Europe 2020 Strategy, the economic crisis logically created the need for intervention in the area of employment, it was not the case in the area of environmental policy. Indeed, the Swedish Presidency had to work harder in framing the economic crisis as an opportunity for reforms that would include new environmental standards, with the hope of bringing economic growth in the long-run, through the use of the concept of eco-efficiency. But it proved to be successful if we consider that the concept and what it entails have been received positively by the other Member States.

Despite been a leader in the area of environmental policy, the Swedish Presidency retained the services of outside expertise with the production of a report on eco-efficiency. This choice was quite strategic. It helped the Presidency to present its approach in a more global and integrated manner, which strengthened the impression of neutrality from the chair concerning the discussions to come, especially with the fact that many options regarding instruments were included in the report. However, it proved not to be efficient for the uploading of the policy instrument. Outside expertise was not used with regard to labour/gender equality policies for influencing Europe 2020 strategy.

One reason that could explain the difference in strategy has to do with the ultimate goal of the EU policy under discussion. Taxation powers are a country's sole decision, and would require unanimity in the Council, which makes it more difficult to accept. Hence, it could be seen as threatening from a sovereignty point of view. If the EU carbon tax proposal is accepted, it is also legally binding and forces implementation at the national level. The eco-efficient approach was adopted more easily than one of the instruments aimed at implementing an eco-efficient economy. This is not the case for Europe 2020 strategy, which is using OMC, thus providing flexibility in the willingness of the implementation of policy recommendations at the national level.

Another difference between the two cases is the influence of institutional limbo on the process of uploading during the adoption of the Lisbon Treaty. Whereas the impact of this situation was almost non-existent in the case of the ALMP, it proved to be more important in the case of the EU carbon-tax, probably because the environment was more discussed at the European Council level with the Copenhagen conference coming up.

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An additional interesting factor concerning the Swedish Presidency has to do with the use Sweden made of the European Commission. In both instances, Sweden did not challenge the European Commission's prerogative of initiative. It worked with it or paralleled its actions, which ultimately influenced the decisions taken in the Council formations or in the European Council.

To summarize, the two Swedish cases suggest that general policy objectives can be uploaded more easily than precise policy instruments; that a Presidency's influence may be easier at the beginning of the policy process, but might not be essential for successful uploading; that been a leader in a policy area is facilitating the uploading process, but it might not guarantee its success; that it is necessary to devote resources and be ambitious with the intention of uploading for it to be successful.

6.0 THE UNITED KINGDOM 2005 COUNCIL PRESIDENCY AND THE 2010 BELGIUM COUNCIL PRESIDENCY

This chapter looks at two cases: the United Kingdom and Belgium. These cases were selected because they offer an additional comparative perspective on the previous cases. The case of the UK was chosen because the country is a large EU Member State, a unitary one with strong policy capacity. Its Presidency occurred in the second part of 2005, under another organizational system than the trio-presidencies. The Belgium case also took place during the second part of the year, in 2010, and it was chosen because it is a federal country with moderate policy capacity, and it offers a first glance at an EU Presidency under the rules of the Lisbon Treaty and prospects of uploading under that Treaty. Both the UK and Belgium had experience with the holding of the Council Presidency. In addition, the two cases are instances of failed uploading.

The chapter is divided into two main sections: one focusing on the case of the United Kingdom and the other on the case of Belgium. For each case, a review of the national coordination of EU policy is provided along with an assessment on policy uploading during the EU Presidency term.

6.1   THE UK'S EU PRESIDENCY

The assessments on the UK's EU Presidency usually consider it to be quite successful in fulfilling its agenda objectives, but not necessarily those of its own making as it relied on the other EU institutions (Whitman 2006b, Whitman and Thomas 2006). Moreover, observers generally agree that the Presidency was efficient and fair (Best 2005).

Tony Blair was the Prime Minister when the UK took the EU Presidency term, and it was the second time he held the chairmanship of the Council.[24] During 2005, European issues were quite salient at the domestic level in the UK, with the process of ratification of the Constitutional Treaty engaged and debates on the EU budget rebate. However, with the 'no' referendum votes on the ratification of the Constitutional Treaty that took place in France (on May 29th) and the Netherlands (on June 1st), London decided to suspend the debate on the Treaty, and it was decided by the Council to slow down the ratification process in the Member States. Discussions in the Council on solutions for the adoption of the Treaty would resume only in 2006. Hence, the UK avoided domestic debate on the Constitutional Treaty during its EU Presidency.

The UK's EU Presidency work program is organized around three priorities: economic reform and social justice, security and stability, and Europe's role in the world (UK Presidency of the EU 2005). Many issues that the UK's EU Presidency inherited for its Presidency were unavoidable, such as negotiation on the EU Budget 2007-2014, linked to reforms in the Common Agricultural Policy, and the opening of accession talks with Turkey. The work program originated from the 2004-2006 multi-annual Strategic Programme, which was designed for the

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[24] The UK had the EU Council Presidency in 1998, and Tony Blair got elected as Prime Minister for the first time in 1997.

Irish, Dutch, Luxembourg, UK, Austria and Finnish Presidencies (Whitman 2006b, Whitman and Thomas 2006).

6.1.1   The National Coordination of European Policy

The national coordination of European policy in the United Kingdom is very centralized. At its center is the European Secretariat, which is a small unit in the Prime Minister's Cabinet Office comprised of about 24 officers, for which more than the majority comes from the departments, and one-third are 'Fast Stream' administrators. The Secretariat performs five main functions: it oversees and manage inter-departmental coordination; it ensures coherence and consistency with existing governmental policies; it coordinates UK's position on major policy issues; it supervises the system of parliamentary scrutiny; and finally, it acts as a consultant and advisor (Kassim 2000). When intervention is necessary between departments, two procedures are available to the Secretariat. One rests on informal procedures, involving only the officials with minutes but no official paper published. In case this procedure does not resolve the issue, a more formal process is available. A formal meeting of the subcommittee on European questions is called for, with officials and senior officials; but Ministers are rarely directly involved in these meetings because their officials are already regularly in contact with them. The Secretariat may also intervene when it considers that the direction taken by a department threatens to establish a technical or legal precedent that may be undesirable. Aside from these type of interventions, the burden of European policy-making in UK rests with the departments.

Each department is responsible for dealing with EU matters within its field and take the lead in the formulation of UK's position. They are also responsible for consulting with other departments, for which the European Secretariat makes sure it happens. Internal departmental

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arrangement for dealing with EU business can be very different from one department to another. The Prime Minister also plays an important role, but only with regards to 'high politics' or when issues are politically salient.

The UK Permanent Representation (UKREP) also played an important role in implementing coordination in Brussels. Officials come from the foreign ministry and home departments, which grant the UKREP negotiating and technical expertise to conduct activities in the Council working groups. UKREP is one of the largest among the Permanent Representations of EU Members. In 2005, it had an estimated 130 officials working for it. The UKREP is considered to be highly proactive, with the main goal of intervention in early stages of any European legislative process in order to maximize the influence it can have on proposals. It is also considered to have closer relations with its capital than other representations, as it is in constant touch with Whitehall (Kassim 2000).

It is generally evaluated by practitioners and observers that the UK coordination system is quite effective, with UK representatives that are well briefed on issues and are consistent with regard to the position they have to defend (Kassim 2000). Moreover, a large number of senior officials have experience with EU issues because they typically have served in Brussels, either at the UKREP or in European Institutions (Kassim 2000). However, this expertise on European issues and how to deal with them is uneven among the departments.

Although UK's coordination system is effective, it has some weaknesses. The fact that it is highly centralized can sometimes create problems in case of division at the core. For example, the politicization of EU issues at the domestic level by politicians can impede administrative coordination, especially in cases when the government's majority is slim. Often in these cases, the civil servant experts are replaced by political crisis management officers from the political

center (Kassim 2000). Apparent inflexibility is another difficulty faced by the UK's highly centralized coordination system. In the UK coordination system, once a decision has been adopted on the position to be defended, it is difficult to step outside of it, which can increase difficulties in bargaining and finding consensus at the European level (Kassim 2000).

6.1.2   Assessing Uploading during the UK's EU Council Presidency: The Example of the Working Time Directive

As I mentioned earlier, the UK had to fulfill an EU Presidency's agenda that was mostly driven by legislative imperatives that had previously been set. Moreover, big issues such as the EU Budget were on the table, which also involved reforms in the CAP. But an additional issue important for the UK was the revision of the working-time directive (UK Presidency of the EU 2005). First adopted in 1993, the directive aimed at limiting weekly working time to a maximum of 48 hours in all Member States[25]. As far back as 1993, divisions among the countries were strong. On the one hand, Member States like the UK were in favor of a liberal approach giving individuals the choice for working as much as they want, in line with the country's national legislation. On the other hand, other countries such as France or Sweden, wanted to limit even further the number of hours employees could work with the argument of promoting health and safety at work (Bishop 2004, Copeland 2010). Ultimately, the UK was able to negotiate an opt-out from the 1993 working-time directive, under the condition of revision seven years after implementation (Copeland 2010).

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[25] It is still possible for Member States to limit even more the number of hours one can work.

The Commission issued a proposal in September 2004, and the revision started to take place during the EU Presidencies of the Netherlands (second part of 2004) and of Luxembourg (first part of 2005). The main elements under discussion were on the use of the opt-out and the period of reference for the calculation of working hours. The UK's position remained the same as in 1993: according to its long working hours culture and regulation frame, it defended the position of individual choice, a long period of reference for the calculation of worked hours, and the need for flexibility (House of Lords European Union Committee 2004). Consequently, the UK wanted the opt-out to remain available. However, after the first read, the European Parliament called for the abandonment of the opt-out (Laitner 2005). The negotiations in the Council took longer than expected, deadlocked, with all countries keeping their position, pro or against the opt-out, making it impossible to secure enough votes for its adoption (BBC News 2005). Consequently, the UK ended up in the driving seat for finding a solution to the impasse.

The ideological divisions in the Council were the same in 2005 as in 1993 (Broughton 2005, Copeland 2010). However, with the 2004 enlargement round, new Member States modified the balance in the Council. Poland, the Baltic countries, Slovakia, Slovenia, and Malta declared that they were in favor of the opt-out (Buck, et al. 2005, Copeland 2010). Moreover, Britain was able to reach an arrangement with Germany; it would support the opt-out in exchange for Britain to support the Take Over Directive (Copeland 2010).

A compromise was proposed by the UK Presidency during the December Employment, Social Policy, Health and Consumer Affairs Council (ESPHCA). The proposal strongly reflected the UK's interests by pushing for an indefinite use of the opt-out (Copeland 2010). But it ended up been rejected by fifteen of the Member States, who favored the regulatory approach

(Whitman and Thomas 2006). Consequently, the issue was pushed for resolution during the next Council Presidency under the Austrian government.

6.1.3 Analysis

The example of the working time directive constitutes a failed policy uploading. It shows that not only does the will to upload needs to be present, but also that once the legislative process is well advanced, the influence of the Presidency on the outcome is very limited, even when means and resources are devoted to defend the interests of the Presidency, and even when the chair is held by a 'big' country. In the case of the working time directive, the UK did not try to upload its national policy as maintaining the status quo with the opt-out was already revealed to be a challenge. This case also illustrates how a Presidency can fail at taking the role of the honest broker, agenda setter or shaper. As the UK had strong vested interests in the outcome, it was unable to propose a compromise suiting a majority of Member States under the qualified-majority voting rules.

6.2   BELGIUM'S EU PRESIDENCY

The Belgium EU Council Presidency took place from July 1st to December 31st, 2010. It was the 12th time the country held the Council Presidency. However, national circumstances were much different this time around, as the country was headed by a caretaker government. Despite this situation, and as many analysts have pointed out, the lack of government did not produce the expected disaster, nor did it prevent the country from holding a productive Council Presidency

(Beke 2011, Drieskens 2011). This was mainly due to the experience acquired by the members of governments in other international institutions (Drieskens 2011) and the federal nature of the Belgian system. These elements are particularly important and are discussed in detail in later sections of this chapter.

During its Council Presidency, Belgium was able to truly start implementing the Lisbon Treaty as it was intended. The previous Council Presidency held by Spain for the first part of 2010 served as a transition period, with some challenges posed by Prime Minister Zapatero to Van Rompuy, newly appointed as the 'semi-permanent' president of the European Council (Forelle 2010, Beke 2011, Heywood 2011, Van Hecke and Bursens 2011). As an official pointed out, the objective of Belgium was to "set good precedents, manage to execute the full potential of the Lisbon treaty and create something long lasting" (in Bunse, et al. 2011:55)

Generally, the programme of the Belgian Council Presidency concentrated on achieving the Community's agenda, as proposed by the European Commission. The absence in the programme of national objectives was strongly noted by many analysts and officials from the Belgian governments (Bunse, et al. 2011). The Belgian Presidency focused on five key priorities. The first objective was to tackle the ongoing economic crisis, with a package of measures to increase surveillance of financial markets. The second one concerned social cohesion and the fight against poverty. Third, the environment and climate change were important, with preparations for the December UN climate conference in Cancún (Beyers and Bursens). Fourth, under the justice and home affairs category, Belgium aimed to implement the Stockholm Programme launched in 2009 under the Swedish Presidency. Finally, with regards to external relations, Belgium wanted to continue with the EU's enlargement policy, including putting into

place the EU's new diplomatic corps, the European External Action Service (EEAS) (Belgique 2010).

6.2.1 National Coordination of European Policy

Belgium has a very complex coordination system with a variety of actors involved: the system is fragmented and decentralized in nature. All levels of government, federal and subnational (regions and communities), are equal in power for decision-making and they each have their areas of policy competency. As a result, all levels of government are involved in decision-making in the EU Council. In addition to the different levels of government involved, political parties can also play a crucial role. Because of the divides existing in the Belgian society and in the electoral system, governments are often formed of a coalition of political parties. As a consequence of this, and in order to keep the coalition working, ministerial autonomy has been reinforced in the process (Kerremans 2000). Therefore, when issues have not been politicized by the other political parties, ministerial autonomy prevails. Thus, each ministry has developed its own way of organizing and dealing with issues on the EU agenda (Kerremans 2000, Beyers and Bursens 2011, Criekemans and De Ville 2011). With this decentralization and fragmentation, the difficulty with the Belgian coordination system is to obtain a unitary policy position at the European level as there are many veto players. To achieve this, some institutional instruments have been created, but mostly, the system relies on a consensus norm (Kerremans 2000). Consensus building is very important in the Belgian system as the number of EU policies are increasingly touching more and more, partly or completely, the competencies of the subnational entities.

One of the most important bodies in the coordination of EU policy in Belgium between the level of governments is the Directorate for European Affairs (DEA) within the Federal Ministry if Foreign Affairs (MFA). The DEA is important because it offers a weekly meeting venue for all levels of government to discuss and reach consensus on decisions that are considered politically sensitive. It only offers secretarial and logistical support. The meetings are attended by ministers concerned with the topic on the agenda, according to which sectorial Councils are meeting the following week. In addition, these meetings are also always open to representatives at the federal level of the Prime Minister and the deputy Prime Ministers, representatives of the Minister-Presidents and officials from the Belgian Permanent Representation. The objectives of these meetings are to transmit the important information to the minister who will seat and represent the country in the EU Council meetings (Kerremans 2000, Beyers and Bursens 2011, Criekemans and De Ville 2011).

It is crucial that a consensus be reached during these meetings, otherwise two options are left available: either the country will abstain when it's time to vote in the Council, or meetings with higher representatives of the government will be held in order to reach a consensus. These other meetings are taking place at different levels. The first one is called the Interministerial Conference for Foreign Policy (ICFP), and involves only the ministers themselves. If consensus is not reached in those meetings, the issue is transferred to the other committee, the Consultation Committee, composed of the federal Prime Minister and his vice prime ministers as well as the minister-presidents of the subnational governments. In each of these committees, a decision can only be reached when all parties approve it, otherwise the country will abstain from voting.

Another instrument exists to facilitate Belgium representation in the EU Council: "on the spot coordination"(Kerremans 2000, Beyers and Bursens 2011). The delegation of Belgium is

composed of two individuals at the ministerial level: the leader of the delegation and the assessor. The leader of the delegation is a rotating position between the governments having competencies on the issue. The assessor's role is to inform the leader of the delegation what the other parties' positions on the issue at hand are and to directly negotiate with them in order to be able to vote when an issue is raised by the EU members in the Council configurations.

While Belgium held the Council Presidency in 2010, some changes were made to this usual procedure[26]. The governments decided to deviate from the rotation system during the 18 months of the Spain-Belgium-Hungary trio-Presidency, invoking the need for consistency during this period (Criekemans and De Ville 2011). The decisions of the delegation leaders of the different Council configurations were negotiated between the governments. Criekemans and De Ville (2011) observed that these negotiations were not as conflictual as could be expected and that the choices were more pragmatic due to national government instability.

6.2.2   Preparations of the Council Presidency and Facing National Challenges

A state secretary for the upcoming Council Presidency, Olivier Chastel, was appointed in March 2008, under the authority of the Ministry of Foreign Affairs. Moreover, during the summer 2008, two deliberative bodies were created in order to plan the Belgian Presidency: a 'Follow-up group' and a 'Task Force' (Criekemans and De Ville 2011). The first group was political in essence: headed by Chastel, it was composed of representatives from the cabinets of the federal ministers as well as representatives from the subnational minister-presidents. The aim of the group was to prepare for the political aspect of the EU Presidency, mainly the strategic choices

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[26] The system remained the same in the previous Belgian Council Presidencies.

of issues to be put on the trio and Belgian Presidency programmes. The objectives of the Task Force were to focus more on the details of the issues on the programme and serve of administrative support. The DGE chaired the Task Force and the group was composed of officials from the ministries responsible for the preparation of the Presidency and coming from different governments. Both of these bodies were dissolved at the beginning of the Council Presidency.

As mentioned earlier, the federal government was still a caretaker one at the beginning of the country's Council Presidency. Federal elections took place in June 2010 but did not lead to the formation of a government, so the decision was taken to continue on with the caretaker government for the duration of the Council Presidency. The advantage of this decision was that politicians who were ministers before, who gained international experience, and who knew their dossiers stayed in their position for managing more effectively their actions at the European level. On the other hand, it also meant that Belgium did not have the capacity, legitimacy and willingness to pursue a national agenda at the European level. These elements, combined with the fact that power is shared at the European level between the subnational and federal governments, affect how leadership under this system is exercised and it illustrates how it can be difficult to achieve. Even though the subnational governments were not affected in the conduct of their business by the federal instability in the country, more than the majority of the seats reserved for chairing the Council's configurations were assigned to federal politicians (Belgium 2010).

While politicians struggled with national legitimacy issues, other groups of individuals were strengthened by the need to conduct day-to-day activities. One major impact the inability to form a government at the federal level had for the organization and the conduct of the Council

Presidency has been to strengthen the position of civil servants (Van Hecke and Bursens 2010, Criekemans and De Ville 2011). In essence, the Belgian bureaucracy (both comprising of subnational and federal public servants) provided the stability and expertise the country needed to pursue its obligations at the European level (Van Hecke and Bursens 2010).

6.2.3   A New Type of Council Presidency

6.2.3.1 Changes Brought with the Adoption of the Lisbon Treaty

The Lisbon Treaty introduced the position of a 'semi-permanent' Presidency. Its mandate is for two and a half years (renewable once), and the person who holds it is elected by a majority vote of the member states. Herman Van Rompuy, who was for a short period of time the Belgian Prime Minister, held this position from 2010 to 2014. The main purpose of the president is to prepare the Council's work, ensure its continuity and work to secure consensus among member countries (OJ 2010/C 83/01). The creation of this position was aimed to ensure a more stable leadership at the heights of the Council, and make sure that the international impact of the EU remain stable whether a small or large country holds the Presidency (Barber 2010). This change is important because it shows that the European Council is taking a turn in becoming more supranational despite its fundamental intergovernmental nature (Lewis 2003).

The design of the Council has not changed with the Treaty, but there have been some changes with regards to decision-making procedures. In order to make decision-making more efficient, Lisbon increases the application of qualified majority voting (QMV) in new policy areas, as well as increasing issue areas under the co-decision procedure with the EP. This is an important change for matters that are highly sensitive for member states, especially in areas

relating to asylum, immigration, police co-operation and judicial co-operation in criminal matters (OJ 2010/C 83/01). The QMV is now the most common form of vote within the Council.

The changes in voting procedures are important as it can impact the efficiency of the institution (for the proponents of change towards the QMV as opposed to the status quo with unanimity) or it can be perceived as threatening the sovereignty of a country (Sieberson 2009). Moreover, the new measures will shape the possible coalitions within the Council. Pre-Lisbon voting strategies and coalitions under the QMV[27] are easier to achieve because the rules are not as definite. However, it remains a possibility that the change in the voting procedures will not change much of what is already going on in the Council because the institution is well-known for its reliance on consensus-based decision-making and rarely take votes (Lewis 2003).

Lisbon is interesting because it defines more precisely than previously adopted treaties the domains in which the EU has exclusive action, and in which its actions are shared with the national governments. Moreover, by elaborating on this, the Treaty of Lisbon also manages to entrench general long-term objectives that need to be respected. The EU now had possibility for action in areas that require the cooperation of all in order to promote EU's growth. As such, there are references in the Treaty with regards to climate change and energy security, the promotion of high level of employment, the safeguard social protection and fight against exclusion, and the importance of many economic and social services (OJ 2010/C 83/01).

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[27] Under the Nice Treaty, QMV needs to meet the following criteria: a majority of the countries must be in favour, with a minimum of 255 votes (on 345). Countries may ask if it is representing at least 62% of the European population to confirm the adoption; however there is no obligation to ask for a count.

6.2.3.2 Policy Uploading under the Lisbon Treaty: Preliminary Assessment

As much as the Belgian civil service was empowered by the conduct of day-to-day business of the Council Presidency due to national government instability, the lack of interest for pursuing national preferences was also reflected in the place given to Van Rompuy. First, the Belgian Presidency had announced that it wanted to implement the Lisbon Treaty by helping Van Rompuy to take his functions (Euractiv.com 2010a, b, c). Hence, Prime Minister Leterme declared that the Belgian Council Presidency would adopt a low profile (Franck and Van Deursen 2011). An additional element that facilitated the cooperation between the Belgium EU Presidency and the new European Council Presidency was that Van Rompuy had previously been Prime Minister of Belgium. Consequently, the Belgian officials involved in the EU Presidency knew him well because they had worked with him before and vice versa (interview #17). With the centrality of Van Rompuy's position, the Belgian Council Presidency took a supporting rather than a leadership role. In essence, the Belgian Council Presidency became an invisible EU Presidency at the service of Van Rompuy. This, combined with a caretaker government, did not constitute favorable conditions for the uploading of national policies.

Despite that the Council Presidency's work programme had been constituted before the collapse of the national government, and with the consultation of all political parties involved in the coalition caretaker government and subnational governments (Euractiv.com 2010c, Van Hecke and Bursens 2010), none of the issues on it were particularly significant for Belgium as a unitary actor. As a high Belgian official puts it: "the interests of the EU are Belgium's interests" (interview #17). Moreover, it inherited the issues the Spanish Council Presidency did not manage to deal with or resolve during its term, such as the financial supervisory package and legislation on hedge funds, agenda elements dictated by the economic crisis.

6.3 CONCLUSION

The cases of the United Kingdom and Belgium show that political will and intention for uploading need to be present in the first place for uploading to be considered. The cases illustrate that even countries that have good levels of policy capacity and experience with the holding of the EU Presidency may willingly chose not to promote their national policies or interests. Sometimes it is for the benefit of the European institutions, as in the case of Belgium, or it can be in the Member State's own interests when the status quo is preferred to change, as it was the case for the UK.

The case of the UK shows again that the advancement of the EU legislative process has a great impact on the possibility of actions for the holder of the Presidency. The more advanced the legislative process is, the less likely it is for the EU presidency to influence the outcome. And this is true, whether or not the process follows the co-decisional procedure or not.

The case of Belgium also shows that domestic political instability may not hinder the regular conduct of a Council Presidency. This is due to the well-prepared national civil service and to the role played by the new European Council Presidency, held by Van Rompuy. The new institutional format combined with the lack of ambition to upload national policy proved to be the most important variables in this case for explaining the failure of uploading.

7.0   COMPARING NATIONAL POLICY UPLOADING IN THE EUROPEAN UNION

This section seeks to compare the cases and analyze the hypotheses presented in chapter 2. The process under which national policies are successfully uploaded, or not, tells us about the conditions needed for it to occur. Keys are political intention for uploading, the nature of the policy proposed, the policy capacity in the policy area of the proposal, leadership exercised by the individual holding the chair, and how advanced the policy process is at the European level.

7.1   REVIEW OF THE HYPOTHESES

This section analyzes the hypotheses presented earlier in chapter 2. Each individual hypothesis is stated and then answered in line with the cases studied in this book. Table 7.1 shows a summary of the cases.

As a reminder to the reader, policy uploading is defined as the upward transfer of national policies to the European level. In essence, policy uploading is the opposite of Europeanization, commonly understood as the influence of Europe on national polities. Uploading is considered successful when the country holding the Council Presidency is able to transfer specific elements of its national policy at the European level. Policy uploading is understood as a specific type of successful policy output at the European level.

Table 2. Summary of Cases

Country	Uploading Success	Uploading Failure
France (Second semester 2008)	European Pact on Immigration and Asylum	Energy and Climate Package
Czech Republic (First semester 2009)	x	Energy Security and Immigration Policy
Sweden (Second semester 2009)	Europe 2020 and Eco-efficiency	Carbon Tax
United Kingdom (Second semester 2005)	x	Working Time Directive
Belgium (Second semester 2010)	x	x

7.1.1 Why Countries Try to Upload their National Policies during their Council Presidency?

Hypothesis 1

The Presidency evolved into an influential institution providing the office holder with a comparative advantage to shape the EU's agenda and policy outcomes in line with its national interests. Accordingly, I expect to find that there is an intentional push for the uploading of national policies to the European level from the country holding the Presidency.

This hypothesis takes roots in the literature on liberal intergovernmentalism, which emphasize the supremacy of member states for leading European integration, in opposition to supranational institutions (Moravcsik 1998). I go in the same direction as some Council Presidency studies and challenge the notion that the Council Presidency is neutral and that its supranational nature prevails in all instances (Tallberg 2006, Bunse 2009, Panke 2010b). Moreover, I confront the idea that it is near impossible for member states to take advantage of the Presidency to conduct significant policy output because the time-span is considered too short.

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The cases reviewed in this book show that the intention to push for the uploading of national policies may not be present in all policy areas during a given Presidency's term or may not even exist during a Council Presidency. Despite France's ambition to pursue its national policies at the European level with the European Pact on Immigration and Asylum, it did not show the same level of motivation in promoting its national environmental policy through the negotiation of the Climate/Energy Package. France invested much time and many resources in promoting its Pact at the European level (travel to the Member states' capitals, money, meetings, etc.) but not as much in the case of the Package. Moreover, as it was shown in the chapter on France, it had more interest in making sure the Pact was adopted, especially with regard to its domestic audience, than for the Package. Nicolas Sarkozy and Brice Hortefeux made many declarations on the importance of securing the Pact (EurActiv.fr 2007, Sarkozy 2007a, Avril 2008a, Marthaler 2008, Setton 2008), but not as many regarding the Package.

Similarly, the Czech Republic did not demonstrate the same level of uploading intent between Energy Security and Immigration Policy. It pushed more for the uploading of Energy Security than for Immigration Policy. As explained in chapter 4, energy security is an important policy concern for the Czech Republic since its democratization and liberalization. In addition, not only are its citizens evaluating it as an important issue, it is also a significant problem to many Central and East European countries. Alexandr Vondra made many declarations as to the importance energy security was for the Czech Republic during its EU Presidency (Vondra 2007b, a, Czech Presidency of the Council of the European Union 2009a, Vondra 2009).

These differences of intention for uploading between policy areas are the basis for explaining the level of activities a Council Presidency may put into influencing (or trying to) the negotiations and policy output at the European level. The case of Sweden with Europe 2020 and

the EU Carbon tax supports this assertion. Contrary to the cases of France and Czech Republic, Sweden was more consistent in its intent and efforts to push for the uploading of its national policies in the two policy fields under study. Many declarations made by Fredrik Reinfeldt, Andreas Carlgren and Sven Otto Littorin support this as well as the actions taken to promote the policies at the European level (official and informal meetings, forums, etc.) (Anderson 2009, Euractiv.com 2009e, i, j, l, k).

In addition, the cases of Belgium and the United Kingdom demonstrate that the intention to upload a policy may not be an objective during the Presidency. Historically, Belgium has always been depicted as a country supporting EU integration and acting in favor of it. More than any other country, Belgium has the reputation to play the role of an honest broker when holding the Council Presidency, and to rally other Member states when conflict arises. Hence, the absence of willingness to upload national policies (interview #17) is not very surprising. But another important variable explaining the lack of intent for upload is government instability. Despite the fact that the politicians at the federal level had a lot of time to spend on European issues because nothing was happening at the national level, their political legitimacy in adopting national policies at multiple levels could be questioned. Moreover, as a caretaker government, the federal government's hands were tied with what they could accomplish politically because they had no political mandate except an administrative one for the conduct of day-to-day business. The only thing they did was to implement the work-programme decided before the formation of the caretaker government.

The case of the UK reveals that pushing for policy uploading might not be in the interest of the country. Its objective was to maintain the status quo, with the opt-out, because this benefitted the UK's national interest. Hence the status quo was a superior option to uploading, as

trying to upload its national policy could not guarantee an exact replication at the European level, considering the interests of the other Member states.

In instances of successful uploading during a Presidency, the intention for uploading is always there: it is a necessary condition for uploading to occur, but it is not sufficient. The cases of the French Council Presidency with the European Pact on Immigration and Asylum, and of the Swedish Council Presidency with Europe 2020 and the concept of eco-efficiency, show that the governments intentionally pursued their national policies at the European level from the beginning of the policy process.

Setting the agenda allowed France and Sweden to discuss policies that were important to them, outside of the pre-established community agenda. In the case of France, working without the European Commission enabled the Presidency to first frame the Pact exactly according to its own national policy and to test it against the interests of the other Member states. On the other hand, in the case of Sweden, the discussions on Europe 2020 were already on the community agenda but set to take place later, under the Spanish Presidency. The Swedish government decided to put these discussions on its agenda in order to upload its national policy in order to influence long-term EU policy.

According to these findings, hypothesis 1 is supported: the intention for uploading needs to be present and a superior option to the status quo must exist for policy uploading to occur. Interestingly, when national policy uploading occurs, the country holding the Council Presidency has played the role of the agenda-setter. This has not always been the case when policy uploading failed, which will be discussed in more details in section 7.1.2 of this chapter.

I hypothesize that uploading is more likely to occur in instances where the country wants to legitimize decisions on controversial domestic issues or avoid domestic pressure and political costs.

Based on the literature on venue shopping (Guiraudon 2000, Pralle 2003), I was expected that countries holding the Council Presidency would try to upload their national policies at the European level according to domestic factors. However, my findings suggest that it can also occur out of idealist or missionary considerations as suggested by Princen (2009).

In some instances, governments holding the Council Presidency do want to countervail domestic opposition by trying to upload their national policies at the European level. This was the case of France with the Pact: the government faced the opposition of non-governmental organizations working on immigration issues, of politicians from other political parties, and from some citizens ((AFP) 2008). Hence, uploading the concepts of the French immigration policy at the European represented an opportunity to legitimize its policy, both at the domestic and European levels. In the latter, the European Commission was mandated to monitor the developments on an annual basis taking place in implementing the Pact at the national and European level (2008 [1344/08]). In the former, it answered electoral concerns of voters of the UMP by reinforcing the protectionist approach to immigration adopted at the national level, and ultimately put an end to demonstrations against French immigration policy and the Pact by their opponents.

The successful uploading of concept contained in the Swedish Active Labour Market Policy does not reflect venue-shopping. Citizens were unhappy with the changes made with the measures contained in the ALMP by the government, but it did not constitute the incentive for

the government to bring about their national policy at the European level. Moreover, according to its national ALMP, Sweden is one of the countries that greatly exceeded the standards from the previous Lisbon Strategy, hence not facing great costs associated with the implementation of new standards. Consequently, the objective behind the uploading of this policy at the European level was not so much about avoiding domestic opposition or political costs. As explained in chapter 5, it originates from genuine willingness to achieve better standards and adopt best practices for the greater good of the European community.

Although the Czech Republic did not succeed in uploading its national policy on energy, the motivation behind it was also emanating from the will of re-orienting European policies for the greater good. Indeed, not only was the country pursuing an energy security agenda replicating its own, but it was doing so mainly for the other Central and East European countries, in turn benefiting the most energy dependent states as well.

According to these cases, this hypothesis cannot be supported. Not only can a country push for the uploading of their national policies to counter domestic opposition and to legitimize their policy, they can also try to upload their policy for the greater good of the European community. And with the limited number of cases in this study, both of these motivations have occurred with successful uploading. Thus, one is not more likely than the other for successful uploading to occur.

7.1.2   Explaining Differences of Success in Policy Uploading

Hypothesis 2

Not all the countries holding the Presidency will have the same success in uploading its policies. As such, the policy capacity of the country holding the Presidency, the concentration of executive

power in a country, the policy proposed, and the individual holding the chair will affect the ability a country has to upload its national policies.

I expect to find that the stronger the policy capacity of a country, the more concentrated the executive power is and the more liked the leader holding the chair is by the other decision-makers, combined with a policy reflecting the convergence of interests of the members, the more likely the country will be able to upload its national policy.

This study confirms that not all countries have the same success in uploading their national policies to the European level. As already demonstrated with the first hypothesis, the will and motivation for uploading is different from one country to another, and from one policy area to another for a given country. In addition, many variables influence the outcome. The book shows that the less restrictive is the format of the policy proposed at the European level, the more representative of the interests of all members is its content, the less advanced is the policy process, the stronger the policy capacity of the country in the area of the policy proposed, and the more involved and knowledgeable are the government's officials/representatives, the more likely the country holding the Council Presidency will be able to upload its national policy.

One of the most important variables is the nature of the proposed policy. Not only is the content of the policy proposed very important, but also the format it intends to take. The legal format / mode of governance the policy takes influence the willingness other countries have to accept it. The literature on the soft law mode of governance advances that this form of policy-making has been used at the European level because it is better suited for responding to the diversity of interests in areas that are usually under the sole control of Member states, as it reduces the costs of implementation of those who are further away from the objectives (Héritier 1999, 2001, Jacobsson 2004, Trubek and Trubek 2005, Bruno, et al. 2006, Caporaso and

Wittenbrinck 2006). The success cases in this book show that the Council Presidency has been more successful in uploading its national policies with the use of weak legal instruments. They give member states more flexibility in the implementation or give them the impression that they will be able to influence future decisions related to it. This is reinforced by the fact that these documents mostly describe general goals of the policy.

Falling under the area of Freedom, Security and Justice, the European Pact on Immigration and Asylum proposed under the French Council Presidency falls under the unanimity voting rule in the Council and the co-decisional procedure with the European Parliament. Hence, based on Tsebelis (2002) work on veto players, I find that this case represents an instance where veto players could effectively block the proposal by preferring the status quo. Despite Spanish threats of vetoing the Pact, the French government was able to respond to its demand for amendment and to upload its national immigration policy. The demand made by Spain was not very important in the overall policy as it represented a specific measure (the integration contract), which could nonetheless be maintained by France at the national level. Hence, the final document did not deviate much from how it was first framed by France, it suited all interests, and effectively reflected French immigration policy in the same time. The end product was a soft law document, as it was not published in the Official Journal, and it involved the monitoring by the European Commission of the advancement on the goals included in the document. Consequently, the Member states knew they would be able to influence future developments related to the implementation of the goals of the Pact. Moreover, more important negotiations were coming up in the area with the renewal of the Stockholm programme, which involved specific policy instruments.

In the case of Sweden, the use of the Presidency Conclusions, and the OMC for the implementation of the Lisbon Strategy / Europe 2020, allowed it to facilitate the uploading of its national policy. The Presidency Conclusions are a binding common political commitment setting the orientation the EU takes. As the Conclusions often mandate the European Commission for their application, the Council Presidency makes sure that the orientations taken will be respected in the future. Moreover, the OMC allows Member states to implement the general goals of the policy according to their own interests because it is an "open-ended, non-binding, and non-justiciable" (Trubek and Trubek 2005: 344). Considering this, the stakes are not as high under the OMC as it would be under other modes of governance. In addition, many EU countries already have ALMP in place at the national level. Hence, these countries supported the principles entrenched in ALMP, and the countries without such policies generally adhered to its goals. According to the veto players framework (Tsebelis 2002), the convergence of interests makes policy agreement easier. These factors contributed to an easy uploading of the general principles included in Sweden's national active labour market policies.

In addition to the content and format of the policy, the advancement of the policy process has a significant impact on the ability of the Presidency to upload its policies. Both of the success cases took place at the earliest stage of the European policy process. The country holding the Council Presidency took care of the drafting of either the full policy (the case of the Pact with France) or elements of it (Presidency Conclusions in the case of Sweden), without the intervention of the European Commission, and they led the policy process from the start. They were effectively able to play the role of the agenda setter. On the other hand, in instances when a country attempted to upload its national policy, but did not succeed in doing so, the failed cases in this book show that it was very difficult when it involved specific policy instruments, more

restrictive legal instruments for their implementation, and were taking place at a more advanced stage in the policy process. Although the Carbon tax discussions took place at an early stage in the policy process, it failed to be really put on the legislative agenda during the Swedish Presidency because the chances of getting it adopted within a short timeframe was considered limited by the government. However, the Swedish government succeeded in putting it on the community agenda to be brought up at another time by mandating the European Commission. However, I do not considered it to be a policy uploading success in this study because the adoption of the tax did not happen during the Swedish Council Presidency semester.

The other failed cases mostly took place at later stages of the policy process: France with the Energy and Climate Package, Czech Republic with Energy Policy and Immigration Policy, and the United Kingdom with the Working time directive. It is harder to make significant changes in a policy at a later stage in the legislative process because not only have the interests of the other parties involved crystalized, the general elements of the policy have also usually been agreed upon, hence if change occurs it would only be in the margins. This can also explain why the countries in this study that held the Council Presidency in later stages of the policy process have played the role of the honest broker.

Based on the case studies in this book, another main variable contributing to the explanation of successful policy uploading is the policy capacity of the country; that is, how effective the administrative and political structures are (Painter and Pierre 2005), especially in the policy area one country is trying to upload. France and Sweden possessed strong policy capacity in the policy areas they managed to upload. As illustrated in chapters 3 and 5 with the successful cases, France and Sweden did not rely on the European institutions such as the European Commission or the Council Secretariat, or on external expert actors, to promote or

shape their policies. They spent a lot of resources in these areas: significant portions of the Presidency budget were allocated to them. Politicians involved in the negotiations were experts and experienced, so too were the high public officials involved. Moreover, the coordination mechanisms established before and during the Council Presidency enabled them to effectively conduct their activities to push for uploading. In both cases, the countries were able to effectively use their resources to their advantage. Consequently, the policy capacity of the country holding the Council Presidency in the policy area it is trying to upload proved to be playing an important role in policy uploading.

Although the coordination of European policy remains mostly the same in all policy areas in these two cases, the other elements constituting the measure of policy capacity used in it vary. Interestingly, Sweden's policy capacity in the area of environment (failed case) was also strong. The case of eco-efficiency / Carbon tax shows that it was possible to upload general elements of the national policy (eco-efficiency), but that the Carbon tax remained at the stage of project and discussions. It suggests that policy capacity in the policy area the chairmanship is trying to upload does not explain by itself the failure to do so. Further, it sustains the importance of the nature of the policy, specific instruments and more authoritative formats been harder to upload.

In the case of France, the policy capacity in the area of environmental policy was weak: the country had to ask for external experts to lead for them. In addition, politicians in this policy sphere were not very experienced nor were they knowledgeable in the matter. Moreover, France is a laggard in the environmental policy area. Combined with the other variables discussed in this study, it contributed to the failure for France to upload its national policy. Similarly, the Czech Republic's general policy capacity is also considered to be weak. Despite the fact that the country spent as much money as France in conducting its Presidency, it spent resources on

strengthening its civil service by offering training specific for the period of the Council Presidency, and it hired more staff; the country's officials lacked in experience and expertise. In addition, the Czech Republic relied much more on the European Commission than did any other countries in this study. Moreover, its coordination of European policy is fragmented in comparison to other systems. Overall, the Czech Republic was not very effective in mobilizing its resources and it contributed partly to the failure of the uploading of its national policy.

Leadership proved to be important in securing an agreement. First, success cases demonstrate that the role the chair takes influenced the output. Whether they play the role of the agenda-setter or the role of the honest broker (Tallberg 2003, 2006), it influences its success. As mentioned earlier, in all the successful policy uploading cases, the country holding the chair played the role of the agenda-setter and were able to shape their proposed policy. France and Sweden's agenda-setting followed the 'high politics route' (Princen and Rhinard 2006). They were effectively able to bring up their policy outside of the main community's pre-established legislative agenda. Moreover, as shown in chapter 3 and 5, they were able to shape the content of the policy they proposed.

In addition, France and Sweden are considered to be leaders and policy entrepreneurs in the policy areas they pushed forward, in the immigration, and ALMP and environmental fields, respectively. Policy entrepreneurs are agents of policy change in the settings in which they participate (Blavoukos and Bourantonis 2011). This is exactly what France and Sweden did during their Council Presidency. They managed to frame the debates, providing new policy direction with lasting effects. The fact that they are considered leaders in these policy areas as well helped them to increase their credibility with regard to their proposal in face of the other Members.

Secondly, the involvement of the politicians holding the chair proved to be very important to secure a favorable output. This proved to be true not only in the European Council, but also in the other council formations. Hence, not only is the Head of State of the country holding the Council Presidency important, but also its ministers in their policy area. Consequently, the degree of the concentration of power is not as important as I first thought because the coordination of activities and leadership qualities between politicians in a given policy area supplants it, as the case of Sweden shows with Europe 2020.

Except in the cases of the Carbon tax (Sweden) and energy security (Czech Republic), the Council Presidency played the role of the honest broker in all the other unsuccessful cases of uploading, most likely because the legislative process was already well advanced. But by playing the role of the honest broker, they limited their chances to push for their national policy.

The concentration of executive power does not seem to play a role in either hindering or facilitating policy uploading at the European level; other variables are more important, namely leadership and coordination between individuals exercising leadership.

Interestingly, one variable that was first thought to hinder successful policy uploading did not play a significant role. This is the case of governmental instability. The cases of the Czech Republic and Belgium are concerned with this variable. Administratively, both Presidencies were able to conduct their day-to-day business. Despite caretaker governments, politicians and civil servants managed to sustain the same level of activities they would have under stable governments. In the case of the Czech Republic, this variable is not important because the timeframe of the discussions on the policy it was strongly trying to upload (energy policy) took place in the first part of the Presidency, and the caretaker government continued in the same vein of interests after it took command. On the other hand, governmental instability is not important

in explaining the failure to upload national policy in the case of Belgium because the country did not have the intention to do so from the start. Moreover, since the Presidency involved political actors from the different governmental levels, it would have been possible to have done so in areas falling under subnational governments, but it did not occur. This reflects the adherence to the work programme of all actors involved in the Presidency, which did not promote national interests and policies, and the support of Van Rompuy's Presidency.

Hypothesis 2.1

I expect to find that each of these variables may not weigh equally in each type of uploading (subtle or direct).

The success cases in this book involve only subtle uploading. As a reminder, subtle uploading is defined as the transfer of ideas, goals and norms from the national to the European level. It is considered to occur when ideas, goals or norms are entrenched at the national level in a given policy and expressed through official documents and/or speeches, and interviews with officials, find their place in official documents at the European level. Considering the two success cases in this study and as shown in the previous discussion of the hypothesis, they show that the same variables play an important role in explaining the success of their policy uploading.

The main reason that can explain why only subtle uploading has occurred more than direct uploading has to do with the timeframe. It might be easier to upload general goals during the six months of the Council Presidency, than to try to upload a full national policy at the European level. This is argued in line with the findings of this study, knowing that the more precise the policy is with regards to instruments and targets, and if it intends to take a stronger legal format, the more conflictual the discussions become and the harder it is to find a

compromise in a timely manner, thus to upload. Moreover, the issue area in which the policy falls is an important factor because it affects the decision-making procedure it will follow and how it will be implemented. These also constitute barriers to stronger uploading and they impact the length of the policy process and the number of veto points and players. For direct uploading to occur, the convergence of interests between the member states would have to be very high (and potentially with the European Parliament if the policy follows the co-decisional procedure) for it to take place within six months. Moreover, it would have to be brought by a country not relying on the European Commission, with strong policy capacity and leadership. Consequently, only a small number of Member states fit this in any given policy area.

7.1.3   Institutional Change Modifying the Process of Policy Uploading

Hypothesis 3

The creation of the semi-'permanent' Presidency will reduce the likelihood of national policy uploading.

Belgium is the only case used in this book that took place after the implementation of the Lisbon Treaty. Furthermore, no successful case of national policy uploading occurred during its term, as the country did not intend to do so from the beginning. Consequently, it is difficult to test the hypothesis as I do not have variance both with the independent and dependent variables. But it can still give us some preliminary insights as to what differences the changes in institutions have created with regard to policy uploading; with the help of the other cases as well and the use of counterfactuals. The use of counterfactual specifically helps me to increase the number of cases, thus variance (Blatter and Haverland 2012).

As the case studies included in this study demonstrate, it was possible for Member states to upload their national policies only when they played the role of the agenda-setter. When a country played the role of the honest broker, they failed to upload their national policies. With the modifications introduced by the Lisbon Treaty, it is still possible for countries that hold the Council Presidency to influence the agenda through their work programme. But with the creation of the semi-permanent Presidency, it can prevent Member states from effectively using agenda-setting and shaping strategies in a timely manner within the European Council in order to upload their national policies, as the position is held by an individual outside of the government of the Member State that holds it. If countries want to use these strategies, they would have to do so in the Council formations, where they remain the holders of the chairmanship.

For example, if France's Council Presidency had taken place under the new rules, their proposal for the Pact would have had to go through Van Rompuy as he would have supervised the European Council meetings in which the discussions took place. It would have affected the speed under which the agreement was actually adopted because the urgency to do so would have been different: Van Rompuy does not face any domestic opposition. In addition, the country holding the Presidency would still have to invest as much time, but the result would not be guaranteed. This example illustrates that the changes in the Council institution does not make national policy uploading impossible, but more difficult. Hence, it is possible that it will occur less in the future than under the older set of rules, but more cases are needed to really conclude this.

7.2   CONCLUSION

This chapter offered a comparative analysis of the case studies comprised in this book and a review of the hypotheses. Using the theoretical framework of chapter 2, which combines elements of the literature on rational choice institutionalism (Tsebelis 2002), governance theory (Painter and Pierre 2005, Peters and Pierre 2005b), venue shopping (Guiraudon 2000, Pralle 2003), agenda-setting (Princen and Rhinard 2006, Princen 2009), and policy transfer (Padgett 2003, Bulmer and Padgett 2004, Bulmer, et al. 2007a), I have uncovered the variables shaping the successful uploading of national policy.

I thought the Council Presidency would act mostly out of domestic concerns when trying to upload its national policy, because holding this position creates a window of opportunity for the promotion of national interests. However, I found that it can act out of domestic concerns or for the common good; it does not make a difference with regards to policy uploading. These findings go in the same direction as what is advanced in the literature on venue shopping (Guiraudon 2000, Pralle 2003, Princen 2009). The reasons motivating a country to upload its national policy explain why a country would engage in the process, but do not contribute to answering my question on the conditions shaping successful uploading.

This chapter has shown that in addition to having the intention to upload, uploading needs to be considered a superior option by the Council Presidency as opposed to the status quo. This is the first necessary, but not sufficient, condition, identified in this study for successful policy uploading to take place. If this condition is not present in the first place, it is very unlikely that a country holding the Presidency will engage in the push for policy uploading, whether policy uploading represents an innovative proposal or a change from currently implemented policy. In essence, this variable acts as a first-ordering principle.

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Moreover, the Council Presidency needs to be able to set the agenda, frame the original proposal, and possess strong policy capacity in the policy area it is trying to upload. Again, these variables are necessary conditions for national policy uploading to occur, but not sufficient, and they are equally important. They act as second-ordering principles. Setting the agenda and framing the proposal allows the Presidency to make a first move towards policy uploading. Having a strong policy capacity in the issue-area make this move efficient.

Other variables also significantly affect the prospects for uploading by the Council Presidency. The legal format the policy will take at the European level is very important: in this study, countries were not able to upload their national policy with harder legal formats. However, France and Sweden managed to upload their national policy under soft law instruments, which sped up the process of policy-making. Unsurprisingly, the findings demonstrate that the more convergent the interests of the Member states are over the policy proposal of the Council Presidency, the easier it will be to upload it. In addition, the policy process needs to be at an early stage for national policy uploading to be possible. The literature suggests that in order for policy change to occur, the proposed policy needs to represent a better alternative responding more adequately to the interests of the Members than the status quo and deemed appropriate to take place at the European level (Guiraudon 2000, Tsebelis 2002, Pralle 2003) .

Finally, I found that two variables did not play an important role in influencing the prospects for uploading: the concentration of executive power and governmental instability. Even if the countries that succeeded in their policy uploading endeavour have high concentrations of executive power, the cases diverge as to the cooperation they exhibited between their head of state and ministers. In France, President Sarkozy was mostly acting on its

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own, but in the case of Sweden, power was shared between the Prime Minister and his ministers. This is also probably due to the policy-making route policy uploading took. In the case of the Pact, it was only taking place in the European Council, reflecting the arguments made in the literature on the 'presidentialization of policy-making in the Council' (Tallberg 2008, Tallberg and Johansson 2008, Bäck, et al. 2009, James 2010). However, in the case of Sweden, developments took place both in the Council formations and the European Council. Consequently, according to my limited number of successful cases, and the variety of concentration of executive power that exists within my failed cases, this variable does not seem to be important.

The other variable that does not seem to be crucial in explaining successful policy uploading is government instability. In this research project, only two cases of Council Presidencies were faced with governmental instability: The Czech Republic and Belgium. In both instances the governments were able to conduct their day-to-day businesses in relation to their Council Presidency. Moreover, in the case of the Czech Republic, the caretaker government was capable to negotiate effectively for the support of the Nabucco pipeline project, which represented strongly the interests of the Czech Republic and Central and East European countries. Therefore, because governmental instability did not have an adverse effect on the conduct of the Council Presidency, it is also considered to not have influence on the uploading of national policies at the European level.

8.0 CONCLUSION

This chapter summarizes the study by bringing it into a more general context and offers implications from the case studies of the Council Presidencies that were employed in this research project to investigate national policy uploading in the European Union. I have looked at three main case studies (France, Czech Republic and Sweden) and two shadow cases (the United Kingdom and Belgium). For each of these cases, I have looked at policy uploading by focusing on variables considered important for policy-making within the governance and new institutionalism approaches. Specifically, I focused on the concept of policy capacity. In addition, I looked at political intention, the legal format and content of the policy proposed, leadership, and the advancement of the policy process at the time the proposal was made. The objective of this chapter is to address the broader implications my findings have, and to discuss future avenues of research.

8.1 MAIN FINDINGS

This research project looked at the role of the Council Presidency in policy uploading mostly before the adoption of the Lisbon Treaty. It contributes to the debate on the powers of the Council Presidency and whether or not it can effectively influence policy outputs. In this

respect, I have demonstrated that it is sometimes possible for the country holding the Council Presidency to upload its national policies at the European level.

The general contribution of this book is the integration of national-level variables into the analysis of policy-making in the Council. More precisely, the emphasis has been on a period when a country holds the Council Presidency, and how they use the position of the chairmanship to upload their national policies to the European level.

In order to look at the influence of the Council Presidency on policy-making, I have built a theoretical framework combining new institutionalism and governance theories. At its center, the concept of policy capacity has enabled me to capture national and European levels dimensions affecting the prospects a country has to upload its national policies. This concept has received little attention in the study of policy-making in the Council, but it can greatly contribute to alleviate some shortcomings in the literature on the Council Presidencies. It takes into consideration the variety of national actors involved during a Council Presidency, in relation to EU policy-making. As such, it unpacks the European level by considering that a country is composed of many leaders while exercising the chairmanship and that its effectiveness is based on a variety of national factors. With this concept and the other variables I looked at, it was possible to uncover national variables influencing policy uploading during a Council Presidency, which had not been looked at in the literature.

In order to answer my research questions as to (1) why countries engage in policy uploading; and (2) what conditions shape policy uploading, I used the case studies method. In addition, I employed process tracing for my within case analysis in order to map the causal processes at play. This tool permits to assess which explanation should be rejected or not in relation to the dependent variable (George and Bennett 2005, Bennett 2010). In order to look at

policy uploading, I used a non-random, purposive sample made up of officials involved in their country's Council Presidency with whom I conducted semi-structured interviews. In total, I conducted 23 interviews. In addition, written primary and secondary sources consisting of newspaper articles, official documents, and archival materials.

The first research question I wanted to answer with this study was: Why is a Council Presidency trying to upload national policies? Based on the literature on venue shopping and agenda-setting in the European Union, I hypothesized that the domestic situation a government faced would explain the choice of venue. Specifically, I thought domestic conditions such as political and civic opposition or domestic costs associated to the adaptation of national policies to EU's standards would play an important role in justifying why a government would bring a national policy at the European level. However, the two success cases of policy uploading in this study show that not only can domestic factors explain why a country will attempt to upload its national policies, but so too more common good concerns. In the case of the European Pact on Immigration and Asylum, France engaged in the policy uploading of its immigration policy in order to legitimize its new national orientation. On the other hand, Sweden exhibited motivation for uploading its Active Labour Market Policies out of concerns for the common good. Based on its experience with economic crisis and the learnings made out of its past mistakes, Sweden wanted to upload its national policy for the greater good of the EU.

The second research question this book looked at was on the conditions shaping the successful uploading of policies. This is the main purpose and contribution of this study. In order to uncover these conditions I have looked at three main case studies, each covering two national and European policy areas. One looked at success and failure cases of policy uploading. Additionally, I examined two shadow cases, the United Kingdom and Belgium. These cases

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complemented the findings made with the main case studies. Moreover, as the case of Belgium took place after the adoption of the Lisbon Treaty, it covered another institutional arrangement in the Council. It helped to illustrate, tentatively and with the aid of counterfactuals, how this new configuration of the Council with the 'semi-permanent' Presidency held by an external individual affected policy uploading.

I have identified some necessary variables for policy uploading to occur. As a first-ordered principle, the country holding the Council Presidency needs to have the intention to pursue policy uploading, which in turn needs to be perceived as a better option than the status quo. This is necessary, but not sufficient, for uploading to occur. As the cases of the UK and Belgium have shown, it is possible for countries to not have the intention to pursue uploading at all during their Presidency. The UK preferred the status quo with the Working Time Directive, and Belgium did not express any intention to pursue uploading in any policy area.

Policy capacity proved to be central in explaining the ability of the Presidency to upload its national policy. Elements of policy capacity at the country's national level such as the coordination of EU policy amongst high public officials, size of staff and their experience and expertise, whether the country relied on the European institutions (i.e. the European Commission or the Council General Secretariat) were included in the evaluation of its strength. In addition, policy capacity in the specific policy area the country was trying to upload was integrated in this variable. The results show that possessing strong policy capacity is especially important in the policy area the country is trying to upload. This variable is also considered necessary but not sufficient; and it works as a second-ordered principle with agenda-setting.

Playing the role of the agenda-setter is also necessary. It enables the Presidency to decide which issue of its choosing will be discussed in meetings, hence making sure its policy will be on

the programme. But most importantly it permits the Presidency to first offer its proposal according to its national policy, hence to be the 'first mover'.

Another important variable has to do with the nature of the policy proposal brought by the Council Presidency. The legal format and the content of the policy are determinant in influencing the willingness of the other EU members to adopt the proposal. As such, the observations in this study suggest that softer modes of governance are more likely to be adopted when a country engage in policy uploading. This finding can be explained by the lack of binding punitive consequences associated with these legal formats.

The content of the policy affects the adoption of the proposal according to how it fits with the interests of the other members, or actors involved in decision-making. Goals were found to be adopted more easily than policy instruments, reinforcing the reasons why softer modes of governance are easier to adopt. By adopting only the goals of the policy, under a soft mode of governance, it allows the Member states to shape more precise future measures and instruments needed to implement the goals.

The stage at which the Presidency attempts to upload its national policy also affects how successful it will be. There is a larger window of opportunities when the policy is proposed at the beginning of the policy process, whereas it is much smaller in the later stages of the policy process.

Two variables did not contribute to successful uploading: the concentration of executive power and governmental instability. The concentration of power in of itself does not affect the uploading of policies. What matters for policy uploading is how leadership is exercised and how the coordination between officials is executed. Beyond acting as an agenda-setter, the countries that were able to upload their national policies were generally considered leaders in the area they

were trying to upload, more precisely, they are policy entrepreneurs. Been leaders in the policy area they are trying to upload increases their credibility in face of the other Members.

The second variable that did not seem to be influencing policy uploading is government instability. Although their Presidency could be considered more administrative than political under the caretaker government, Belgium and Czech Republic proved to be able to conduct their day-to-day activities.

Another set of findings relates to the type of policy uploading that occurred. Based on the operationalization of policy uploading, subtle uploading (the transfer of general policy elements) has been the only type of uploading take place in the cases included in this study. According to the previous findings in this study on the preference of states for softer modes of governance, this is to be expected.

Finally, with the limited post-Lisbon cases available in this study and with the help of counterfactuals, preliminary assessment on the impact of the semi-permanent Council Presidency have led me to conclude than the new design does not prevent policy uploading to occur, but could make it more difficult and re-orient it towards other Council formations.

8.2   IMPLICATIONS AND FUTURE RESEARCH

This study on policy uploading and the Council Presidency provides the opportunity for reflections on what it means for the European Union, and to suggest avenues for future research.

This research project has reinforced the view that the Council can effectively show more intergovernmental elements than supranational ones. In addition, one indirect aspect this research project has illustrated is with regards to the challenge made by the Council to the Commission's

prerogative of policy initiation. In all successful cases, the Council Presidency took the liberty to initiate the policy process and to draft the policy (i.e. the European Pact on immigration and Asylum under the French leadership), or to substantially influence the Commission's proposal by integrating elements of the future policy into the Council Presidency's Conclusions (Europe 2020).

At the theoretical level, this research project has contributed to the literature on policy transfer by focusing specifically on uploading. As noted in the second chapter, most of the studies related to EU policy transfer have looked at the 'downloading' side by focusing on Europeanization – the effect of the European Union on Member states. The findings of this study suggest that the relationship goes both ways: the EU takes policy directions directly influenced by the Member states, through the Council Presidency. Moreover, the literature on policy transfer usually considers that the transfer is voluntarily imported (Stone 1999) by countries. This book has shown that it can also be exported and be imposed in some way through the Council Presidency, which constitutes a specific period in time, but only when conditions are gathered to maximize its occurrence.

In addition, this study also speaks to the literature on executive power in contemporary governments. In chapter 2, a review on the literature on national executive discussed how European integration created a need for the centralization of power with national executives. However, my research findings suggest that the 'core executive' is more important than national executives, especially if the country is willing to maximize its influence on the policy process by uploading its national policy.

One avenue for future research would be to look more precisely at the post-Lisbon Treaty period. First, to look at policy uploading in cases of Council Presidencies after the adoption of

the Treaty, beyond Belgium. And secondly, to compare the findings with those in this study. This would allow for a better portrait on how the institutional changes brought by Lisbon have changed policy uploading, or not.

Another avenue could be to look at the implementation of uploaded policies. The definition of what constitutes successful uploading in this study has delimited the interpretation of results. As such, this study has focused only on one aspect of policy-making in relation to uploading: from the proposal to the output. However, it is possible to consider that the implementation of policies can be just as important in evaluating successful uploading in order to find out how lasting the effects of uploading are. It is possible to think that policy uploading through soft law instruments can encourage deviations that may denature the original intent of the policy.

On the other hand, it may be possible to set only the agenda for policy uploading to take place during the Council Presidency, and to effectively continue to influence the policy process in order to achieve uploading. Without going in details, it seems this might actually be what happened with the adoption of the EU Carbon Tax with Sweden. The Swedish Council Presidency set the agenda during its term, but failed to upload its policy during it. However, the Prime Minister and his Ministers have consistently followed up the developments of this instrument thereafter.

Finally, one other avenue for future research could be to look at policy uploading in other contexts, in a way to expand the number of cases for increasing the generalizability of findings in this study. This could be done with countries holding the chairmanship for a certain period of time on a rotation basis in organizations and in which policies are adopted. For example, this is the case of the Council of Europe, the Organization for Security and Economic Co-operation in

Europe (OSCE), the Organization for Economic Co-operation and Development (OECD), etc. Doing this would increase the generalizability of the theoretical framework as well.

SPECIFIC MEASURES PROPOSED BY THE GRENELLE'S GROUP ON CLIMATE CHANGE AND ENERGY

Table 3: Grenelle Group's Proposed Measures

Theme	Measures
Sparing energy and resources	1-Renovating energy requirements for building to reduce energy consumption of 20% in the tertiary sector, and 12% in the residential sector by 2020. To achieve this, also create banking and financial tools to take into account the savings (subsidized loans and guarantee funds); specific objective for energy-saving certificates; etc. 2-Launch a programme of technological change for new buildings aimed at generalizing positive energy buildings by 2020. Adopt new regulation on heat; make it obligatory for new buildings to have a certain proportion of renewable energy and material that store carbon. 3-Extent the energy labeling existing for cars and certain household appliances to all high-consumption appliances
Reduction of transport emissions to their 1990 level	1-Create the means to measure transport emissions accurately 2-Before constructing new roads, evaluate globally their coherence and their impact on environment and on the economy before taking the decision, 3-Produce a national plan for the development of non-road freight 4-Rationalise the use of car and bring down the average CO_2 emissions of cars already on the road from 176 to 130g of CO_2 per kilometer by 2020 by combining regulation and incentives: regulations setting a limit of 120g; lowering the speed limit; create an annual ecological friendly sticker; etc. 5-Reestablish the real cost of air travel 6-Allocate a substantial part of resources from environment taxation to the AFITF (agency for financing transport infrastructure in France) for financing alternative transport infrastructures to road and air
Making generally sustainable cities and territory	1-Make territorial climate/energy plans obligatory 2-Develop voluntary plans for developing public transport, encouraging gentle transports and ecological friendly neighborhoods
Introduction of clear economic signals	1-Reorganizing tax arrangements concerning the environment and energy by adopting a "climate energy contribution" (or carbon tax) levied on products with a high carbon or energy content (fuels). (i.e. tax on import goods in function of their CO_2 emissions)

	2-Steering public aid towards project that are sparing in their use of carbon and energy
Cease relying on carbon and reduce energy production	1-Increase from 9% to 20% the proportion of renewable energy in the final consumption of energy by 2020, aiming for 25% if possible 2-Amplify research and development efforts to prepare for the energy of the future 3-No agreement on the future of nuclear facilities in France

Source: Ministère de l'Écologie, du Développement durable, des Transports et du Logement. 2007. "Le Grenelle de l'environnement / Group 1: Combating climate change and controlling demand for energy." http://www.legrenelle-environnement.fr/IMG/pdf/Groupe_1_Synthese_anglais.pdf (last accessed on April 15, 2013).

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